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DEPARTMENT OF COMMERCE

International Trade Administration

[C-552-824]

Laminated Woven Sacks from the Socialist Republic of Vietnam: Final Affirmative Countervailing Duty Determination

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) determines that countervailable subsidies are being provided to producers and exporters of laminated woven sacks (LWS) from the Socialist Republic of Vietnam (Vietnam) during the period of investigation (POI), January 1, 2017, through December 31, 2017.

DATES: Applicable [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: Thomas Martin or Ariela Garvett, AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-3936 or (202) 482-3609, respectively.

SUPPLEMENTARY INFORMATION:

Background

This final determination is made in accordance with section 705 of the Tariff Act of 1930, as amended (the Act). Commerce published the *Preliminary Determination* on August 13, 2018.¹ In the *Preliminary Determination*, Commerce aligned the final countervailing duty

¹ See *Laminated Woven Sacks from the Socialist Republic of Vietnam: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Determination with Final Antidumping Duty Determination*, 83 FR 39983 (August 13, 2018) (*Preliminary Determination*).

(CVD) determination with the final determination in the companion antidumping duty (AD) investigation, in accordance with section 705(a)(1) of the Tariff Act of 1930 (the Act) and 19 CFR 351.210(b)(4). Commerce exercised its discretion to toll all deadlines affected by the partial federal government closure from December 22, 2018, through the resumption of operations on January 29, 2019.² If the new deadline falls on a non-business day, in accordance with Commerce's practice, the deadline will become the next business day. Accordingly, the revised deadline for the final determination is now April 4, 2019.

For a complete description of the events that followed the *Preliminary Determination*, see the Issues and Decision Memorandum.³ A list of topics discussed in the Issues and Decision Memorandum is included as Appendix II to this notice. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <http://access.trade.gov>, and is available to all parties in the Central Records Unit, room B8024 of the main Department of Commerce building. In addition, a complete version of the Issues and Decisions Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/>. The signed and electronic versions of the Issues and Decision Memorandum are identical in content.

Scope of the Investigation

The products covered by this investigation are laminated woven sacks from Vietnam.

For a full description of the scope of this investigation, see the "Scope of the Investigation," at

² See Memorandum to the Record from Gary Taverman, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance, "Deadlines Affected by the Partial Shutdown of the Federal Government," dated January 28, 2019. All deadlines in this segment of the proceeding have been extended by 40 days.

³ See Memorandum, "Issues and Decision Memorandum for the Final Affirmative Determination of the Countervailing Duty Investigation of Laminated Woven Sacks from the Socialist Republic of Vietnam," dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

Appendix I.

Scope Comments

During the course of this investigation and the concurrent AD investigation of LWS from Vietnam, Commerce received scope comments from interested parties. Commerce issued a Preliminary Scope Decision Memorandum to address these comments.⁴ In response to Commerce's invitation to comment on its preliminary scope determination, Commerce received scope comments from Halsted Corporation (Halsted),⁵ and rebuttal comments from the petitioners.⁶ However, Commerce rejected Halsted's scope comments because they contained untimely filed new factual information.⁷ Because Halsted's scope comments have been removed from the record of these investigations and Halsted did not file a redacted version of its scope comments within the deadline allotted by Commerce, Halsted's comments have not been considered in these investigations.⁸ Furthermore, because the petitioners' rebuttal comments respond to Halsted's comments, which have been removed from the record of these investigations, Commerce has not considered the petitioners' comments. Therefore, Commerce has made no changes to the scope of these investigations since the *Preliminary Determination*.

⁴ See Memorandum, "Antidumping and Countervailing Duty Investigations of Laminated Woven Sacks from the Socialist Republic of Vietnam: Preliminary Scope Determination," dated October 3, 2018 (Preliminary Scope Decision Memorandum).

⁵ See Letter from Halstead, "Antidumping and Countervailing Duty Investigations of Laminated Woven Sacks from the Socialist Republic of Vietnam: Rejection of Untimely Filed Factual Information," dated December 12, 2018 (rejecting Halsted Corporation's November 13, 2018 scope brief).

⁶ See Letter from Petitioners, "Investigation of Laminated Woven Sacks from the Socialist Republic of Vietnam: Petitioners' Rebuttal Scope Brief," dated November 19, 2018.

⁷ See Letter from Commerce, "Antidumping and Countervailing Duty Investigations of Laminated Woven Sacks from the Socialist Republic of Vietnam: Rejection of Untimely Filed Factual Information," dated December 12, 2018; see also Letter from Halstead, "Antidumping and Countervailing Duty Investigations of Laminated Woven Sacks from the Socialist Republic of Vietnam: Request for Withdrawal of Scope Comments," dated February 8, 2019.

⁸ *Id.*

Analysis of Subsidy Programs and Comments Received

The subsidy programs under investigation and the issues raised in the case briefs by parties in this investigation are discussed in the Issues and Decision Memorandum. A list of the issues that parties raised, and to which we responded in the Issues and Decision Memorandum, is attached to this notice at Appendix II.

Methodology

Commerce conducted this investigation in accordance with section 701 of the Act. For each of the subsidy programs found countervailable, Commerce determines that there is a subsidy, *i.e.*, a financial contribution by an “authority” that gives rise to a benefit to the recipient, and that the subsidy is specific.⁹ For a full description of the methodology underlying our final determination, *see* the Issues and Decision Memorandum.

In making these findings, Commerce, in part, selected from among the facts otherwise available and, because it determined that one or more interested parties did not act to the best of their ability to respond to Commerce’s requests for information, Commerce used an adverse inference where appropriate in selecting from among the facts otherwise available.¹⁰ For further information, *see* “Use of Facts Otherwise Available and Adverse Inferences” in the Issues and Decision Memorandum.

Changes Since the Preliminary Determination

Based on our review and analysis of the comments received from the interested parties and our findings at verification, we made certain changes to the respondents’ subsidy rate calculations. For a discussion of these changes, *see* the Issues and Decision Memorandum.

⁹ *See* sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

¹⁰ *See* sections 776(a), (b), and 782(d) of the Act.

Final Determination

In accordance with section 705(c)(1)(B)(i)(I) of the Act, we calculated a rate for Duong Vinh Hoa Packaging Company Limited (DVH Packaging), a producer/exporter of subject merchandise selected for individual examination in this investigation. With regard to Xinsheng Plastic Industry Co. Ltd. (Xinsheng), for the reasons described in the Issues and Decision Memorandum, Commerce assigned a rate based entirely on adverse facts available pursuant to section 776 of the Act.

Section 705(c)(5)(A) of the Act provides that in the final determination, Commerce shall determine an estimated all-others rate for companies not individually examined. This rate shall be an amount equal to the weighted average of the estimated subsidy rates established for those companies individually examined, excluding any zero and *de minimis* rates and any rates based entirely under section 776 of the Act. DVH Packaging is the only respondent for which Commerce calculated an estimated weighted-average dumping margin that is not zero, *de minimis*, or based entirely on facts otherwise available. Therefore, for purposes of determining the “all-others” rate, and pursuant to section 705(c)(5)(A) of the Act, we are using the subsidy rate calculated for DVH Packaging.

Commerce determines the countervailable subsidy rates to be:

Company	Subsidy Rate
Duong Vinh Hoa Packaging Company Limited	3.02 percent
Xinsheng Plastic Industry Co. Ltd.	198.87 percent
All-Others	3.02 percent

Disclosure

We intend to disclose the calculations performed to parties in this proceeding, for this final determination, within five days of the date of publication of our final determination, in accordance with 19 CFR 351.224(b).

Continuation of Suspension of Liquidation

As a result of our affirmative *Preliminary Determination* and pursuant to sections 703(d)(1)(B) and (d)(2) of the Act, we instructed U.S. Customs and Border Protection (CBP) to suspend liquidation of any entries of merchandise under consideration from Vietnam that were entered, or withdrawn from warehouse, for consumption on or after August 13, 2018, which is the publication date in the *Federal Register* of the *Preliminary Determination*. In accordance with section 703(d) of the Act, we issued instructions to CBP to discontinue the suspension of liquidation for CVD purposes for subject merchandise entered, or withdrawn from warehouse, on or after December 11, 2018, but to continue the suspension of liquidation of all entries from August 13, 2018, through December 10, 2018.

International Trade Commission Notification

In accordance with section 705(d) of the Act, we will notify the ITC of the final affirmative determination of countervailable subsidies are being provided to producers and exporters of LWS from Vietnam. Because Commerce's final determination is affirmative, in accordance with section 705(b) of the Act, the ITC will make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports, or sales (or the likelihood of sales) for importation of LWS from Vietnam no later than 45 days after this final determination. If the ITC determines that such injury does not exist, this proceeding will be terminated and all cash deposits will be

refunded or canceled. If the ITC determines that such injury does exist, Commerce will issue a countervailing duty order directing CBP to assess, upon further instruction by Commerce, countervailing duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation, as discussed above in the “Continuation of Suspension of Liquidation” section.

Notification Regarding Administrative Protective Orders

This notice will serve as the only reminder to parties subject to an APO of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

Notification to Interested Parties

This determination is issued and published pursuant to sections 705(d) and 777(i) of the Act and 19 CFR 351.210(c).

Dated: April 4, 2019.

Gary Taverman,
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations,
performing the non-exclusive functions and duties of the
Assistant Secretary for Enforcement and Compliance.

Appendix I

Scope of the Investigation

The merchandise covered by this investigation is laminated woven sacks. Laminated woven sacks are bags consisting of one or more plies of fabric consisting of woven polypropylene strip and/or woven polyethylene strip, regardless of the width of the strip; with or without an extrusion coating of polypropylene and/or polyethylene on one or both sides of the fabric; laminated by any method either to an exterior ply of plastic film such as biaxially-oriented polypropylene (BOPP), polyester (PET), polyethylene (PE), nylon, or any film suitable for printing, or to an exterior ply of paper; printed; displaying, containing, or comprising three or more visible colors (*e.g.*, laminated woven sacks printed with three different shades of blue would be covered by the scope), not including the color of the woven fabric; regardless of the type of printing process used; with or without lining; with or without handles; with or without special closing features (including, but not limited to, closures that are sewn, glued, easy-open (*e.g.*, tape or thread), re-closable (*e.g.*, slider, hook and loop, zipper), hot-welded, adhesive-welded, or press-to-close); whether finished or unfinished (*e.g.*, whether or not closed on one end and whether or not in roll form, including, but not limited to, sheets, lay-flat, or formed in tubes); not exceeding one kilogram in actual weight. Laminated woven sacks produced in the Socialist Republic of Vietnam are subject to the scope regardless of the country of origin of the fabric used to make the sack.

The scope of this investigation excludes laminated woven sacks having each of the following physical characteristics: (1) no side greater than 24 inches, (2) weight less than 100 grams, (3) an open top that is neither sealable nor closable, the rim of which is hemmed or sewn around the entire circumference, (4) carry handles sewn on the open end, (5) side gussets, and (6) either a bottom gusset or a square or rectangular bottom. The excluded items with the above-mentioned physical characteristics may be referred to as reusable shopping bags.

Subject laminated woven sacks are currently classifiable under Harmonized Tariff Schedule of the United States (HTSUS) subheadings 6305.33.0040 and 6305.33.0080. If entered with plastic coating on both sides of the fabric consisting of woven polypropylene strip and/or woven polyethylene strip, laminated woven sacks may be classifiable under HTSUS subheadings 3923.21.0080, 3923.21.0095, and 3923.29.0000. If entered not closed on one end or in roll form (including, but not limited to, sheets, lay-flat tubing, and sleeves), laminated woven sacks may be classifiable under other HTSUS subheadings, including 3917.39.0050, 3921.90.1100, 3921.90.1500, and 5903.90.2500. If the polypropylene strips and/or polyethylene strips making up the fabric measure more than 5 millimeters in width, laminated woven sacks may be classifiable under other HTSUS subheadings including 4601.99.0500, 4601.99.9000, and 4602.90.0000. Although HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope is dispositive.

Appendix II

List of Topics Discussed in the Issues and Decision Memorandum

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- [FR Doc. 2019-07197 Filed: 4/10/2019 8:45 am; Publication Date: 4/11/2019]