



BILLING CODE: 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-580-905]

4th Tier Cigarettes from the Republic of Korea: Initiation of Less-Than-Fair-Value Investigation

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

DATES: Applicable January 7, 2020.

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:

The Petition

On December 18, 2019, the U.S. Department of Commerce (Commerce) received an antidumping duty (AD) petition concerning imports of 4th tier cigarettes (cigarettes or 4th tier cigarettes) from the Republic of Korea (Korea), filed in proper form by the Coalition Against Korean Cigarettes (the Coalition or the petitioner), the members of which are domestic producers of cigarettes.¹

¹ See Petitioner's Letter, "Petition for the Imposition of Antidumping Duties on 4th Tier Cigarettes from the Republic of Korea," dated December 18, 2019 (Petition). The members of the Coalition are Xcaliber International and Cheyenne International. See Volume I of the Petition, at 1.

On December 20, 2019, Commerce requested supplemental information pertaining to certain aspects of the Petition in a supplemental questionnaire.² The petitioner filed its response to the supplemental questionnaire on December 27, 2019.³

In accordance with section 732(b) of the Tariff Act of 1930, as amended (the Act), the petitioner alleges that imports of cigarettes from Korea are being, or are likely to be, sold in the United States at less than fair value (LTFV) within the meaning of section 731 of the Act, and that such imports are materially injuring, or threatening material injury to, the domestic industry producing cigarettes in the United States. Consistent with section 732(b)(1) of the Act, the Petition is accompanied by information reasonably available to the petitioner supporting its allegation.

Commerce finds that the petitioner filed the Petition on behalf of the domestic industry, because the petitioner is an interested party, as defined in sections 771(9)(C) and (E) of the Act. Commerce also finds that the petitioner demonstrated sufficient industry support with respect to the initiation of the requested AD investigation.⁴

Period of Investigation

Because the Petition was filed on December 18, 2019, pursuant to 19 CFR 351.204(b)(1), the period of investigation (POI) is October 1, 2018 through September 30, 2019.

Scope of the Investigation

The product covered by this investigation is cigarettes from Korea. For a full description of the scope of this investigation, *see* the Appendix to this notice.

² See Commerce's Letter, "Petition for the Imposition of Antidumping Duties on Imports of 4th Tier Cigarettes from the Republic of Korea: Supplemental Questions," dated December 20, 2019 (Supplemental Questionnaire).

³ See Petitioner's Letter, "4th Tier Cigarettes from the Republic of Korea: Response to Department of Commerce Questionnaire," dated December 27, 2019 (Petition Supplement).

⁴ See *infra*, section on "Determination of Industry Support for the Petition"; Antidumping Duty Initiation Checklist: 4th Tier Cigarettes from the Republic of Korea (Initiation Checklist), at Attachment II, Analysis of Industry Support for the Antidumping Duty Petition Covering 4th Tier Cigarettes from the Republic of China (Attachment II).

Comments on the Scope of the Investigation

During our review of the Petition, we contacted the petitioner regarding the proposed scope to ensure that the scope language in the Petition is an accurate reflection of the products for which the domestic industry is seeking relief.⁵ As a result, the scope of the Petition was modified to clarify the description of the merchandise covered by the Petition.

Commerce has not, however, adopted the following language, which was included in the scope provided by the petitioner:

Excluded from the scope of this investigation are cigarettes that legally bear the valid and enforceable brand and/or trademark of a company who is a participating member of the Master Settlement Agreement (MSA) of November 1998.⁶

This language would not actually exclude any subject merchandise from the scope. This is because, according to the petitioner, the sole producer/exporter of 4th tier cigarettes in Korea is not a participating manufacturer in the MSA.⁷ Accordingly, the language would be unnecessary and add confusion to the administration and enforcement of this scope.⁸

In addition, the purpose of a scope in an antidumping investigation is to define the physical merchandise that is being investigated and possibly sold for less than normal value. However, the language quoted above does not use brands or trademarks to define the physical merchandise proposed to be excluded, but instead relies on brands and trademarks to identify producers or exporters whose products might or might not be subject to the investigation. This is an additional reason that we are not incorporating the proposed language into the scope at this time.

⁵ See Supplemental Questionnaire; *see also* Petition Supplement.

⁶ See Petition Supplement, at Exhibit I-Supp-11.

⁷ See Petition Supplement, at 1, 4-5, and 9.

⁸ The statute provides Commerce with the sole authority to determine the scope of its investigations. *See Canadian Solar, Inc. v. United States*, 918 F.3d 909, 917 (Fed. Cir. 2019).

Consistent with the *Preamble* to Commerce’s regulations, we are setting aside a period for interested parties to raise issues regarding product coverage (scope).⁹ If scope comments include factual information,¹⁰ all such factual information should be limited to public information. To facilitate preparation of its questionnaires, Commerce requests that all interested parties submit scope comments by 5:00 p.m. Eastern Time (ET) on January 27, 2020, which is 20 calendar days from the signature date of this notice. Any rebuttal comments, which may include factual information, must be filed by 5:00 p.m. ET on February 6, 2020, which is 10 calendar days from the initial comment deadline.¹¹

Commerce requests that any factual information parties consider relevant to the scope of the investigation be submitted during this period. However, if a party subsequently finds that additional factual information pertaining to the scope of the investigation may be relevant, the party may contact Commerce and request permission to submit the additional information. All such submissions must be filed on the record of the investigation.

Commerce will consider all comments received and, if necessary, consult with the interested parties prior to the issuance of the preliminary determination.

Filing Requirements

All submissions to Commerce must be filed electronically via Enforcement and Compliance’s Antidumping Duty and Countervailing Duty Centralized Electronic Service System (ACCESS).¹² An electronically filed document must be received successfully in its

⁹ See *Antidumping Duties; Countervailing Duties, Final Rule*, 62 FR 27296, 27323 (May 19, 1997) (*Preamble*).

¹⁰ See 19 CFR 351.102(b)(21) (defining “factual information”).

¹¹ See 19 CFR 351.303(b).

¹² See *Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures*, 76 FR 39263 (July 6, 2011); see also *Enforcement and Compliance; Change of Electronic Filing System Name*, 79 FR 69046 (November 20, 2014) for details of Commerce’s electronic filing requirements, effective August 5, 2011. Information on help using ACCESS can be found at <https://access.trade.gov/help.aspx> and a

entirety by the time and date it is due. Documents exempted from the electronic submission requirements must be filed manually (*i.e.*, in paper form) with Enforcement and Compliance's APO/Dockets Unit, Room 18022, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230, and stamped with the date and time of receipt by the applicable deadlines.

Comments on Product Characteristics

Commerce is providing interested parties an opportunity to comment on the appropriate physical characteristics of 4th tier cigarettes to be reported in response to Commerce's AD questionnaire. This information will be used to identify the key physical characteristics of the merchandise under consideration in order to report the relevant costs of production accurately, as well as to develop appropriate product-comparison criteria.

Interested parties may provide any information or comments that they feel are relevant to the development of an accurate list of physical characteristics. Specifically, they may provide comments as to which characteristics are appropriate to use as: (1) general product characteristics, and (2) product comparison criteria. We note that it is not always appropriate to use all product characteristics as product comparison criteria. We base product comparison criteria on meaningful commercial differences among products. In other words, although there may be some physical product characteristics utilized by manufacturers to describe 4th tier cigarettes, it may be that only a select few product characteristics take into account commercially meaningful physical characteristics. In addition, interested parties may comment on the order in which the physical characteristics should be used in matching products. Generally, Commerce

handbook can be found at
<https://access.trade.gov/help/Handbook%20on%20Electronic%20Filing%20Procedures.pdf>.

attempts to list the most important physical characteristics first and the least important characteristics last.

In order to consider the suggestions of interested parties in developing and issuing the AD questionnaire, all product characteristics comments must be filed by 5:00 p.m. ET on January 27, 2020, which is 20 calendar days from the signature date of this notice.¹³ Any rebuttal comments must be filed by 5:00 p.m. ET on February 6, 2020. All comments and submissions to Commerce must be filed electronically using ACCESS, as explained above, on the record of the investigation.

Determination of Industry Support for the Petition

Section 732(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 732(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) at least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 732(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, Commerce shall: (i) poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A); or (ii) determine industry support using a statistically valid sampling method to poll the “industry.”

Section 771(4)(A) of the Act defines the “industry” as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support,

¹³ See 19 CFR 351.303(b).

the statute directs Commerce to look to producers and workers who produce the domestic like product. The International Trade Commission (ITC), which is responsible for determining whether “the domestic industry” has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both Commerce and the ITC must apply the same statutory definition regarding the domestic like product,¹⁴ they do so for different purposes and pursuant to a separate and distinct authority. In addition, Commerce’s determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law.¹⁵

Section 771(10) of the Act defines the domestic like product as “a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title.” Thus, the reference point from which the domestic like product analysis begins is “the article subject to an investigation” (*i.e.*, the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition).

With regard to the domestic like product, the petitioner does not offer a definition of the domestic like product distinct from the scope of the Petition.¹⁶ Based on our analysis of the information submitted on the record, we have determined that 4th tier cigarettes, as defined in the scope, constitute a single domestic like product, and we have analyzed industry support in terms of that domestic like product.¹⁷

¹⁴ See section 771(10) of the Act.

¹⁵ See *USEC, Inc. v. United States*, 132 F. Supp. 2d 1, 8 (CIT 2001) (citing *Algoma Steel Corp., Ltd. v. United States*, 688 F. Supp. 639, 644 (CIT 1988), *aff’d* 865 F.2d 240 (Fed. Cir. 1989)).

¹⁶ See Volume I of the Petition, at 9-13 and Exhibits I-8 through I-14.

¹⁷ For a discussion of the domestic like product analysis as applied to this case and information regarding industry support, see Initiation Checklist, at Attachment II. This checklist is dated concurrently with this notice and on file electronically via ACCESS. Documents filed via ACCESS are also available in the Central Records Unit, Room B8024 of the main Commerce building.

On January 3, 2020, we received comments on industry support from KT&G Corporation (KT&G), a foreign producer of cigarettes.¹⁸ On January 6, 2020, the petitioner responded to KT&G's industry support comments.¹⁹ On January 7, 2020, we received additional comments on industry support from KT&G.²⁰

In determining whether the petitioner has standing under section 732(c)(4)(A) of the Act, we considered the industry support data contained in the Petition with reference to the domestic like product as defined in the "Scope of the Investigation," in the Appendix to this notice. To establish industry support, the petitioner provided data on its own 2018 production of the domestic like product and compared this to the estimated total production of the domestic like product for the entire domestic industry.²¹ We relied on data provided by the petitioner for purposes of measuring industry support.²²

Our review of the data provided in the Petition, the Petition Supplement, and other information readily available to Commerce indicates that the petitioner has established industry support for the Petition.²³ First, the Petition established support from domestic producers (or workers) accounting for more than 50 percent of the total production of the domestic like product and, as such, Commerce is not required to take further action in order to evaluate industry support (*e.g.*, polling).²⁴ Second, the domestic producers (or workers) have met the statutory

¹⁸ See KT&G's Letter, "Fourth Tier Cigarettes from the Republic of Korea: Pre-Initiation Comments on Industry Support," dated January 3, 2020.

¹⁹ See Petitioner's Letter, "4th Tier Cigarettes from the Republic of Korea: Response to KT&G's Comments on Petitioner's Standing," dated January 6, 2020.

²⁰ See KT&G's Letter, "Fourth Tier Cigarettes from the Republic of Korea: Further Information and Argument Related to Industry Support," dated January 7, 2020.

²¹ See Volume I of the Petition, at 2-3 and Exhibits I-2 and I-3; *see also* Petition Supplement, at 13-14 and Exhibit I-Supp-19.

²² See Volume I of the Petition, at 2-3 and Exhibits I-2 and I-3; *see also* Petition Supplement, at 13-14 and Exhibit I-Supp-19. For further discussion, *see* Initiation Checklist, at Attachment II.

²³ See Initiation Checklist, at Attachment II. We address comments raised by KT&G Corporation and the petitioner after the filing of the Petition Supplement in Attachment II.

²⁴ See section 732(c)(4)(D) of the Act; *see also* Initiation Checklist, at Attachment II.

criteria for industry support under section 732(c)(4)(A)(i) of the Act because the domestic producers (or workers) who support the Petition account for at least 25 percent of the total production of the domestic like product.²⁵ Finally, the domestic producers (or workers) have met the statutory criteria for industry support under section 732(c)(4)(A)(ii) of the Act because the domestic producers (or workers) who support the Petition account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petition.²⁶ Accordingly, Commerce determines that the Petition was filed on behalf of the domestic industry within the meaning of section 732(b)(1) of the Act.

Allegations and Evidence of Material Injury and Causation

The petitioner alleges that the U.S. industry producing the domestic like product is being materially injured, or is threatened with material injury, by reason of the imports of the subject merchandise sold at LTFV. In addition, the petitioner alleges that subject imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act.²⁷

The petitioner contends that the industry's injured condition is illustrated by a significant and increasing volume of subject imports; reduced market share; underselling and price depression or suppression; lost sales and revenues; declining financial performance; a decline in the domestic industry's capacity utilization and production and related workers; shuttered manufacturing facilities and bankruptcies; and actual and potential negative effects on cash flow.²⁸ We have assessed the allegations and supporting evidence regarding material injury, threat of material injury, causation, as well as negligibility, and we have determined that these

²⁵ See Initiation Checklist, at Attachment II.

²⁶ *Id.*

²⁷ See Volume I of the Petition, at 18-19 and Exhibit I-5.

²⁸ *Id.* at 7-9, 14-28 and Exhibits I-2, I-5, I-7, I-8 and I-16 through I-24.

allegations are properly supported by adequate evidence, and meet the statutory requirements for initiation.²⁹

Allegations of Sales at LTFV

The following is a description of the allegations of sales at LTFV upon which Commerce based its decision to initiate an AD investigation of imports of cigarettes from Korea. The sources of data for the deductions and adjustments relating to U.S. price and normal value (NV) are discussed in greater detail in the Initiation Checklist.

Export Price

The petitioner based export price (EP) on the average unit value of the official U.S. import statistics obtained from the ITC's Dataweb (Dataweb). The petitioner made deductions from U.S. price for foreign inland freight and foreign brokerage and handling charges.³⁰

Normal Value

The petitioner based NV on home market price quotes obtained through market research for cigarettes produced in and sold, or offered for sale, in Korea within the POI.³¹ The petitioner deducted foreign inland freight and taxes and fees from the home market prices.³² The petitioner provided information indicating that the home market prices were below the cost of production (COP) and, therefore, the petitioner calculated NV based on constructed value (CV).³³ For further discussion of CV, *see* the section "Normal Value Based on Constructed Value."³⁴

²⁹ See Initiation Checklist, at Attachment III, Analysis of Allegations and Evidence of Material Injury and Causation for the Antidumping Duty Petition Covering 4th Tier Cigarettes from the Republic of China (Attachment III).

³⁰ See Initiation Checklist at 6-7.

³¹ *Id.*

³² *Id.*

³³ *Id.*

³⁴ In accordance with section 505(a) of the Trade Preferences Extension Act of 2015, amending section 773(b)(2) of the Act, for these investigations, Commerce will request information necessary to calculate the CV and cost of production (COP) to determine whether there are reasonable grounds to believe or suspect that sales of the foreign

Normal Value Based on Constructed Value

As noted above, the home market prices were below COP; accordingly, the petitioner based NV on CV. Pursuant to section 773(e) of the Act, CV consists of the cost of manufacturing (COM), selling, general, and administrative (SG&A) expenses, financial expenses, and profit. The petitioner calculated the COM based on the input factors of production and usage rates from a U.S. producer of cigarettes. The input factors of production were valued using publicly available data on costs specific to Korea, during the proposed POI.³⁵ Specifically, the prices for raw materials and energy inputs were valued using publicly available import and domestic price data for Korea.³⁶ Labor costs were valued using publicly available sources for Korea.³⁷ The petitioner calculated factory overhead, SG&A expenses, financial expenses, and profit for Korea based on the ratios found in the experience of a Korean producer of identical merchandise.³⁸

Fair Value Comparisons

Based on the data provided by the petitioner, there is reason to believe that imports of cigarettes from Korea are being, or are likely to be, sold in the United States at LTFV. Based on comparisons of EP to NV in accordance with sections 772 and 773 of the Act, the estimated dumping margin for cigarettes from Korea ranges from 7.10 to 113.06 percent.³⁹

Initiation of LTFV Investigation

We find that the Petition and supplemental response meet the requirements of section 732 of the Act. Therefore, we are initiating an AD investigation to determine whether imports of

like product have been made at prices that represent less than the COP of the product. Commerce no longer requires a COP allegation to conduct this analysis.

³⁵ *Id.*

³⁶ *Id.*

³⁷ *Id.*

³⁸ *Id.*

³⁹ *Id.*

cigarettes from Korea are being, or are likely to be, sold in the United States at LTFV. In accordance with section 733(b)(1)(A) of the Act and 19 CFR 351.205(b)(1), unless postponed, we will make our preliminary determinations no later than 140 days after the date of this initiation.

Respondent Selection

Although Commerce normally relies on import data from using United States Customs and Border Protection import statistics to determine whether to select a limited number of producers/exporters for individual examination in AD investigations, the petitioner identified only one company in Korea, *i.e.*, KT&G, as a producer/exporter of cigarettes and provided independent, third-party information as support.⁴⁰ We currently know of no additional producers/exporters of cigarettes from Korea. Accordingly, Commerce intends to examine all known producers/exporters (*i.e.*, KT&G). We invite interested parties to comment on this issue. Such comments may include factual information within the meaning of 19 CFR 351.102(b)(21). Parties wishing to comment must do so within three business days of the publication of this notice in the *Federal Register*. Comments must be filed electronically using ACCESS. An electronically-filed document must be received successfully in its entirety by Commerce's electronic records system, ACCESS, by 5 p.m. ET by the specified deadline.

Distribution of Copies of the Petition

In accordance with section 732(b)(3)(A) of the Act and 19 CFR 351.202(f), copies of the public version of the Petition have been provided to the Government of Korea via ACCESS. To the extent practicable, we will attempt to provide a copy of the public version of the Petition to each exporter named in the Petition, as provided under 19 CFR 351.203(c)(2).

⁴⁰ See Volume I of the Petition, at 6 and 26 and Exhibits I-4, I-7, and I-17, Volume II of the Petition, at Exhibit II-2; *see also* Petition Supplement at 1 and Exhibit I-Supp-21.

ITC Notification

We will notify the ITC of our initiation, as required by section 732(d) of the Act.

Preliminary Determination by the ITC

The ITC will preliminarily determine, within 45 days after the date on which the Petition was filed, whether there is a reasonable indication that imports of cigarettes from Korea are materially injuring, or threatening material injury to, a U.S. industry.⁴¹ A negative ITC determination will result in the investigation being terminated.⁴² Otherwise, this AD investigation will proceed according to statutory and regulatory time limits.

Submission of Factual Information

Factual information is defined in 19 CFR 351.102(b)(21) as: (i) evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by Commerce; and (v) evidence other than factual information described in (i)–(iv). 19 CFR 351.301(b) requires any party, when submitting factual information, to specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted⁴³ and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct.⁴⁴ Time limits for the submission of factual information are addressed in 19 CFR 351.301, which provides specific time limits based on the type of factual information being

⁴¹ See section 733(a) of the Act.

⁴² *Id.*

⁴³ See 19 CFR 351.301(b).

⁴⁴ See 19 CFR 351.301(b)(2).

submitted. Interested parties should review the regulations prior to submitting factual information in this investigation.

Particular Market Situation Allegation

Section 504 of the Trade Preferences Extension Act of 2015 amended the Act by adding the concept of particular market situation (PMS) for purposes of CV under section 773(e) of the Act.⁴⁵ Section 773(e) of the Act states that “if a particular market situation exists such that the cost of materials and fabrication or other processing of any kind does not accurately reflect the cost of production in the ordinary course of trade, the administering authority may use another calculation methodology under this subtitle or any other calculation methodology.” When an interested party submits a PMS allegation pursuant to section 773(e) of the Act, Commerce will respond to such a submission consistent with 19 CFR 351.301(c)(2)(v). If Commerce finds that a PMS exists under section 773(e) of the Act, then it will modify its dumping calculations appropriately.

Neither section 773(e) of the Act nor 19 CFR 351.301(c)(2)(v) sets a deadline for the submission of PMS allegations and supporting factual information. However, in order to administer section 773(e) of the Act, Commerce must receive PMS allegations and supporting factual information with enough time to consider the submission. Thus, should an interested party wish to submit a PMS allegation and supporting new factual information pursuant to section 773(e) of the Act, it must do so no later than 20 days after submission of a respondent’s initial section D questionnaire response.

⁴⁵ See Trade Preferences Extension Act of 2015, Pub. L. No. 114-27, 129 Stat. 362 (2015).

Extensions of Time Limits

Parties may request an extension of time limits before the expiration of a time limit established under 19 CFR 351.301, or as otherwise specified by the Secretary. In general, an extension request will be considered untimely if it is filed after the expiration of the time limit established under 19 CFR 351.301. For submissions that are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. ET on the due date. Under certain circumstances, we may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, we will inform parties in a letter or memorandum setting forth the deadline (including a specified time) by which extension requests must be filed to be considered timely. An extension request must be made in a separate, stand-alone submission; under limited circumstances we will grant untimely-filed requests for the extension of time limits. Parties should review *Extension of Time Limits; Final Rule*, 78 FR 57790 (September 20, 2013), available at <http://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm>, prior to submitting factual information in this investigation.

Certification Requirements

Any party submitting factual information in an AD or countervailing duty proceeding must certify to the accuracy and completeness of that information.⁴⁶ Parties must use the certification formats provided in 19 CFR 351.303(g).⁴⁷ Commerce intends to reject factual submissions if the submitting party does not comply with the applicable certification requirements.

⁴⁶ See section 782(b) of the Act.

⁴⁷ See *Certification of Factual Information to Import Administration During Antidumping and Countervailing Duty Proceedings*, 78 FR 42678 (July 17, 2013) (*Final Rule*). Answers to frequently asked questions regarding the *Final Rule* are available at http://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf.

Notification to Interested Parties

Interested parties must submit applications for disclosure under Administrative Protective Order (APO) in accordance with 19 CFR 351.305. On January 22, 2008, Commerce published *Antidumping and Countervailing Duty Proceedings: Documents Submission Procedures; APO Procedures*, 73 FR 3634 (January 22, 2008). Parties wishing to participate in this investigation should ensure that they meet the requirements of these procedures (*e.g.*, the filing of letters of appearance as discussed at 19 CFR 351.103(d)).

This notice is issued and published pursuant to sections 732(c)(2) and 777(i) of the Act, and 19 CFR 351.203(c).

Dated: January 7, 2020.

Jeffrey I. Kessler,
Assistant Secretary
for Enforcement and Compliance.

Appendix

Scope of the Investigation

The merchandise covered by this investigation is certain tobacco cigarettes, commonly referred to as “4th tier cigarettes.” The subject cigarettes are composed of a tobacco blend rolled in paper, have a nominal minimum total length of 7.0 cm but do not exceed 12.0 cm in total nominal length, and have a nominal diameter of less than 1.3 cm. These sizes of cigarettes are frequently referred to as “Kings” and “100’s,” but subject merchandise that meets the physical description of the scope is included regardless of the marketing description of the size of the cigarettes. Subject merchandise typically has a tobacco blend that consists of 10% or more tobacco stems.

Subject merchandise is typically sold in packs of 20 cigarettes per pack which generally includes the marking “20 Class A Cigarettes” but are included regardless of packaging. 4th tier cigarette packages are typically sold in boxes without a rounded internal corner and without embossed aluminum foil inside the pack.

Both menthol and non-menthol cigarettes and cigarettes with or without a filter attached are covered by the scope of this investigation.

Merchandise covered by this investigation is currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under subheading 2402.20.8000. This HTSUS subheading is provided for convenience and customs purposes; the written description of the scope of the investigation is dispositive.

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