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DEPARTMENT OF COMMERCE

International Trade Administration

[C-570-115]

Certain Glass Containers from the People's Republic of China: 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 certain glass containers (glass containers) from the People's Republic of China (China).

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

FOR FURTHER INFORMATION CONTACT: Maliha Khan or Stephen Bailey, 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) 482-0895 or (202) 482-0193, respectively.

SUPPLEMENTARY INFORMATION:

Background

On March 2, 2020, Commerce published the *Preliminary Determination* of this investigation.¹ The petitioner is the American Glass Packaging Coalition. The mandatory

¹ See *Certain Glass Containers from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination*, 85 FR 12256 (March 2, 2020) (*Preliminary Determination*) and accompanying Preliminary Decision Memorandum.

respondents in this investigation are Guangdong Huaxing Glass Co. Ltd. (Guangdong Huaxing) and Qixia Changyu Glass Co. Ltd. (Qixia Changyu).

A summary of the events that occurred since Commerce published the *Preliminary Determination*, as well as a full discussion of the issues raised by parties for this final determination, are discussed in the Issues and Decision Memorandum.² 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>. In addition, a complete version of the Issues and Decision 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.

Period of Investigation

The period of investigation (POI) is from January 1, 2018 through December 31, 2018.

Scope of the Investigation

The products covered by this investigation are glass containers from China. For a complete description of the scope of this investigation, *see* Appendix I.

Scope Comments

During the course of this investigation and the concurrent less than fair value (LTFV) investigation of certain glass containers from China, Commerce received scope comments from interested parties. On April 3, 2020, Commerce issued a Preliminary Scope Decision

² See Memorandum, "Issues and Decision Memorandum for the Final Determination in the Countervailing Duty Investigation of Certain Glass Containers from the People's Republic of China," dated concurrently, and hereby adopted by, this notice (Issues and Decision Memorandum).

Memorandum.³ Several interested parties submitted case and rebuttal briefs concerning the scope of this investigation. For a summary of the product coverage comments and rebuttal comments submitted to the record for this final determination, and accompanying discussion and analysis of all comments timely received, *see* the Final Scope Decision Memorandum.⁴ Based on the comments received, Commerce is not modifying the scope language as it appeared in the *Preliminary Determination*. The scope in Appendix I remains unchanged from that which appeared in the *Preliminary Determination*.

Analysis of Subsidy Programs and Comments Received

All issues raised in the case and rebuttal briefs by parties in this investigation, other than those issues related to scope, are discussed in the Issues and Decision Memorandum. A list of the issues raised by parties and addressed in Commerce’s Issues and Decision Memorandum is attached at Appendix II.

Methodology

Commerce is conducting this investigation in accordance with section 701 of the Tariff Act of 1930, as amended (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.⁵ Following the *Preliminary Determination*, and as explained in a letter to all interested parties dated March 16, 2020, during the course of this investigation, a Level 4 Travel Advisory was imposed for all of

³ See Memorandum, “Certain Glass Containers from the People’s Republic of China: Preliminary Scope Decision Memorandum,” dated April 3, 2020.

⁴ See Memorandum, “Certain Glass Containers from the People’s Republic of China: Final Scope Decision Memorandum,” dated concurrently with this memorandum.

⁵ 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.

China, preventing Commerce personnel from traveling to China to conduct verification.⁶

Pursuant to section 776(a)(4)(D) of the Act, in situations where information has been provided but the information cannot be verified, Commerce will use the facts otherwise available in reaching the applicable determination. Accordingly, and as Commerce explained, because Commerce was unable to proceed to verification for reasons beyond its control, Commerce has relied on the information submitted on the record, which it relied on in making its *Preliminary Determination*, as facts available in making this final determination, pursuant to section 776(a)(2)(D) of the Act.⁷ In addition, in certain circumstances, Commerce has also resorted to facts available for certain aspects of its analysis, pursuant to section 776(a)(1), and (a)(2)(A)-(C) of the Act.

Furthermore, at the outset of this investigation, several companies failed to respond to Commerce's quantity and value (Q&V) questionnaire.⁸ Moreover, the GOC failed to cooperate to the best of its ability in certain respects in providing information necessary to Commerce's analysis in this investigation. Because Commerce finds that certain respondents did not act to the best of their ability to respond to Commerce's requests for information, it drew an adverse

⁶ See Memorandum, “Verification, New Subsidy and Creditworthiness Allegations,” dated March 16, 2020.

⁷ *Id.*; see also Issues and Decision Memorandum.

⁸ The companies that failed to properly respond to Commerce's quantity and value questionnaire were: Cangzhou Roter Faden Glass Products, Choicest International, Guangzhou Idealk Business, Haimen Sanlong Glass Products, Hebei Anyu Glass Products Co. Ltd., Hebei Zhengi Glass Products Co. Ltd., Huazhong Glass Co. Ltd. (Changxing), Iboya Glass, Jiangmen Zhong'an Import and Export, Jining Baolin Glass Product Co. Ltd., Kisco Trading Shanghai, Lianyungang Chinamex Trade, Linlang (Shanghai) Glass Products Co. Ltd., Ningbo Vifa International Trade Co., Qingdao Auro Pack, Rockwood & Hines (Jiaxing) Co. Ltd., Shandong Hongda Glassware Co. Ltd., Shandong Mountai Sheng Li Yuan GLA, Shandong Wensheng Glass Technology Co. Ltd., ShangHai Misa Glass Co. Ltd., Shanghai Vista Packaging, Suzhou Yunbo Glass, Value Chain Glass Ltd. (VCG), Wheaton Glass, Wuhan Vanjoin Packaging Co. Ltd., Xiamen Cheer Imp & Exp Co. Ltd., Xuzhou Dahua Glass Products Co. Ltd., Xuzhou Fangbao Glassware, Xuzhou Huajing Glass Products, Xuzhou Livlong Glass Products Co. Ltd., Xuzhou Pretty Glass Products, Xuzhou Yanjia Glassware, Yantai NBC Glass Packaging Co. Ltd., Yuncheng Jinpeng Glass Co. Ltd., Zhejiang Industrial Minerals Foreign Trade Co Ltd., Zibo CY International Trade Co. Ltd., Zibo Regal Glassware and Zibo Rongdian Glass Co. Ltd. (collectively, the 38 non-responsive companies). We refer to these companies, collectively, as the “non-responsive companies.”

⁸ See sections 776(a) and (b) of the Act.

inference where appropriate in selecting from among the facts otherwise available, in accordance with section 776(b) of the Act. For a description of the methodology underlying our final determination, *see* the Issues and Decision Memorandum.

Changes Since the Preliminary Determination

Based on our analysis of the comments received from parties, we made certain changes to the mandatory respondents' subsidy rate calculations set forth in the *Preliminary Determination*. For a discussion of these changes, *see* the Issues and Decision Memorandum.

All-Others Rate

In accordance with section 705(c)(5)(A) of the Act, Commerce shall determine an estimated all-others rate for companies not individually examined. Generally, under section 705(c)(5)(A)(i) of the Act, 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. However, section 705(c)(5)(A)(ii) of the Act provides that if the countervailable subsidy rates established for all companies individually examined are zero or *de minimis* rates, or are determined entirely under section 776 of the Act, then Commerce may use "any reasonable method" to establish an all-others rate, "including averaging the weighted-average countervailable subsidy rates determined for the exporters and producers individually investigated."

As explained above, all of the countervailable subsidy rates for this final determination are based on the facts otherwise available. As explained above, the mandatory respondents in this investigation, Guangdong Huaxing and Qixia Changyu, are receiving rates based entirely on the facts available. In the specific circumstances of this case, because we were unable to verify Guangdong Huaxing and Qixia Changyu because of the Level 4 Travel Advisory, we find that a

reasonable method to determine the all-others rate under section 705(c)(5)(A)(ii) of the Act here is to apply a simple average of Guangdong Huaxing's and Qixia Changyu's individual estimated subsidy rates, using each company's values for the merchandise under consideration because publicly ranged sales data was unavailable.⁹

Final Determination

In accordance with section 705(c)(1)(B)(i)(I) of the Act, we established individual estimated countervailable subsidy rates, as follows:

Company	Subsidy Rate
Guangdong Huaxing Glass Co., Ltd. ¹⁰	27.10
Qixia Changyu Glass Co., Ltd.	25.46
Cangzhou Roter Faden Glass Products	320.53
Choicest International	320.53
Guangzhou Idealpak Business	320.53
Haimen Sanlong Glass Products	320.53
Hebei Anyu Glass Products Co. Ltd.	320.53
Hebei Zhengi Glass Products Co. Ltd.	320.53
Huazhong Glass Co. Ltd. (Changxing)	320.53
Iboya Glass	320.53
Jiangmen Zhong'an Import and Export	320.53

⁹ With two respondents under examination, Commerce normally calculates (A) a weighted-average of the estimated subsidy rates calculated for the examined respondents; (B) a simple average of the estimated subsidy rates calculated for the examined respondents; and (C) a weighted-average of the estimated subsidy rates calculated for the examined respondents using each company's publicly-ranged U.S. sale quantities for the merchandise under consideration. Commerce then compares (B) and (C) to (A) and selects the rate closest to (A) as the most appropriate rate for all other producers and exporters. See, e.g., *Ball Bearings and Parts Thereof from France, Germany, Italy, Japan, and the United Kingdom: Final Results of Antidumping Duty Administrative Reviews, Final Results of Changed-Circumstances Review, and Revocation of an Order in Part*, 75 FR 53661, 53663 (September 1, 2010). As complete publicly ranged sales data was unavailable, Commerce based the all-others rate on a simple average of the mandatory respondents' rates. For a complete analysis of the data, please see the All-Others' Rate Calculation Memorandum.

¹⁰ Guangdong Huaxing reported the following cross-owned companies, which also will receive Guangdong Huaxing's subsidy rate: Foshan Huaxing Glass Co. Ltd., Fujian Huaxing Glass Co. Ltd., Daye Huaxing Glass Co. Ltd., Hunan Huaxing Glass Co. Ltd., Guizhou Huaxing Glass Co. Ltd., Zhejiang Huaxing Glass Co. Ltd., Foshan City San Shui Hua Xing Glass Co. Ltd., Fujian Changcheng Huaxing Glass Co. Ltd., Jiangsu Huaxing Glass Co. Ltd., Hebei Huaxing Glass Co. Ltd., Henan Huaxing Glass Co. Ltd., and Xinjiang Huaxing Glass Co. Ltd.

Jining Baolin Glass Product Co. Ltd.	320.53
Kisco Trading Shanghai	320.53
Lianyungang Chinamex Trade	320.53
Linlang (Shanghai) Glass Products Co. Ltd.	320.53
Ningbo Vifa International Trade Co.	320.53
Qingdao Auro Pack	320.53
Rockwood & Hines (Jiaxing) Co. Ltd.	320.53
Shandong Hongda Glassware Co. Ltd.	320.53
Shandong Mountai Sheng Li Yuan GLA	320.53
Shandong Wensheng Glass Technology Co. Ltd.	320.53
ShangHai Misa Glass Co. Ltd.	320.53
Shanghai Vista Packaging	320.53
Suzhou Yunbo Glass	320.53
Value Chain Glass Ltd. (VCG)	320.53
Wheaton Glass	320.53
Wuhan Vanjoin Packaging Co. Ltd.	320.53
Xiamen Cheer Imp & Exp Co. Ltd.	320.53
Xuzhou Dahua Glass Products Co. Ltd.	320.53
Xuzhou Fangbao Glassware	320.53
Xuzhou Huajing Glass Products	320.53
Xuzhou Livlong Glass Products Co. Ltd.	320.53
Xuzhou Pretty Glass Products	320.53
Xuzhou Yanjia Glassware	320.53
Yantai NBC Glass Packaging Co. Ltd.	320.53
Yuncheng Jinpeng Glass Co. Ltd.	320.53
Zhejiang Industrial Minerals Foreign Trade Co Ltd.	320.53
Zibo CY International Trade Co. Ltd.	320.53
Zibo Regal Glassware	320.53
Zibo Rongdian Glass Co. Ltd.	320.53
All Others	26.28

Continuation of Suspension of Liquidation

As a result of our *Preliminary Determination*, and pursuant to sections 703(d)(1)(B) and (d)(2) of the Act, Commerce instructed U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise under consideration from China that were entered or withdrawn from warehouse, for consumption on or after March 2, 2020, the date of publication of the *Preliminary Determination* in the *Federal Register*.

In accordance with section 705(c)(1)(B)(ii) of the Act, we are directing CBP to continue to suspend liquidation of all imports of the subject merchandise from China that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the Federal Register. The suspension of liquidation instructions will remain in effect until further notice. We are also directing CBP to collect cash deposit of estimated countervailing duties at the rates identified above.

If the U.S. International Trade Commission (ITC) issues a final affirmative injury determination, we will issue a CVD order and require a cash deposit of estimated countervailing duties for such entries of subject merchandise in the amounts indicated above, in accordance with section 706(a) of the Act. If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated, and all estimated duties deposited or securities posted as a result of the suspension of liquidation will be refunded or canceled.

Disclosure

Commerce intends to disclose its calculations and analysis performed in this proceeding to interested parties within five days of its public announcement, or if there is no public announcement, within five days of the date of this notice in accordance with 19 CFR 351.224(b).

ITC Notification

In accordance with section 705(d) of the Act, Commerce will notify the ITC of its final affirmative determination that countervailable subsidies are being provided to producers and exporters of certain glass containers from China. As Commerce's final determination is affirmative, in accordance with section 705(b) of the Act, the ITC will determine, within 45 days, whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of certain glass containers from China, or sales (or the likelihood of sales) for importation of certain glass containers from China. In addition, we are making available to the ITC all non-privileged and nonproprietary information related to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order (APO), without the written consent of the Assistant Secretary for Enforcement and Compliance.

Notification Regarding APO

In the event that the ITC issues a final negative injury determination, this notice will serve as the only reminder to parties subject to the 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: May 11, 2020.

Jeffrey I. Kessler,

Assistant Secretary

for Enforcement and Compliance.

Appendix I

Scope of the Investigation

The merchandise covered by this investigation is certain glass containers with a nominal capacity of 0.059 liters (2.0 fluid ounces) up to and including 4.0 liters (135.256 fluid ounces) and an opening or mouth with a nominal outer diameter of 14 millimeters up to and including 120 millimeters. The scope includes glass jars, bottles, flasks and similar containers; with or without their closures; whether clear or colored; and with or without design or functional enhancements (including, but not limited to, handles, embossing, labeling, or etching).

Excluded from the scope of the investigation are: (1) Glass containers made of borosilicate glass, meeting United States Pharmacopeia requirements for Type 1 pharmaceutical containers; (2) glass containers without “mold seams,” “joint marks,” or “parting lines;” and (3) glass containers without a “finish” (*i.e.*, the section of a container at the opening including the lip and ring or collar, threaded or otherwise compatible with a type of closure to seal the container’s contents, including but not limited to a lid, cap, or cork).

Glass containers subject to this investigation are specified within the Harmonized Tariff Schedule of the United States (HTSUS) under subheadings 7010.90.5005, 7010.90.5009, 7010.90.5015, 7010.90.5019, 7010.90.5025, 7010.90.5029, 7010.90.5035, 7010.90.5039, 7010.90.5045, 7010.90.5049, and 7010.90.5055. The HTSUS subheadings are provided for convenience and customs purposes only. The written description of the scope of the investigation is dispositive.

Appendix II

List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the Investigation
- IV. Scope Comments
- V. Use of Facts Otherwise Available and Adverse Inferences
- VI. Subsidies Valuation Information
- VII. Analysis of Programs
- VIII. Analysis of Comments
- IX. Recommendation

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