

imports during the POI. We intend to release the CBP data under Administrative Protective Order (APO) to all parties with access to information protected by APO within five days of publication of this **Federal Register** notice, and make our decision regarding respondent selection within 20 days of publication of this notice. The Department invites comments regarding the CBP data and respondent selection within 10 days of publication of this **Federal Register** notice.

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305. Instructions for filing such applications may be found on the Department's Website at <http://ia.ita.doc.gov/apo>.

#### **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 representatives of the Government of India. We will attempt to provide a copy of the public version of the petition to all known foreign producers/exporters, consistent with 19 CFR 351.203(c)(2).

#### **International Trade Commission (ITC) Notification**

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

#### **Preliminary Determination by the International Trade Commission**

The ITC will preliminarily determine, no later than December 13, 2008, whether there is a reasonable indication that imports of commodity matchbooks from India materially injure, or threaten material injury to, a U.S. industry. A negative ITC determination covering all classes or kinds of merchandise covered by the petition would result in the investigation being terminated. Otherwise, this investigation will proceed according to statutory and regulatory time limits.

This notice is issued and published pursuant to section 777(i) of the Act.

Dated: November 18, 2008.

**Stephen J. Claeys,**

*Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.*

#### **Attachment I**

#### **Scope of the Investigation Covering Commodity Matchbooks from the India**

The scope of this investigation covers commodity matchbooks, also known as commodity book matches, paper matches or booklet matches.<sup>1</sup>

<sup>1</sup> Such commodity matchbooks are also referred to as "for resale" because they always enter into

Commodity matchbooks typically, but do not necessarily, consist of twenty match stems which are usually made from paperboard or similar material tipped with a match head composed of any chemical formula. The match stems may be stitched, stapled or otherwise fastened into a matchbook cover of any material, on which a striking strip composed of any chemical formula has been applied to assist in the ignition process.

Commodity matchbooks included in the scope of this investigation may or may not contain printing. For example, they may have no printing other than the identification of the manufacturer or importer. Commodity matchbooks may also be printed with a generic message such as "Thank You" or a generic image such as the American Flag, with store brands (e.g., *Kroger*, *7-Eleven*, *Shurfine* or *Giant*); product brands for national or regional advertisers such as cigarettes or alcoholic beverages; or with corporate brands for national or regional distributors (e.g., *Penley Corp.* or *Diamond Brands*). They all enter retail distribution channels. Regardless of the materials used for the stems of the matches and regardless of the way the match stems are fastened to the matchbook cover, all commodity matchbooks are included in the scope of this investigation.

All matchbooks, including commodity matchbooks, typically comply with the United States Consumer Product Safety Commission (CPSC) Safety Standard for Matchbooks, codified at 16 CFR § 1202.1 et seq.

The scope of this investigation excludes promotional matchbooks, often referred to as "not for resale," or "specialty advertising" matchbooks, as they do not enter into retail channels and are sold to businesses that provide hospitality, dining, drinking or entertainment services to their customers, and are given away by these businesses as promotional items. Such promotional matchbooks are distinguished by the physical characteristic of having the name and/or logo of a bar, restaurant, resort, hotel, club, café/coffee shop, grill, pub, eatery, lounge, casino, barbecue or individual establishment printed prominently on the matchbook cover. Promotional matchbook cover printing also typically includes the address and the phone number of the business or establishment being promoted.<sup>2</sup> Also excluded are all

retail channels, meaning businesses that sell a general variety of tangible merchandise, e.g. convenience stores, supermarkets, dollar stores, drug stores and mass merchandisers.

<sup>2</sup> The gross distinctions between commodity matchbooks and promotional matchbooks may be

other matches that are not fastened into a matchbook cover such as wooden matches, stick matches, box matches, kitchen matches, pocket matches, penny matches, household matches, strike-anywhere matches (aka "SAW" matches), strike-on-box matches (aka "SOB" matches), fireplace matches, barbecue/grill matches, fire starters, and wax matches.

The merchandise subject to this investigation is properly classified under subheading 3605.00.0060 of the Harmonized Tariff Schedule of the United States (HTSUS). Subject merchandise may also enter under subheading 3605.00.0030 of the HTSUS. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

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## **DEPARTMENT OF COMMERCE**

### **International Trade Administration**

[C-533-849]

#### **Commodity Matchbooks From India: Initiation of Countervailing Duty Investigation**

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**DATES:** Effective Date: November 24, 2008.

**FOR FURTHER INFORMATION CONTACT:** Sean Carey or Paul Matino, AD/CVD Operations, Office 6, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-3964 and (202) 482-4146, respectively.

#### **SUPPLEMENTARY INFORMATION:**

##### **The Petition**

On October 29, 2008, the Department of Commerce (the Department) received a petition on commodity matchbooks from India filed in proper form by D.D. Bean & Sons Co. (Petitioner), a domestic producer of commodity matchbooks. On November 3, 2008, the Department

summarized as follows: (1) if it has no printing, or is printed with a generic message such as "Thank You" or a generic image such as the American Flag, or printed with national or regional store brands or corporate brands, it is commodity; (2) if it has printing, and the printing includes the name of a bar, restaurant, resort, hotel, club, café/coffee shop, grill, pub, eatery, lounge, casino, barbecue, or individual establishment prominently displayed on the matchbook cover, it is promotional.

issued requests for additional information and clarification of certain areas of the petition involving general issues. Based on the Department's request, Petitioner timely filed additional information concerning the petition on November 6, 2008. On November 5, 2008, the Department issued requests for additional information and clarification of some of the subsidy allegations. Based on the Department's requests, Petitioner timely filed the requested additional information on November 10, 2008.

On November 13, 2008, the Government of India (GOI), an interested party to this proceeding as defined in section 771(9)(B) of the Tariff Act of 1930, as amended (the Act), submitted a letter challenging the definition of the domestic like product in analyzing industry support. On November 17, 2008, Petitioner filed its reply to this challenge.

In accordance with section 702(b)(1) of the Act, Petitioner alleges that manufacturers, producers or exporters of commodity matchbooks in India receive countervailable subsidies within the meaning of section 701 of the Act, and that imports of commodity matchbooks materially injure, or threaten material injury to, an industry in the United States.

The Department finds that Petitioner filed this petition on behalf of the domestic industry because it is an interested party as defined in section 771(9)(C) of the Act, and Petitioner has demonstrated sufficient industry support with respect to the countervailing duty investigation that it is requesting the Department to initiate (*see infra*, "Determination of Industry Support for the Petition").

#### Period of Investigation

The period of investigation (POI) is January 1, 2007, through December 31, 2007, or the most recently completed fiscal year for the GOI and the producers and exporters under investigation, provided the GOI and the companies have the same fiscal year. *See* 19 CFR 351.204(b)(2).

#### Scope of Investigation

The merchandise covered by this investigation is commodity matchbooks. *See* Attachment I to this notice for a complete description of the merchandise covered by this investigation.

#### Comments on Scope of the Investigation

During our review of the petition, we discussed the scope with Petitioner to ensure that it is an accurate reflection of the products for which the domestic

industry is seeking relief. Moreover, as discussed in the preamble to the regulations, we are setting aside a period for interested parties to raise issues regarding product coverage. *See Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27323 (May 19, 1997). The Department encourages all interested parties to submit such comments within 20 calendar days of the publication of this notice. Comments should be addressed to Import Administration's Central Records Unit (CRU), Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230. The period of scope consultations is intended to provide the Department with ample opportunity to consider all comments and to consult with parties prior to the issuance of the preliminary determination.

#### Consultations

Pursuant to section 702(b)(4)(A)(ii) of the Act, the Department invited representatives of the GOI for consultations with respect to the countervailing duty petition. The Department held these consultations on November 17, 2008. *See* Memorandum to the File, *Consultations with the Government of India Regarding the Countervailing Duty Petition on Commodity Matchbooks from India*, November 17, 2008, and on file in the CRU, Room 1117 of the main Department of Commerce building.

#### Determination of Industry Support for the Petition

Section 702(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 702(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 702(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, the Department 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.

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, the statute directs the Department to look to producers and workers who produce the domestic like product. The U.S. 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 the Department and the ITC must apply the same statutory definition regarding the domestic like product (section 771(10) of the Act), they do so for different purposes and pursuant to a separate and distinct authority. In addition, the Department'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. *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), *cert. denied*, 492 U.S. 919 (1989).

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, Petitioner does not offer a definition of domestic like product distinct from the scope of the investigation. On November 13, 2008, the GOI submitted a letter challenging the definition of the domestic like product. *See* the GOI's November 13, 2008 letter. On November 17, 2008, Petitioner filed its reply to this challenge. We have analyzed these comments, and based on our analysis all of the information submitted on the record, we have determined that commodity matchbooks as defined by Petitioner constitute a single domestic like product and we have analyzed industry support in terms of that domestic like product. For a discussion of the domestic like product analysis in this case, *see Countervailing Duty Investigation Initiation Checklist: Commodity Matchbooks from India (Initiation Checklist)*, at Attachment II (Analysis of Industry Support for the

Petition), on file in the CRU, Room 1117 of the main Department of Commerce building.

With regard to section 702(c)(4)(A), in determining whether Petitioner has standing, (*i.e.*, those domestic workers and producers supporting the petition account for: (1) At least 25 percent of the total production of the domestic like product; and (2) 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), we considered the industry support data contained in the petition with reference to the domestic like product as defined in the "Scope of Investigation" section above. According to Petitioner, there are three producers of the domestic like product: itself; Bradley Industries, LLC; and Atlas Match Corp., LLC. (Atlas Match Corp. is owned by Bradley Industries, LLC.) To establish industry support, Petitioner provided its production of the domestic like product for calendar year 2007. In addition, Bradley Industries, LLC, provided a letter of support for the petition and included its production figures for calendar year 2007. *See* Petition at 3; *see also* Letter of Support filed by Bradley Industries, LLC, on October 31, 2008. We have relied upon data provided by Petitioner and supporters of the petition for purposes of measuring industry support. For further discussion, *see Initiation Checklist* at Attachment II.

The Department's review of the data provided in the petition, and other information readily available to the Department, indicates that Petitioner has established industry support. First, the petition establishes support from domestic producers (or workers) accounting for more than 50 percent of the total production of the domestic like product and, as such, the Department is not required to take further action in order to evaluate industry support (*e.g.*, polling). *See* Section 702(c)(4)(D) of the Act and *Initiation Checklist* at Attachment II. Second, the domestic producers (or workers) have met the statutory criteria for industry support under section 702(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. *See Initiation Checklist* at Attachment II. Finally, the domestic producers (or workers) have met the statutory criteria for industry support under section 702(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. Accordingly, the Department determines that the petition was filed on behalf of the domestic industry within the meaning of section 702(b)(1) of the Act. *See Initiation Checklist* at Attachment II.

The Department finds that Petitioner filed the petition on behalf of the domestic industry because it is an interested party as defined in section 771(9)(C) of the Act and has demonstrated sufficient industry support with respect to the countervailing duty investigation that it is requesting the Department initiate. *See Initiation Checklist* at Attachment II.

#### **Injury Test**

Because India is a "Subsidies Agreement Country" within the meaning of section 701(b) of the Act, section 701(a)(2) of the Act applies to this investigation. Accordingly, the ITC must determine whether imports of the subject merchandise from India materially injures, or threatens material injury to, a U.S. industry.

#### **Allegations and Evidence of Material Injury and Causation**

Petitioner alleges that imports of commodity matchbooks from India are benefitting from countervailable subsidies and that such imports are causing or threaten to cause, material injury to the domestic industry producing commodity matchbooks. In addition, Petitioner alleges that subject imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act.

Petitioner contends that the industry's injured condition is illustrated by reduced market share, underselling and price depressing and suppressing effects, lost sales and revenue, reduced production and capacity utilization, reduced shipments, reduced employment, and an overall decline in financial performance. We have assessed the allegations and supporting evidence regarding material injury, threat of material injury, and causation, and we have determined that these allegations are properly supported by adequate evidence and meet the statutory requirements for initiation. *See Initiation Checklist* at Attachment III (Analysis of Allegations and Evidence of Material Injury and Causation for the Petition).

#### **Subsidy Allegations**

Section 702(b) of the Act requires the Department to initiate a countervailing duty proceeding whenever an interested party files a petition on behalf of an

industry that: (1) Alleges the elements necessary for an imposition of a duty under section 701(a) of the Act; and (2) is accompanied by information reasonably available to Petitioner supporting the allegations. The Department has examined the countervailing duty petition on commodity matchbooks from India and found that it complies with the requirements of section 702(b) of the Act. Therefore, in accordance with section 702(b) of the Act, we are initiating a countervailing duty investigation to determine whether manufacturers, producers, or exporters of commodity matchbooks from India receive countervailable subsidies. For a discussion of evidence supporting our initiation determination, *see Initiation Checklist*.

We are including in our investigation the following programs alleged in the petition to have provided countervailable subsidies to producers or exporters of the subject merchandise:

- A. Export Oriented Unit Scheme
  - 1. Duty-Free Import of Capital Goods and Raw Materials
  - 2. Reimbursement of Central Sales Tax Paid on Goods Manufactured in India
  - 3. Duty Drawback on Fuel Procured from Domestic Oil Companies
  - 4. Exemption from Income Tax under Sections 10A and 10B of Income Tax Act
- B. Export Promotion Capital Goods Scheme
- C. Duty Entitlement Passbook Scheme
- D. Advance License Program
- E. Duty Free Import Authorization Scheme
- F. Pre-shipment and Post-shipment Export Financing

For further information explaining why the Department is investigating these programs, *see Initiation Checklist*.

We are not including in our investigation the following program alleged to benefit producers and exporters of the subject merchandise in the GOI: Exemption from Payment of Central Excise Duty on Goods Procured from a Domestic Tariff Area for Goods Manufactured in India. For further explanation of the Department's decision not to investigate this program, *see Initiation Checklist*.

#### **Respondent Selection**

Petitioner claims that there is only one Indian producer/exporter of commodity matchbooks that shipped to the United States during the proposed POI. The Department intends to release U.S. Customs and Border Protection (CBP) data under Administrative Protective Order (APO) to all parties

with access to information protected by APO within five days of publication of this **Federal Register** notice. The Department invites comments regarding the CBP data and respondent selection within seven days of publication of this **Federal Register** notice.

#### Distribution of Copies of the Petition

In accordance with section 702(b)(4)(A)(i) of the Act, a copy of the public version of the petition has been provided to the GOI. 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).

#### ITC Notification

We have notified the ITC of our initiation, as required by section 702(d) of the Act.

#### Preliminary Determination by the ITC

The ITC will preliminarily determine, within 25 days after the date on which it receives notice of the initiation, whether there is reasonable indication that imports of subsidized commodity matchbooks from India are causing material injury, or threatening to cause material injury, to a U.S. industry. See Section 703(a)(2) of the Act. A negative ITC determination will result in the investigation being terminated; otherwise, the investigation will proceed according to statutory and regulatory time limits.

This notice is issued and published pursuant to section 777(i) of the Act.

Dated: November 18, 2008.

#### Stephen J. Claeys,

*Deputy Assistant Secretary, for Antidumping and Countervailing Duty Operations.*

#### Attachment I

##### *Scope of the Investigation Covering Commodity Matchbooks from India*

The scope of this investigation covers commodity matchbooks, also known as commodity book matches, paper matches or booklet matches.<sup>1</sup> Commodity matchbooks typically, but do not necessarily, consist of twenty match stems which are usually made from paperboard or similar material tipped with a match head composed of any chemical formula. The match stems may be stitched, stapled or otherwise fastened into a matchbook cover of any material, on which a striking strip

composed of any chemical formula has been applied to assist in the ignition process.

Commodity matchbooks included in the scope of this investigation may or may not contain printing. For example, they may have no printing other than the identification of the manufacturer or importer. Commodity matchbooks may also be printed with a generic message such as “Thank You” or a generic image such as the American Flag, with store brands (e.g., *Kroger*, *7-Eleven*, *Shurfine* or *Giant*); product brands for national or regional advertisers such as cigarettes or alcoholic beverages; or with corporate brands for national or regional distributors (e.g., *Penley Corp.* or *Diamond Brands*). They all enter retail distribution channels. Regardless of the materials used for the stems of the matches and regardless of the way the match stems are fastened to the matchbook cover, all commodity matchbooks are included in the scope of this investigation.

All matchbooks, including commodity matchbooks, typically comply with the United States Consumer Product Safety Commission (CPSC) Safety Standard for Matchbooks, codified at 16 CFR 1202.1 *et. seq.*

The scope of this investigation excludes promotional matchbooks, often referred to as “not for resale,” or “specialty advertising” matchbooks, as they do not enter into retail channels and are sold to businesses that provide hospitality, dining, drinking or entertainment services to their customers, and are given away by these businesses as promotional items. Such promotional matchbooks are distinguished by the physical characteristic of having the name and/or logo of a bar, restaurant, resort, hotel, club, café coffee shop, grill, pub, eatery, lounge, casino, barbecue or individual establishment printed prominently on the matchbook cover. Promotional matchbook cover printing also typically includes the address and the phone number of the business or establishment being promoted.<sup>2</sup> Also excluded are all other matches that are not fastened into a matchbook cover such as wooden matches, stick matches, box matches, kitchen matches, pocket matches, penny

matches, household matches, strike-anywhere matches (aka “SAW” matches), strike-on-box matches (aka “SOB” matches), fireplace matches, barbeque/grill matches, fire starters, and wax matches.

The merchandise subject to this investigation is properly classified under subheading 3605.00.0060 of the Harmonized Tariff Schedule of the United States (HTSUS). Subject merchandise may also enter under subheading 3605.00.0030 of the HTSUS. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

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## DEPARTMENT OF COMMERCE

### International Trade Administration

(C–570–940)

#### **Certain Tow-Behind Lawn Groomers and Certain Parts Thereof from the People’s Republic of China: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Countervailing Duty Determination with Final Antidumping Duty Determination**

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**SUMMARY:** The Department of Commerce (the Department) preliminarily determines that countervailable subsidies are being provided to producers and exporters of certain tow-behind lawn groomers (lawn groomers) and certain parts thereof from the People’s Republic of China (PRC). For information on the estimated subsidy rates, see the “Suspension of Liquidation” section of this notice. This notice also serves to align the final countervailing duty (CVD) determination in this investigation with the final determination in the companion antidumping duty investigation of lawn groomers from the PRC.

**EFFECTIVE DATE:** November 24, 2008.

**FOR FURTHER INFORMATION CONTACT:** Gene Calvert or Jun Jack Zhao, AD/CVD Operations, Office 6, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–3586 and (202) 482–1396, respectively.

**SUPPLEMENTARY INFORMATION:**

<sup>1</sup> Such commodity matchbooks are also referred to as “for resale” because they always enter into retail channels, meaning businesses that sell a general variety of tangible merchandise, e.g. convenience stores, supermarkets, dollar stores, drug stores and mass merchandisers.

<sup>2</sup> The gross distinctions between commodity matchbooks and promotional matchbooks may be summarized as follows: (1) If it has not printing, or is printed with a generic message such as “Thank You” or a generic image such as the American Flag, or printed with national or regional store brands or corporate brands, it is commodity; (2) if it has printing, and the printing includes the name of a bar, restaurant, resort, hotel, club, café/coffee shop, grill, pub, eatery, lounge, casino, barbecue, or individual establishment prominently displayed on the matchbook cover, it is promotional.