

Dated: July 13, 2017.

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.

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DEPARTMENT OF COMMERCE

International Trade Administration

[A-351-849]

Emulsion Styrene-Butadiene Rubber From Brazil: Final Affirmative Determination of Sales at Less Than Fair Value and Final Negative Determination of Critical Circumstances

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

SUMMARY: The Department of Commerce (Department) determines that emulsion styrene-butadiene rubber (ESB rubber) from Brazil is being, or is likely to be, sold in the United States at less than fair value (LTFV). The period of investigation (POI) is July 1, 2015, through June 30, 2016.

DATES: July 19, 2017.

FOR FURTHER INFORMATION CONTACT: Drew Jackson, 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) 482-4406.

SUPPLEMENTARY INFORMATION:

Background

On February 24, 2017, the Department published the *Preliminary Determination* of this antidumping duty LTFV investigation, as provided by section 735 of the Tariff Act of 1930, as amended (Act), in which the Department found that ESB rubber from Brazil sold at LTFV.¹ A summary of the events that have occurred since the Department published the *Preliminary Determination*, as well as a full discussion of the issues raised by interested parties for this final determination, may be found in the

¹ See *Emulsion Styrene-Butadiene Rubber from Brazil: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Negative Determination of Critical Circumstances, Postponement of Final Determination, and Extension of Provisional Measures*, 82 FR 11538 (February 24, 2017), and accompanying Preliminary Decision Memorandum (collectively, *Preliminary Determination*).

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 <https://access.trade.gov>, and 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 Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/>.

Scope of the Investigation

The product covered by this investigation is ESB rubber from Brazil. For a complete description of the scope of this investigation, see Appendix I.

Scope Comments

No interested party commented on the scope of the investigation as it appeared in the *Initiation Notice*.³ Therefore, we did not modify the scope language of this investigation remains unchanged for this final determination.

Verification

As provided in section 782(i) of the Act, in February and March 2017, the Department conducted verification of the information reported by the mandatory respondent ARLANXEO Brasil S.A. (ARLANXEO Brasil) and its U.S. affiliate, ARLANXEO U.S.A. LLC, for use in the Department's final determination.⁴ The Department used standard verification procedures, including an examination of relevant accounting and production records and original source documents provided by the respondent.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs that were submitted by parties in this investigation are

² See Memorandum, "Issues and Decision Memorandum for the Final Determination in the Less Than Fair Value Investigation of Emulsion Styrene-Butadiene Rubber From Brazil," dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

³ See *Emulsion Styrene-Butadiene Rubber from Brazil, the Republic of Korea, Mexico and Poland: Initiation of Less Than Fair Value Investigations*, 81 FR 55438 (August 19, 2016) (*Initiation Notice*).

⁴ See Memorandum, "Verification of the Constructed Export Price Sales Questionnaire Responses of ARLANXEO U.S.A. LLC," dated April 13, 2017; Memorandum, "Verification of the Home Market and Constructed Export Price Sales Questionnaire Responses of ARLANXEO Brasil S.A.," dated April 21, 2017; and Memorandum, "Verification of the Cost Response of ARLANXEO Brasil S.A. in the Antidumping Duty Investigation of Certain Emulsion Styrene Butadiene Rubber from Brazil," dated May 15, 2017.

addressed in the Issues and Decision Memorandum. A list of these issues is attached to this notice as Appendix II. Based on our analysis of the comments received and our findings at verifications, we made certain changes to the margin calculation for ARLANXEO Brasil, and also the all-others rate.

All-Others Rate

Section 735(c)(5)(A) of the Act provides that in the final determination the Department shall determine an estimated all-others rate for all exporters and producers not individually examined. This rate shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero and *de minimis* margins, and any margins determined entirely under section 776 of the Act. For the final determination, the Department calculated an individual estimated weighted-average dumping margin for ARLANXEO Brasil, the only individually examined exporter/producer in this investigation. Because the only individually calculated dumping margin is not zero, *de minimis*, or based entirely on facts otherwise available, the estimated weighted-average dumping margin calculated for ARLANXEO Brasil is the margin assigned to all-other producers and exporters, pursuant to section 735(c)(5)(A) of the Act.

Final Determination

The Department determines that the following estimated weighted-average dumping margins exist:

Exporter/producer	Estimated weighted-average dumping margins (percent)
ARLANXEO Brasil S.A.	19.61
All-Others	19.61

Final Negative Determination of Critical Circumstances

On January 25, 2017, the petitioners⁵ filed a timely critical circumstances allegation, pursuant to section 733(e)(1) of the Act and 19 CFR 351.206(c)(1), alleging that critical circumstances exist with respect to imports of ESB rubber from Brazil.⁶ On February 24, 2017, the

⁵ Lion Elastomers LLC and East West Copolymers (collectively, the petitioners).

⁶ See Letter to the Honorable Penny Pritzker, Secretary of Commerce, from the Petitioners, concerning, "Emulsion Styrene-Butadiene Rubber

Department preliminarily determined that critical circumstances did not exist for the mandatory respondent ARLANXEO Brasil or the exporters and producers not individually investigated (*i.e.*, “all-others”). In this final, the Department continues to find that, in accordance with 735(a)(3) of the Act, critical circumstances do not exist for ARLANXEO Brasil or the non-individually examined companies receiving the all-others rate in this investigation. A discussion of the determination can be found in the “Negative Determination of Critical Circumstances” section of the Issues and Decision Memorandum.

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, the Department will instruct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of all appropriate entries of ESB rubber from Brazil as described in Appendix I of this notice, which were entered, or withdrawn from warehouse, for consumption on or after February 24, 2017, the date of publication of the *Preliminary Determination* of this investigation in the **Federal Register**. Further, pursuant to section 735(c)(1)(B) of the Act and 19 CFR 351.210(d), the Department will instruct CBP to require a cash deposit equal to the estimated weighted-average dumping margin or the estimated all-others rate, as follows: (1) The cash deposit rate for the respondents listed above will be equal to the respondent-specific estimated weighted-average dumping margins determined in this final determination; (2) if the exporter is not a respondent identified above, but the producer is, then the cash deposit rate will be equal to the respondent-specific estimated weighted-average dumping margin established for that producer of the subject merchandise; and (3) the cash deposit rate for all other producers and exporters will be equal to the all-others estimated weighted-average dumping margin.

Disclosure

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

(ESBR) from Brazil and South Korea: Critical Circumstances Allegation,” dated January 25, 2017.

International Trade Commission Notification

In accordance with section 735(d) of the Act, the Department will notify the International Trade Commission (ITC) of its final affirmative determination. Because the final determination in this proceeding is affirmative, in accordance with section 735(b)(2) 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 of ESB rubber from Brazil no later than 45 days after the Department’s final determination. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing CBP to assess, upon further instruction by the Department, antidumping duties on appropriate imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of the suspension of liquidation.

Notification to Regarding Administrative Protective Orders

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

This determination and this notice are issued and published pursuant to sections 735(d) and 777(i)(1) of the Act and 19 CFR 351.210(c).

Dated: July 10, 2017.

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

For purposes of this investigation, the product covered is cold-polymerized emulsion styrene-butadiene rubber (ESB rubber). The scope of the investigation includes, but is not limited to, ESB rubber in primary forms, bales, granules, crumbs, pellets, powders, plates, sheets, strip, *etc.* ESB rubber consists of non-pigmented rubbers and oil-extended non-pigmented

rubbers, both of which contain at least one percent of organic acids from the emulsion polymerization process.

ESB rubber is produced and sold in accordance with a generally accepted set of product specifications issued by the International Institute of Synthetic Rubber Producers (IISRP). The scope of the investigation covers grades of ESB rubber included in the IISRP 1500 and 1700 series of synthetic rubbers. The 1500 grades are light in color and are often described as “Clear” or “White Rubber.” The 1700 grades are oil-extended and thus darker in color, and are often called “Brown Rubber.”

Specifically excluded from the scope of this investigation are products which are manufactured by blending ESB rubber with other polymers, high styrene resin master batch, carbon black master batch (*i.e.*, IISRP 1600 series and 1800 series) and latex (an intermediate product).

The products subject to this investigation are currently classifiable under subheadings 4002.19.0015 and 4002.19.0019 of the Harmonized Tariff Schedule of the United States (HTSUS). ESB rubber is described by Chemical Abstract Services (CAS) Registry No. 9003–55–8. This CAS number also refers to other types of styrene butadiene rubber. Although the HTSUS subheadings and CAS registry number are provided for convenience and customs purposes, the written description of the scope of this 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. Final Negative Determination of Critical Circumstances
- VI. Margin Calculations
- VII. Discussion of the Issues
 - Comment 1: Level of Trade
 - Comment 2: U.S. Indirect Selling Expenses
 - Comment 3: Domestic Indirect Selling Expense Clerical Error
- VIII. Recommendation

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DEPARTMENT OF COMMERCE

International Trade Administration

North American Free Trade Agreement (NAFTA), Article 1904 Binational Panel Review: Notice of Request for Panel Review

AGENCY: United States Section, NAFTA Secretariat, International Trade Administration, Department of Commerce

ACTION: Notice.

SUMMARY: A Request for Panel Review was filed on behalf of Maquilacero S.A. de C.V. with the United States Section