

12. Recommendation

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A–570–069]

#### Less-Than-Fair-Value Investigation of Rubber Bands From the People's Republic of China: Preliminary Affirmative Determination of Sales at Less Than Fair Value and Preliminary Affirmative Determination of Critical Circumstances

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

**SUMMARY:** The Department of Commerce (Commerce) preliminarily determines that rubber bands from the People's Republic of China (China) are being or are likely to be sold in the United States at less than fair value (LTFV). The period of investigation (POI) is July 1, 2017, through December 31, 2017. Interested parties are invited to comment on this preliminary determination.

**DATES:** Applicable September 6, 2018.

**FOR FURTHER INFORMATION CONTACT:** Paul Stolz or Stephanie Berger, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–4474 or (202) 482–2483, respectively.

#### SUPPLEMENTARY INFORMATION:

##### Background

This preliminary determination is made in accordance with section 733(b) of the Tariff Act of 1930, as amended (the Act). We published the notice of initiation of this investigation on February 27, 2018.<sup>1</sup> On June 26, 2018, we postponed the preliminary determination of this investigation. The revised deadline is now August 29, 2018.<sup>2</sup> For a complete description of the events that followed the initiation of this investigation, see the Preliminary Decision Memorandum.<sup>3</sup> A list of topics

<sup>1</sup> See *Rubber Bands from the People's Republic of China, Sri Lanka, and Thailand: Initiation of Less-Than-Fair-Value Investigations*, 83 FR 8424, 8425 (February 27, 2018) (*Initiation Notice*).

<sup>2</sup> See *Rubber Bands from the People's Republic of China and Thailand: Postponement of Preliminary Determinations in the Less-Than-Fair-Value Investigations*, 83 FR 29748 (June 26, 2018).

<sup>3</sup> See the memorandum, “Decision Memorandum for the Preliminary Determination in the Less-Than-

included in the Preliminary Decision Memorandum is included as Appendix II to this notice. The Preliminary 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 Preliminary Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/>. The signed and the electronic versions of the Preliminary Decision Memorandum are identical in content.

#### Scope of the Investigation

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

#### Scope Comments

In accordance with the preamble to Commerce's regulations,<sup>4</sup> the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage (*i.e.*, scope).<sup>5</sup> Certain interested parties provided comments on the scope of the investigation as it appeared in the *Initiation Notice*.<sup>6</sup> For a summary of the product coverage comments and rebuttal responses submitted to the record for this preliminary determination, and accompanying discussion and analysis of all comments timely received, see the Preliminary Scope Decision Memorandum.<sup>7</sup> We are preliminarily modifying the scope language as it appeared in the *Initiation Notice*. See the revised scope in Appendix I to this notice.

Fair-Value Investigation of Rubber Bands from the People's Republic of China,” dated August 29, 2018 (Preliminary Decision Memorandum).

<sup>4</sup> See *Antidumping Duties; Countervailing Duties, Final Rule*, 62 FR 27296, 27323 (May 19, 1997).

<sup>5</sup> See *Initiation Notice*.

<sup>6</sup> See Greenbrier's and Conair's letter, “Rubber Bands from, Thailand, China and Sri Lanka: Scope Comments,” dated March 12, 2018; Jafferjee's letter, “Rubber Bands from Thailand: Scope Comments,” dated March 12, 2018; and, the petitioner's letter, “Petition for the Imposition of Antidumping and Countervailing Duties on Rubber Bands from Thailand and China—Rebuttal Scope Comments,” dated March 22, 2018.

<sup>7</sup> See Memorandum, “Rubber Bands from Thailand and the People's Republic of China: Scope Comments Decision Memorandum for the Preliminary Determination,” dated concurrently with this notice (Preliminary Scope Decision Memorandum).

#### Methodology

We are conducting this investigation in accordance with section 731 of the Act. Pursuant to section 776(a) and (b) of the Act, we have preliminarily relied upon facts otherwise available, with adverse inferences, for the China-wide entity because it did not respond to our requests for information. Specifically, all companies to which Commerce issued quantity and value (Q&V) questionnaires failed to respond.<sup>8</sup> Thus, no companies have demonstrated their eligibility for a separate rate and are preliminarily found to be part of the China-wide entity. Furthermore, we find that the China-wide entity's lack of participation, including the failure of certain parts of the China-wide entity to submit Q&V information, constitutes circumstances under which it is reasonable to conclude that the China-wide entity as a whole failed to cooperate to the best of its ability to comply with Commerce's request for information. For a full description of the methodology underlying Commerce's preliminary determination, see the Preliminary Decision Memorandum.

#### Preliminary Affirmative Determination of Critical Circumstances

On June 11, 2018, as revised on August 7, 2018, the petitioner timely filed a critical circumstances allegation, pursuant to section 733(e)(1) of the Act and 19 CFR 351.206, alleging that critical circumstances exist with respect to imports of rubber bands from China.<sup>9</sup> Based on the failure of all respondents, and thus the China-wide entity, to cooperate to the best of their ability to comply with Commerce's requests for information, we preliminarily determine that massive imports of rubber bands from China existed for the China-wide entity, based on adverse facts available, pursuant to section 733(e)(1)(B) of the Act. In addition, we have preliminarily determined that there is a reasonable basis to believe or suspect that importers knew, or should have known, that merchandise was being sold for less than fair value and that those sales were likely to cause material injury in accordance with section 733(e)(1)(A)(ii) of the Act.

For a full description of the methodology and the results of Commerce's analysis, see the Preliminary Decision Memorandum.

<sup>8</sup> See the memorandum, “Antidumping Duty Investigation of Rubber Bands from the People's Republic of China: Delivery of Quantity and Value Questionnaire to Exporters/Producers,” dated March 6, 2018.

<sup>9</sup>

**Preliminary Determination**

We preliminarily determine that the following estimated weighted-average dumping margin exists:

Producer	Exporter	Estimated weighted-average dumping margin (percent)	Cash deposit (percent)
China-Wide Entity .....	China-Wide Entity .....	27.27	26.65

**Suspension of Liquidation**

In accordance with section 733(d)(2) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of subject merchandise, as described in the scope of the investigation entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**, as discussed below. Further, pursuant to section 733(d)(1)(B) of the Act and 19 CFR 351.205(d), Commerce will instruct CBP to require a cash deposit equal to the estimated weighted-average dumping margin, adjusted for export subsidies, as indicated in the chart above.

Section 733(e)(2) of the Act provides that, given an affirmative determination of critical circumstances, any suspension of liquidation shall apply to unliquidated entries of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the later of (a) the date which is 90 days before the date on which the suspension of liquidation was first ordered, or (b) the date on which notice of initiation of the investigation was published. Commerce preliminarily finds that critical circumstances exist for all imports of subject merchandise from China. In accordance with section 733(e)(2)(A) of the Act, the suspension of liquidation shall apply to all unliquidated entries of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date which is 90 days before the publication of this notice.

To determine the cash deposit rate, Commerce normally adjusts the estimated weighted-average dumping margin by the amount of domestic subsidy pass-through and export subsidies determined in a companion countervailing duty (CVD) proceeding when CVD provisional measures are in effect. Accordingly, where Commerce has made a preliminary affirmative determination for export subsidies, Commerce has offset the calculated estimated weighted-average dumping

margin by the appropriate rate(s). Any such cash deposit rates may be found in the Preliminary Determination Section's chart of estimated weighted-average dumping margins above.

Should provisional measures in the companion CVD investigation expire prior to the expiration of provisional measures in this LTFV investigation, Commerce will direct CBP to begin collecting cash deposits at a rate equal to the estimated weighted-average dumping margin calculated in this preliminary determination unadjusted for the export subsidies at the time the CVD provisional measures expire. These suspension of liquidation instructions will remain in effect until further notice.

**Disclosure**

Normally, Commerce discloses to interested parties the calculations performed in connection with a preliminary determination within five days of its 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). However, because Commerce preliminarily applied AFA to companies in this investigation in accordance with section 776 of the Act, and the applied AFA rate is based solely on the petition, there are no calculations to disclose.

**Verification**

Because all respondents did not provide information requested by Commerce and we preliminarily determine that all respondents to have been uncooperative, verification will not be conducted.

**Public Comment**

Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance no later than 30 days after the date of publication of the preliminary determination, unless the Secretary alters the time limit. Rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than five days after the deadline date for case

briefs.<sup>10</sup> Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this investigation are encouraged to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, within 30 days after the date of publication of this notice. Requests should contain the party's name, address, and telephone number, the number of participants, whether any participant is a foreign national, and a list of the issues to be discussed. If a request for a hearing is made, we intend to hold the hearing at the U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230, at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

**International Trade Commission (ITC) Notification**

In accordance with section 733(f) of the Act, we notified the ITC of our preliminary affirmative determination of sales at LTFV and preliminary determination of critical circumstances. If the Commerce final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after the final determination whether imports of the subject merchandise are materially injuring, or threaten material injury to, the U.S. industry and whether critical circumstances exist.

<sup>10</sup> See 19 CFR 351.309; see also 19 CFR 351.303 (for general filing requirements).

## Notification to Interested Parties

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act and 19 CFR 351.205(c).

Dated: August 29, 2018.

**Christian Marsh,**

*Deputy Assistant Secretary for Enforcement and Compliance.*

## Appendix I

### Scope of the Investigation

The products subject to this investigation are bands made of vulcanized rubber, with a flat length, as actually measured end-to-end by the band lying flat, no less than 1/2 inch and no greater than 10 inches; with a width, which measures the dimension perpendicular to the length, actually of at least 3/64 inch and no greater than 2 inches; and a wall thickness actually from 0.020 inch to 0.125 inch. Vulcanized rubber has been chemically processed into a more durable material by the addition of sulfur or other equivalent curatives or accelerators. Subject products are included regardless of color or inclusion of printed material on the rubber band's surface, including but not limited to, rubber bands with printing on them, such as a product name, advertising, or slogan, and printed material (e.g., a tag) fastened to the rubber band by an adhesive or another temporary type of connection. The scope includes vulcanized rubber bands which are contained or otherwise exist in various forms and packages, such as, without limitation, vulcanized rubber bands included within a desk accessory set or other type of set or package, and vulcanized rubber band balls. The scope excludes products that consist of an elastomer loop and durable tag all-in-one, and bands that are being used at the time of import to fasten an imported product.

Excluded from the scope of this investigation are vulcanized rubber bands of various sizes with arrow shaped rubber protrusions from the outer diameter that exceeds at the anchor point a wall thickness of 0.125 inches and where the protrusion is used to loop around, secure and lock in place.

Excluded from the scope of this investigation are yarn/fabric-covered vulcanized rubber hair bands, regardless of size.

Merchandise covered by this investigation is currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under subheading 4016.99.3510. Merchandise covered by the scope may also enter under HTSUS subheading 4016.99.6050. While the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the investigation is dispositive.

## Appendix II

### List of Topics Discussed in the Preliminary Decision Memorandum

- I. Summary
- II. Background
- III. Period of Investigation
- IV. Scope Comments

- V. Discussion of the Methodology
  - A. Non-Market Economy Country
  - B. China-Wide Entity
  - C. Use of Facts Otherwise Available With an Adverse Inference
  - D. Application of Facts Available
  - E. Application of Facts Available With an Adverse Inference
  - F. Selection and Corroboration of the AFA Rate
  - G. Preliminary Affirmative Determination of Critical Circumstances
    1. Legal Framework
    2. Critical Circumstances Allegation
    3. Analysis
- VI. Adjustment under Section 777a(F) of the Act
- VII. Adjustments to Cash Deposit Rates for Export Subsidies
- VIII. Verification
- IX. Conclusion

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## DEPARTMENT OF COMMERCE

### International Trade Administration [C-570-076]

#### Certain Plastic Decorative Ribbon From the People's Republic of China: Amended Preliminary Affirmative Countervailing Duty Determination

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

**SUMMARY:** On June 22, 2018, the Department of Commerce (Commerce) published in the **Federal Register** the preliminary determination of the countervailing duty (CVD) investigation on certain plastic decorative ribbon (plastic ribbon) from the People's Republic of China (China). Commerce is amending the scope of the preliminary determination.

**DATES:** Applicable September 6, 2018.

**FOR FURTHER INFORMATION CONTACT:** Mark Hoadley, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-3148.

**SUPPLEMENTARY INFORMATION:** On June 22, 2018, Commerce published in the **Federal Register** the preliminary determination of the CVD investigation of plastic ribbon.<sup>1</sup> On August 2, 2018, Commerce placed on the record of this investigation a preliminary decision

<sup>1</sup> *Certain Plastic Decorative Ribbon from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Determination with Final Antidumping Duty Determination*, 83 FR 29096 (June 22, 2018) (Preliminary CVD Determination).

memorandum addressing all comments received in this proceeding and the companion antidumping proceeding regarding the scope of the investigations.<sup>2</sup> In accordance with the comments discussed in the memorandum, we made certain changes to the scope of these investigations. The changes include a revision to part b) of clause 4 in paragraph 5, and the exclusion of certain shredded plastic film or shredded plastic strip from the investigations. The revised scope is printed in its entirety below.

### Scope of the Investigation

The merchandise covered by this investigation is certain plastic decorative ribbon having a width (measured at the narrowest span of the ribbon) of less than or equal to four (4) inches in actual measurement, including but not limited to ribbon wound onto itself; a spool, a core or a tube (with or without flanges); attached to a card or strip; wound into a keg- or egg-shaped configuration; made into bows, bow-like items, or other shapes or configurations; and whether or not packaged or labeled for retail sale. The subject merchandise is typically made of substrates of polypropylene, but may be made in whole or in part of any type of plastic, including without limitation, plastic derived from petroleum products and plastic derived from cellulose products. Unless the context otherwise clearly indicates, the word "ribbon" used in the singular includes the plural and the plural "ribbons" includes the singular.

The subject merchandise includes ribbons comprised of one or more layers of substrates made, in whole or in part, of plastics adhered to each other, regardless of the method used to adhere the layers together, including without limitation, ribbons comprised of layers of substrates adhered to each other through a lamination process. Subject merchandise also includes ribbons comprised of (a) one or more layers of substrates made, in whole or in part, of plastics adhered to (b) one or more layers of substrates made, in whole or in part, of non-plastic materials, including, without limitation, substrates made, in whole or in part, of fabric.

The ribbons subject to this investigation may be of any color or combination of colors (including without limitation, ribbons that are transparent, translucent or opaque) and may or may not bear words or images, including without limitation, those of a holiday motif. The subject merchandise

<sup>2</sup> See Scope Comments Preliminary Decision Memorandum, dated July 30, 2018.