DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–827]

Certain Cased Pencils From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review and Preliminary Determination of No Shipments; 2020–2021

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

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily determines that the single entity Wah Yuen Stationery Co. Ltd./Shandong Wah Yuen Stationery Co. Ltd. (Wah Yuen) had no shipments of certain cased pencils (pencils) from the People's Republic of China (China) during the period of review (POR) December 1, 2020, through November 30, 2021. Commerce also preliminarily determines that Tianjin Tonghe Stationery Co., Ltd. (Tianjin Tonghe) and Ningbo Homey Union Co., Ltd. (Ningbo Homey) are part of the China-wide entity. We invite interested parties to comment on these preliminary results.

DATES: Applicable July 19, 2022.

FOR FURTHER INFORMATION CONTACT: Sergio Balbontin, AD/CVD Operations, Office VIII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–6478.

SUPPLEMENTARY INFORMATION:

Background

Commerce published the initiation of this administrative review on February 4, 2022, with respect to four companies: Tianjin Tonghe, Ningbo Homey, and Wah Yuen.[1] The POR is December 1, 2020, through November 30, 2021.

Scope of the Order [2]

Imports covered by the *Order* are shipments of certain cased pencils of any shape or dimension (except as described below) which are writing and/or drawing instruments that feature cores of graphite or other materials, encased in wood and/or man-made materials, whether or not decorated and whether or not tipped (*e.g.,* with erasers, *etc.*) in any fashion, and either sharpened or unsharpened. The pencils subject to the *Order* are currently classifiable under subheading 9609.10.00 of the Harmonized Tariff Schedule of the United States (HTSUS). Specifically excluded from the scope of the *Order* are mechanical pencils, cosmetic pencils, pens, non-cased crayons (wax), pastels, charcoals, chalks, and pencils produced under U.S. patent number 6,217,242, from paper infused with scents by the means covered in the above-referenced patent, thereby having odors distinct from those that may emanate from pencils lacking the scent infusion. Also excluded from the scope of the *Order* are pencils with all of the following physical characteristics: (1) length: 13.5 or more inches; (2) sheath diameter: not less than one-and-one quarter inches at any point (before sharpening); and (3) core length: not more than 15 percent of the length of the pencil.

In addition, pencils with all of the following physical characteristics are excluded from the scope of the *Order:* novelty jumbo pencils that are octagonal in shape, approximately ten inches long, one inch in diameter before sharpening, and three-and-one eighth inches in circumference, composed of turned wood encasing one-and-one half inches of sharpened lead on one end and a rubber eraser on the other end.

Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the scope of the *Order* is dispositive.

Preliminary Determination of No Shipments

In the *Initiation Notice,* we instructed producers or exporters under review that had no exports, sales, or entries during the POR to notify Commerce within 30 days of publication of the notice. Wah Yuen submitted a timely no-shipment certification stating that Wah Yuen did not export subject merchandise to the United States during the POR.[3] Accordingly, we submitted a no-shipment inquiry to U.S. Customs and Border Protection (CBP) regarding Wah Yuen's no-shipment certification. In response, CBP reported that it has no evidence to contradict Wah Yuen's no-shipment claim.[4] No party commented on CBP's report.

Based on record evidence, we preliminarily determine that Wah Yuen did not have shipments to the United States during the POR. Consistent with our practice in non-market economy (NME) cases, we are not rescinding the review of Wah Yuen but intend to complete the review and issue appropriate instructions to CBP based on the final results.[5]

China-Wide Entity

Commerce's policy regarding conditional review of the China-wide entity applies to this administrative review.[6] Under this policy, the China-wide entity will not be under review unless a party specifically requests, or Commerce self-initiates, a review of the entity. Because no party requested a review of the China-wide entity, the entity is not under review, and the entity's rate of 114.90 percent is not subject to change.[7]

Aside from Wah Yuen, which we preliminarily find made no shipments, Commerce considers all other

[1] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 87 FR 6487 (February 4, 2022) (*Initiation Notice*). Commerce determined that Wah Yuen Stationery Co. Ltd. and Shandong Wah Yuen Stationery Co. Ltd. are affiliated, pursuant to section 771(33) of the Tariff Act of 1930, as amended (the Act), and should be treated as a single entity, pursuant to 19 CFR 351.401(f), in a prior administrative review. *See Certain Cased Pencils from the People's Republic of China: Preliminary Results of Antidumping Duty New Shipper Review; 2014–2015,* 81 FR 37573 (June 10, 2016), and accompanying Preliminary Decision Memorandum at 9–10, unchanged in *Certain Cased Pencils from the People's Republic of China: Final Results of Antidumping Duty New Shipper Review; 2014–2015,* 81 FR 74764 (October 27, 2016); *see also Certain Cased Pencils from the People's Republic of China: Amended Final Results of Antidumping Duty New Shipper Review; 2014–2015,* 81 FR 92784 (December 20, 2016) (*Amended New Shipper Review*). Because there is no record evidence indicating that Commerce should revisit this determination, we are continuing to treat these two companies as a single entity for purposes of this administrative review.

[2] *See Certain Cased Pencils from the People's Republic of China: Continuation of Antidumping Duty Order,* 82 FR 41608 (September 1, 2017); and *Antidumping Duty Order: Certain Cased Pencils from the People's Republic of China,* 59 FR 66909 (December 28, 1994) (collectively, *Order*).

[3] *See* Wah Yuen's Letter, ''Certain Cased Pencils from the People's Republic of China: Comments on CBP Data,'' dated February 10, 2022.

[4] *See* CBP Instructions, ''No shipment inquiry for certain cased pencils from the People's Republic of China produced and/or exported by Wah Yuen Stationary Co., Ltd. and/or Shandong Wah Yuen Stationary Co., Ltd. (A–570–827)'' (message 2070421), dated March 11, 2022; *see also* Memorandum, ''Certain Cased Pencils from The People's Republic of China; No Shipment Inquiry for Wah Yuen Stationery Co. Ltd. and/or Shandong Wah Yuen Stationery Co., Ltd. during the period 12/01/2020 through 11/30/2021,'' dated March 23, 2021. No party commented on this Memorandum.

[5] *See Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties,* 76 FR 65694, 65694–95 (October 24, 2011).

[6] *See Antidumping Proceedings: Announcement of Change in Department Practice for Respondent Selection in Antidumping Duty Proceedings and Conditional Review of the Nonmarket Economy Entity in NME Antidumping Duty Proceedings,* 78 FR 65963 (November 4, 2013).

[7] *See, e.g., Certain Cased Pencils from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review and Partial Rescission; 2014–2015,* 81 FR 83201, 83202 (November 21, 2016), unchanged in *Certain Cased Pencils from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2014–2015,* 82 FR 24675 (May 30, 2017), and accompanying Issues and Decision Memorandum.

companies for which a review was requested and which did not demonstrate separate rate eligibility to be part of the China-wide entity.[8] Accordingly, for the preliminary results, we consider Tianjin Tonghe and Ningbo Homey, neither of which submitted a separate rate application, to be part of the China-wide entity.

Disclosure and Public Comment

Normally, Commerce discloses the calculations used in its analysis to parties in a review within five days of the date of publication of the notice of preliminary results, in accordance with 19 CFR 351.224(b). However, in this case, there are no calculations to disclose.

Interested parties may submit case briefs no later than 30 days after the date of publication of these preliminary results of review.[9] Rebuttal briefs may be filed no later than seven days after the written comments are filed, and all rebuttal comments must be limited to comments raised in the case briefs.[10] Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case or rebuttal briefs in this review 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. Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information, until further notice.[11]

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 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, telephone number, the number of participants, 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 date and time to be determined.[12] Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

Unless the deadline is otherwise extended, we intend to issue the final results of this review, which will include the results of our analysis of the issues raised in any briefs, within 120 days of publication of these preliminary results in the **Federal Register**, pursuant to section 751(a)(3)(A) of the Act, and 19 CFR 351.213(h).

Assessment Rates

Upon issuance of the final results, Commerce will determine, and CBP shall assess, antidumping (AD) duties on all appropriate entries covered by this review, in accordance with 19 CFR 351.212(b). If Commerce continues to find that Tianjin Tonghe and Ningbo Homey are part of the China-wide entity in the final results, Commerce intends to instruct CBP to liquidate POR entries of subject merchandise from these companies at the China-wide rate. Moreover, if Commerce continues to make a no-shipment finding for Wah Yuen in the final results, any suspended entries of subject merchandise associated with Wah Yuen will also be liquidated at the China-wide rate. Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of the final results of this review. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.,* within 90 days of publication).

Cash Deposit Requirements

The following cash deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided for by section 751(a)(2)(C) of the Act: (1) Wah Yuen's cash deposit rate will continue to be its existing exporter-specific rate;[13] (2) for previously investigated or reviewed Chinese and non-Chinese exporters for which a review was not requested and that received a separate rate in a prior segment of this proceeding, the cash deposit rate will continue to be the existing exporter-specific rate; (3) for all Chinese exporters of subject merchandise that have not been found to be entitled to a separate rate, the cash deposit rate will be the rate for the China-wide entity; and (4) for all non-Chinese exporters of subject merchandise that have not received their own rate, the cash deposit rate will be the rate applicable to the Chinese exporter that supplied that non-Chinese exporter. These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of AD duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of AD duties occurred and the subsequent assessment of double AD duties.

Notification to Interested Parties

We are issuing and publishing the preliminary results of this administrative review in accordance with sections 751(a)(l) and 777(i)(l) of the Act, and 19 CFR 351.213 and 19 CFR 351.221(b)(4).

Dated: July 12, 2022.

Lisa W. Wang,

Assistant Secretary for Enforcement and Compliance.

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[8] *See Initiation Notice* (''All firms listed below that wish to qualify for separate rate status in the administrative reviews involving NME countries must complete, as appropriate, either a separate rate application or certification, as described below.'')

[9] *See* 19 CFR 351.309(c).

[10] *See* 19 CFR 351.309(d); *see also Temporary Rule Modifying AD/CVD Service Requirements Due to COVID–19,* 85 FR 17006, 17007 (March 26, 2020) (''To provide adequate time for release of case briefs via ACCESS, E&C intends to schedule the due date for all rebuttal briefs to be 7 days after case briefs are filed (while these modifications remain in effect).'').

[11] *See Temporary Rule Modifying AD/CVD Service Requirements Due to COVID–19; Extension of Effective Period,* 85 FR 41363 (July 10, 2020).

[12] *Id.*

[13] *See Amended New Review.*

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XC157]

Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to Geophysical Surveys Related to Oil and Gas Activities in the Gulf of Mexico

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of issuance of Letter of Authorization.

SUMMARY: In accordance with the Marine Mammal Protection Act (MMPA), as amended, its implementing regulations, and NMFS' MMPA Regulations for Taking Marine Mammals Incidental to Geophysical Surveys Related to Oil and Gas Activities in the Gulf of Mexico, notification is hereby given that a Letter