



BILLING CODE: 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-093]

Refillable Stainless Steel Kegs from the People's Republic of China: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Preliminary Affirmative Determination of Critical Circumstances, in Part, Postponement of Final Determination, and Extension of Provisional Measures

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

SUMMARY: The Department of Commerce (Commerce) preliminarily determines that refillable stainless steel kegs (kegs) 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 January 1, 2018, through June 30, 2018. Interested parties are invited to comment on this preliminary determination.

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

FOR FURTHER INFORMATION CONTACT: Thomas Schauer or Aimee Phelan, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-0410 or (202) 482-0697, respectively.

SUPPLEMENTARY INFORMATION:

Background

Commerce published the notice of initiation of this investigation on October 16, 2018.¹

This preliminary determination is made in accordance with section 733(b) of the Tariff Act of

¹ See *Refillable Stainless Steel Kegs from the People's Republic of China, the Federal Republic of Germany, and Mexico: Initiation of Less-Than-Fair-Value Investigations*, 83 FR 52195 (October 16, 2018) (*Initiation Notice*).

1930, as amended (the Act). Commerce exercised its discretion to toll all deadlines affected by the partial federal government closure from December 22, 2018, through the resumption of operations on January 29, 2019.² On March 19, 2019, at the request of the petitioner, Commerce postponed the deadline for the preliminary determination until May 28, 2019.³

For a complete description of the events that followed the initiation of this investigation, *see* the Preliminary Decision Memorandum.⁴ A list of topics 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/>.

Scope of the Investigation

The product covered by this investigation are refillable stainless steel kegs from China. For a complete description of the scope of this investigation, *see* Appendix I.

² *See* Memorandum to the Record from 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, "Deadlines Affected by the Partial Shutdown of the Federal Government," dated January 28, 2019. All deadlines in this segment of the proceeding affected by the partial federal government closure have been extended by 40 days.

³ *See Refillable Stainless Steel Kegs from the Federal Republic of Germany, Mexico and the People's Republic of China: Postponement of Preliminary Determinations in the Less-Than-Fair-Value Investigations*, 84 FR 10033 (March 19, 2019).

⁴ *See* Memorandum, "Decision Memorandum for the Preliminary Determination in the Less-Than-Fair-Value Investigation of Refillable Stainless Steel Kegs from the People's Republic of China," dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

Scope Comments

In accordance with the *Preamble* to Commerce's regulations,⁵ the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage (scope).⁶ Certain interested parties commented on the scope of the investigation as it appeared in the *Initiation Notice*. For a summary of the product coverage comments and rebuttal responses submitted to the record for this investigation, and a discussion and analysis of all comments timely received, see the Preliminary Scope Decision Memorandum.⁷ The scope case briefs were due on May 6, 2019, 30 days after the publication of *Kegs from China Preliminary CVD Determination*.⁸ There will be no further opportunity for comments on scope-related issues. Commerce is preliminarily modifying the scope language as it appeared in the *Initiation Notice*.⁹ See the revised scope in Appendix I to this notice.

Methodology

Commerce is conducting this investigation in accordance with section 731 of the Act. Commerce calculated export prices in accordance with section 772(a) of the Act. Constructed export prices were calculated in accordance with section 772(b) of the Act. Because China is a non-market economy country within the meaning of section 771(18) of the Act, Commerce calculated normal value (NV) in accordance with section 773(c) of the Act. In addition, pursuant

⁵ See *Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27323 (May 19, 1997) (*Preamble*).

⁶ See *Initiation Notice*, 83 FR at 52196.

⁷ See Memorandum, "Refillable Stainless Steel Kegs from the People's Republic of China, Germany, and Mexico: Scope Comments Decision Memorandum for the Preliminary Determinations," dated March 29, 2019 (Preliminary Scope Decision Memorandum).

⁸ The scope case briefs were due 30 days after the publication of *Refillable Stainless Steel Kegs from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Determination With Final Antidumping Duty Determination*, 84 FR 13634 (April 5, 2019) (*Kegs from China Preliminary CVD Determination*). See the Preliminary Scope Decision Memorandum at 5. Because the deadline fell on Sunday, May 5, 2019, the actual deadline for the scope case briefs was Monday, May 6, 2019. See 19 CFR 351.303(b)(1) ("For both electronically filed and manually filed documents, if the applicable due date falls on a non-business day, the Secretary will accept documents that are filed on the next business day."). The deadline for scope rebuttal briefs was Monday, May 13, 2019.

⁹ See Preliminary Decision Memorandum at 4; see also Preliminary Scope Decision Memorandum at 15.

to section 776(a) and (b) of the Act, Commerce preliminarily relied on facts otherwise available, with adverse inferences, for the China-wide entity. For a full description of the methodology underlying Commerce's preliminary determination, *see* the Preliminary Decision Memorandum. Preliminary Affirmative Determination of Critical Circumstances, in Part

On May 2, 2019, the petitioner filed a timely critical circumstances allegation with respect to imports of the subject merchandise from China.¹⁰ Section 733(e) of the Act provides that Commerce will preliminarily determine that critical circumstances exist in a LTFV investigation if there is a reasonable basis to believe or suspect that: (A) there is a history of dumping and material injury by reason of dumped imports in the United States or elsewhere of the subject merchandise, or the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the subject merchandise at less than its fair value and that there was likely to be material injury by reason of such sales; and (B) there have been massive imports of the subject merchandise over a relatively short period. We preliminarily find that critical circumstances exist with respect to imports of kegs from China for the China-wide entity, but do not exist for Ningbo Master International Trade Co., Ltd., or for the separate rate applicants, Ningbo Haishu Direct Import And Export Trade Co., Ltd., Guangzhou Jingye Machinery Co., Ltd., and Guangzhou Ulix Industrial & Trading Co., Ltd. For a full description of the methodology and results of Commerce's critical circumstances analysis, *see* the Preliminary Decision Memorandum.

¹⁰ *See* the petitioner's Letter, "Refillable Stainless Steel Kegs from the People's Republic of China: Petitioner's Critical Circumstances Allegation," dated May 2, 2019.

Combination Rates

In the *Initiation Notice*,¹¹ we stated that we would calculate producer/exporter combination rates for the respondents that are eligible for a separate rate in this investigation. Policy Bulletin 05.1 describes this practice.¹² In this investigation, we calculated producer/exporter combination rates for respondents eligible for separate rates.

Preliminary Determination

Commerce preliminarily determines that the following estimated weighted-average dumping margins exist:

¹¹ See *Initiation Notice* at 52200.

¹² See Enforcement and Compliance's Policy Bulletin No. 05.1, regarding, "Separate-Rates Practice and Application of Combination Rates in Antidumping Investigations involving Non-Market Economy Countries," (April 5, 2005) (Policy Bulletin 05.1), available on Commerce's Web site at <http://enforcement.trade.gov/policy/bull05-1.pdf>.

Exporter	Producer	Estimated Weighted-Average Dumping Margin (percent <i>ad valorem</i>)	Cash Deposit Rate (Adjusted for Subsidy Offsets) (percent <i>ad valorem</i>)
Ningbo Master International Trade Co., Ltd.	Ningbo Major Draft Beer Equipment Co., Ltd.	2.01	0.00
Guangzhou Jingye Machinery Co., Ltd.	Guangzhou Jingye Machinery Co., Ltd.	2.01	0.00
Guangzhou Ulix Industrial & Trading Co., Ltd.	Guangzhou Jingye Machinery Co., Ltd.	2.01	0.00
Ningbo Haishu Direct Import and Export Trade Co., Ltd.	Ningbo Haishu Xiangsheng Metal Products Plant	2.01	0.00
China-Wide Entity		79.71	66.89

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 entries of subject merchandise as described in Appendix I entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the *Federal Register*. 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. We preliminarily find that critical circumstances exist with respect

to imports of kegs from China for the China-wide entity. Therefore, 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, by the China-wide entity, for consumption on or after the date which is 90 days before the publication of this notice.

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 weighted-average amount by which NV exceeds U.S. price, as indicated in the chart above as follows: (1) For the exporter/producer combinations listed in the table above, the cash deposit rate is equal to the estimated weighted-average dumping margin listed for that combination in the table; (2) for all combinations of China producers/exporters of merchandise under consideration that have not established eligibility for their own separate rates, the cash deposit rate will be equal to the estimated weighted-average dumping margin established for the China -wide entity; and (3) for all third-country exporters of merchandise under consideration not listed in the table above, the cash deposit rate is the cash deposit rate applicable to the China exporter/producer combination (or the China-wide entity) that supplied that third-country exporter. These suspension of liquidation instructions will remain in effect until further notice.

Disclosure

Commerce discloses to interested parties the calculations performed in connection with this 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 the notice of preliminary determination in the *Federal Register*, in accordance with 19 CFR 351.224(b).

Verification

As provided in section 782(i)(1) of the Act, Commerce intends to verify information relied upon in making its final determination.

Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date on which the last final verification report is issued in this investigation.¹³ Rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than five days after the deadline date for case briefs.¹⁴ 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, Commerce intends 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.

¹³ Case briefs, other written comments, and rebuttal briefs should not include scope-related issues. See "Scope Comments" section, *supra*.

¹⁴ See 19 CFR 351.309; *see also* 19 CFR 351.303 (for general filing requirements).

Postponement of Final Determination and Extension of Provisional Measures

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise, or in the event of a negative preliminary determination, a request for such postponement is made by the petitioner. Section 351.210(e)(2) of Commerce's regulations requires that a request by exporters for postponement of the final antidumping determination be accompanied by a request for extension of provisional measures from a four-month period to a period not more than six months in duration.

On April 24, 2019, pursuant to 19 CFR 351.210(e), Ningbo Master International Trade Co., Ltd., requested that Commerce postpone the final determination and that provisional measures be extended to a period not to exceed six months.¹⁵ In accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii), because (1) the preliminary determination is affirmative; (2) the requesting exporters account for a significant proportion of exports of the subject merchandise; and (3) no compelling reasons for denial exist, Commerce is postponing the final determination and extending the provisional measures from a four-month period to a period not greater than six months. Accordingly, Commerce's final determination will be published no later than 135 days after the date of publication of this preliminary determination.

¹⁵ See Letter from Ningbo Master International Trade Co., Ltd., "Refillable Stainless Steel Kegs from People's Republic of China - Request for Extension of Final Determination and Provisional Measures," dated April 24, 2019.

International Trade Commission Notification

In accordance with section 733(f) of the Act, Commerce will notify the International Trade Commission (ITC) of its preliminary determination. If the 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.

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: May 28, 2019.

Christian Marsh,
Deputy Assistant Secretary
for Enforcement and Compliance.

Appendix I

Scope of the Investigation

The merchandise covered by this investigation are kegs, vessels, or containers with bodies that are approximately cylindrical in shape, made from stainless steel (*i.e.*, steel containing at least 10.5 percent chromium by weight and less than 1.2 percent carbon by weight, with or without other elements), and that are compatible with a “D Sankey” extractor (refillable stainless steel kegs) with a nominal liquid volume capacity of 10 liters or more, regardless of the type of finish, gauge, thickness, or grade of stainless steel, and whether or not covered by or encased in other materials. Refillable stainless steel kegs may be imported assembled or unassembled, with or without all components (including spears, couplers or taps, necks, collars, and valves), and be filled or unfilled.

“Unassembled” or “unfinished” refillable stainless steel kegs include drawn stainless steel cylinders that have been welded to form the body of the keg and attached to an upper (top) chime and/or lower (bottom) chime. Unassembled refillable stainless steel kegs may or may not be welded to a neck, may or may not have a valve assembly attached, and may be otherwise complete except for testing, certification, and/or marking.

Subject merchandise also includes refillable stainless steel kegs that have been further processed in a third country, including but not limited to, attachment of necks, collars, spears or valves, heat treatment, pickling, passivation, painting, testing, certification or any other processing that would not otherwise remove the merchandise from the scope of the investigation if performed in the country of manufacture of the in-scope refillable stainless steel keg.

Specifically excluded are the following:

- (1) vessels or containers that are not approximately cylindrical in nature (*e.g.*, box, “hopper” or “cone” shaped vessels);
- (2) stainless steel kegs, vessels, or containers that have either a “ball lock” valve system or a “pin lock” valve system (commonly known as “Cornelius,” “corny” or “ball lock” kegs);
- (3) necks, spears, couplers or taps, collars, and valves that are not imported with the subject merchandise; and
- (4) stainless steel kegs that are filled with beer, wine, or other liquid and that are designated by the Commissioner of Customs as Instruments of International Traffic within the meaning of section 332(a) of the *Tariff Act of 1930*, as amended.

The merchandise covered by this investigation are currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under subheadings 7310.10.0010, 7310.10.0050, 7310.29.0025, and 7310.29.0050.

These HTSUS subheadings 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 Preliminary Decision Memorandum

- I. Summary
- II. Background
- III. Period of Investigation
- IV. Scope Comments
- V. Product Characteristics
- VI. Selection of Respondents
- VII. Discussion of the Methodology
 - A. Non-Market Economy Country
 - B. Surrogate Country
 - C. Surrogate Value Comments
 - D. Separate Rates
 - E. Dumping Margin for the Separate Rate Companies
 - F. Combination Rates
 - G. China-Wide Entity
 - H. Application of Facts Available and Adverse Inferences
 - I. Date of Sale
 - J. Comparisons to Fair Value
 - K. U.S. Price
 - L. Normal Value
 - M. Factor Valuation Methodology
 - N. Currency Conversion
- VIII. Adjustment Under Section 777A(F) of the Act
- IX. Critical Circumstances
- X. Conclusion

[FR Doc. 2019-11588 Filed: 6/3/2019 8:45 am; Publication Date: 6/4/2019]