



BILLING CODE: 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-112]

Certain Collated Steel Staples from the People's Republic of China: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Preliminary Affirmative Determination of Critical Circumstances, 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 certain collated steel staples (collated staples) 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 October 1, 2018 through March 31, 2019.

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

FOR FURTHER INFORMATION CONTACT: Sergio Balbontin or William Horn, 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, or (202) 482-4868, 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). Commerce published the notice of initiation of this

investigation on July 3, 2019.¹ On October 29, 2019, Commerce postponed the preliminary determination of this investigation, and the revised deadline is now January 2, 2020.² For a complete description of the events that followed the initiation of this investigation, *see* the Preliminary Decision Memorandum.³ 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 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 product covered by this investigation is collated staples 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,⁴ the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage (scope).⁵ Certain interested parties commented on the scope of the investigation as it appeared in the *Initiation*

¹ *See Certain Collated Steel Staples from the People's Republic of China, the Republic of Korea, and Taiwan: Initiation of Less-Than-Fair-Value Investigations*, 84 FR 12587 (July 3, 2019) (*Initiation Notice*).

² *See Certain Collated Steel Staples from the People's Republic of China: Postponement of Preliminary Determination in the Less-Than-Fair-Value Investigation*, 84 FR 57845 (October 29, 2019).

³ *See* Memorandum, "Certain Collated Steel Staples from the People's Republic of China: Decision Memorandum for Preliminary Affirmative Determination of Sales at Less Than Fair Value," dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

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

⁵ *See Initiation Notice*.

*Notice.*⁶ Based on our preliminary analysis of these comments, we have not made any changes to the scope of the investigation. For a summary of the product coverage comments and 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.⁷

Methodology

Commerce is conducting this investigation in accordance with section 731 of the Act. Commerce has calculated export prices in accordance with section 772(a) of the Act. Because China is a non-market economy, within the meaning of section 771(18) of the Act, Commerce has calculated normal value (NV) in accordance with section 773(c) of the Act. In addition, pursuant to section 776(a) and (b) of the Act, Commerce preliminarily has relied on facts otherwise available, with adverse inferences, for Tianjin Jinxinshenglong Metal Products Co., Ltd. (Tianjin JXSL) and the China-wide entity. For a full description of the methodology underlying Commerce's preliminary determination, *see* the Preliminary Decision Memorandum.

Combination Rates

⁶ *See* Peace Industries Ltd.'s Letter, "Certain Collated Steel Staples from Korea, the People's Republic of China, and Taiwan: Scope Comments," dated July 16, 2019; *see also* BeA Fasteners USA, Inc.'s (BeA) Letter, "Antidumping and Countervailing Duty Investigations on Certain Collated Steel Staples from the People's Republic of China, the Republic of Korea, and Taiwan: Scope Comments," dated July 16, 2019; Petitioner's Letter, "Certain Collated Steel Staples from the People's Republic of China: Response to Scope Comments," dated August 2, 2019; BeA's Letter, "Antidumping and Countervailing Duty Investigations on Certain Collated Steel Staples From the People's Republic of China, the Republic of Korea, and Taiwan: Supplemental Scope Comments," dated October 11, 2019; and Petitioner's Letter, "Certain Collated Steel Staples from the People's Republic of China: Response to BeA's Supplemental Scope Comments," dated October 17, 2019.

⁷ *See* Memorandum, "Less-Than-Fair-Value and Countervailing Duty Investigations of Certain Collated Steel Staples from the People's Republic of China: Preliminary Scope Decision Memorandum," dated November 7, 2019 (Preliminary Scope Memorandum).

In the *Initiation Notice*,⁸ Commerce stated that it 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.⁹

Preliminary Affirmative Determination of Critical Circumstances

In the *Preliminary Critical Circumstances Determination*, Commerce determined that critical circumstances exist with respect to imports of collated staples from China for Tianjin Hweschun Fasteners Manufacturing Co., Ltd. (Tianjin Hweschun) and all other producers/exporters except for Tianjin JXSL.¹⁰ We are revising our preliminary critical circumstances finding and now find that critical circumstances also exist with respect to imports by Tianjin JSXL and all other producers/exporters of collated staples from China.¹¹ For a full description of the methodology and results of Commerce's analysis, *see* the Preliminary Decision Memorandum.

Preliminary Determination

In this proceeding, Commerce calculated an above-*de minimis* rate that is not based entirely on facts available for Tianjin Hweschun, and thus, consistent with our practice, we assigned the rate calculated for Tianjin Hweschun as the rate for non-individually examined companies that have preliminarily qualified for a separate rate. *See* the Preliminary Decision

⁸ *See Initiation Notice*, 84 FR at 12590-91.

⁹ *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," dated April 5, 2005 (Policy Bulletin 05.1), available on Commerce's Web site at <http://enforcement.trade.gov/policy/bull05-1.pdf>.

¹⁰ *See Certain Collated Steel Staples from the People's Republic of China: Preliminary Affirmative Determinations of Critical Circumstances in the Antidumping and Countervailing Duty Investigations*, 84 FR 59353 (November 4, 2019) (*Preliminary Critical Circumstances Determination*) *see also* Memorandum, "Certain Collated Steel Staples from the People's Republic of China: Preliminary Massive Imports Analysis," dated October 31, 2019.

¹¹ *See, e.g., Non-Oriented Electrical Steel from the People's Republic of China: Preliminary Affirmative Determinations of Sales at Less Than Fair Value and Critical Circumstances*, 79 FR 29421 (December 6, 2013), and accompanying Preliminary Decision Memorandum at "Critical Circumstances", unchanged in *Non-Oriented Electrical Steel from Germany, Japan, the People's Republic of China, and Sweden: Final Affirmative Determinations of Sales at Less Than Fair Value and Final Affirmative Determinations of Critical Circumstances, in Part*, 79 FR 61609 (October 14, 2014).

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

Producer	Exporter	Estimated Weighted-Average Dumping Margin (percent)	Cash Deposit Rate (Adjusted for Subsidy Offsets) (percent)
Tianjin Hweschun Fasteners Manufacturing Co., Ltd.	Tianjin Hweschun Fasteners Manufacturing Co., Ltd.	301.64	291.1
Tianjin Jin Xin Sheng Long Metal Products Co., Ltd.	Tianjin Jin Xin Sheng Long Metal Products Co., Ltd.	301.64	291.1
China Staple (Tianjin) Co., Ltd.	China Staple (Tianjin) Co., Ltd.	301.64	291.1
Shanghai Yueda Nails Co., Ltd.	Shanghai Yueda Nails Co., Ltd.	301.64	291.1
Shijiazhuang Shuangming Trade Co., Ltd.	Shijiazhuang Shuangming Trade Co., Ltd.	301.64	291.1
Tianjin Jinyifeng Hardware Co., Ltd.	Tianjin Jinyifeng Hardware Co., Ltd.	301.64	291.1
Unicorn Fasteners Co., Ltd.	Unicorn Fasteners Co., Ltd.	301.64	291.1
Zhejiang Best Nails Industrial Co., Ltd.	Zhejiang Best Nails Industrial Co., Ltd.	301.64	291.1
China-Wide Entity		301.64	291.1 ¹²

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 that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the *Federal Register*, as discussed below.

¹² See *Certain Collated Steel Staples from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination, and Alignment of Final Determination With Final Antidumping Duty Determination*, 84 FR 61021 (November 12, 2019) and accompanying Preliminary Decision Memorandum.

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 amount by which NV exceeds U.S. price, as indicated in the chart above, as follows: (1) for the producer/exporter 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 Chinese 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 Chinese producer/exporter combination (or the China-wide entity) that supplied that third-country exporter.

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 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 the 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 unliquidated entries from all exporters and producers of the subject merchandise from China that were 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, Commerce has made a preliminary affirmative determination for an export subsidy adjustment. However, Commerce has not made a preliminary affirmative determination for a domestic subsidy pass-through adjustment in this investigation.¹³ Commerce has offset the calculated estimated weighted-average dumping margin by the appropriate rate(s). Any such adjusted rates may be found in the chart of estimated weighted-average dumping margins in the “Preliminary Determination” section 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 margins calculated in this preliminary determination unadjusted for export subsidies at the time the CVD provisional measures expire.

These suspension of liquidation instructions will remain in effect until further notice.

Disclosure

Commerce intends to disclose 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 this notice in the *Federal Register*, in accordance with 19 CFR 351.224(b).

Verification

¹³ See sections, “Adjustment Under Section 777A(F) of the Act” and “Adjustment to Cash Deposit Rate for Export Subsidies” in the Preliminary Decision Memorandum.

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 not pertaining to scope issues, 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. 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.

Additionally, case briefs regarding scope issues may be submitted within ten days after the date of publication of this notice in the *Federal Register*. Rebuttal briefs regarding scope issues, limited to those issues in the scope case briefs, may be submitted no later than five days after the deadline for scope case briefs. All scope case and rebuttal briefs must be filed identically on the records of this investigation and the concurrent CVD investigation of collated staples.

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

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

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.

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 petitioners. Pursuant to 19 CFR 351.210(e)(2), Commerce requires that requests by respondents for postponement of a 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.

Pursuant to 19 CFR 351.210(e), Tianjin JXSL, Kyocera Senco Industrial Tools, Inc. (the petitioner), and Tianjin Hweschun requested that Commerce postpone the final determination. Additionally, Tianjin JXSL and Tianjin Hweschun requested 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

¹⁵ See Tianjin JXSL's Letter, "Collated Steel Staples from the People's Republic of China: Conditional Request for Extension of Final Determination," dated December 6, 2019; see also Petitioner's Letter, "*Certain Collated Steel Staples from the People's Republic of China*: Request for Postponement of the Final Determination," dated December 10, 2019; and Tianjin Hweschun's Letter, "*Certain Collated Steel Staples from China*: Request to Fully Extend the Final Determination," dated December 12, 2019.

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 issued no later than 135 days after the date of publication of this preliminary determination.

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 of sales at LTFV. 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 these 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: January 2, 2020.

Jeffrey I. Kessler,
Assistant Secretary
for Enforcement and Compliance.

Appendix I

Scope of the Investigation

The merchandise covered by the scope of this investigation is certain collated steel staples. Certain collated steel staples subject to this investigation are made from steel wire having a nominal diameter from 0.0355 inch to 0.0830 inch, inclusive, and have a nominal leg length from 0.25 inch to 3.0 inches, inclusive, and a nominal crown width from 0.187 inch to 1.125 inch, inclusive. Certain collated steel staples may be manufactured from any type of steel, and are included in the scope of this investigation regardless of whether they are uncoated or coated, and regardless of the type or number of coatings, including but not limited to coatings to inhibit corrosion.

Certain collated steel staples may be collated using any material or combination of materials, including but not limited to adhesive, glue, and adhesive film or adhesive or paper tape.

Certain collated steel staples are generally made to American Society for Testing and Materials (ASTM) specification ASTM F1667–18a, but can also be made to other specifications.

Excluded from the scope of this investigation are any carton-closing staples covered by the scope of the existing antidumping duty order on Carton-Closing Staples from the People's Republic of China. *See Carton-Closing Staples from the People's Republic of China: Antidumping Duty Order*, 83 FR 20792 (May 8, 2018). Certain collated steel staples subject to this investigation are currently classifiable under subheading 8305.20.0000 of the Harmonized Tariff Schedule of the United States (HTSUS). While the HTSUS subheading and ASTM specification are provided for convenience and for customs purposes, the written description of the subject merchandise is dispositive.

Appendix II

List of Topics Discussed in the Preliminary Decision Memorandum

- I. Summary
- II. Background
- III. Period of Investigation
- IV. Postponement of Final Determination and Extension of Provisional Measures
- V. Scope Comments
- VI. Scope of the Investigation
- VII. Discussion of the Methodology
- VIII. Currency Conversion
- IX. Adjustment Under Section 777(A)(f) of the Act
- X. Critical Circumstances
- XI. Adjustment for Countervailable Export Subsidies
- XII. Conclusion

[FR Doc. 2020-00103 Filed: 1/7/2020 8:45 am; Publication Date: 1/8/2020]