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DEPARTMENT OF COMMERCE

International Trade Administration

[A-351-849]

Emulsion Styrene-Butadiene Rubber from Brazil: Amended Final Results of Antidumping Duty Administrative Review; 2017-2018

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

SUMMARY: The Department of Commerce (Commerce) is amending the final results of the administrative review of the antidumping duty (AD) order on emulsion styrene-butadiene rubber (ESB rubber) from Brazil to correct two ministerial errors.

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

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 June 29, 2020, Commerce published its *Final Results* of the 2017-2018 administrative review of the AD order on ESB rubber from Brazil.¹ On June 30, 2020, ARLANXEO Brasil

¹ See *Emulsion Styrene-Butadiene Rubber from Brazil: Final Results of Antidumping Duty Administrative Review; 2017-2018*, 85 FR 38847 (June 29, 2020) (*Final Results*).

S.A. (ARLANXEO Brasil), the sole respondent in this administrative review, timely submitted ministerial error comments regarding Commerce's *Final Results*.² On July 6, 2020, the petitioner³ filed timely ministerial error rebuttal comments.⁴ Commerce is amending its *Final Results* to correct two ministerial errors raised by ARLANXEO Brasil.

Legal Framework

A ministerial error, as defined in section 751(h) of the Tariff Act of 1930, as amended (the Act), includes “errors in addition, subtraction, or other arithmetic function, clerical errors resulting from inaccurate copying, duplication, or the like, and any other type of unintentional error which the administering authority considers ministerial.”⁵ With respect to final results of administrative reviews, 19 CFR 351.224(e) provides that Commerce “will analyze any comments received and, if appropriate, correct any ministerial error by amending ... the final results of review....”

Ministerial Error

Commerce committed two errors within the meaning of section 751(h) of the Act and 19 CFR 351.224(f). First, Commerce committed a clerical error with respect to setting the window period established by 19 CFR 351.414 for the matching of sales, which impacted the matching of U.S. sales to home-market sales by the month in which the sale occurred. Specifically, contrary to our intent, in the margin calculation program we set the beginning of the window period at February 1, 2017 rather than November 1, 2016. Second, Commerce committed a calculation

² See ARLANXEO Brasil's Letter, “Emulsion Styrene-Butadiene Rubber from Brazil: Ministerial Error Comments on the Final Results Margin Calculation for ARLANXEO,” dated June 30, 2020.

³ The petitioner is Lion Elastomers, LLC.

⁴ See Petitioner's Letter, “Antidumping Review of Emulsion Styrene-Butadiene Rubber (E-SBR) from Brazil: Reply to ARLANXEO's Ministerial Error Comments,” dated July 6, 2020.

⁵ See 19 CFR 351.224(f).

error in analyzing the data related to an alleged sample sale. Specifically, Commerce made an arithmetical error, and as a result, incorrectly concluded that the sale was made for consideration such that it should be included in the margin calculation. As clerical and arithmetic errors, these constitute ministerial errors within the meaning of 19 CFR 351.224(f). Accordingly, Commerce determines that, in accordance with section 751(h) of the Act and 19 CFR 351.224(f), it made ministerial errors in the *Final Results*. Pursuant to 19 CFR 351.224(e), Commerce is amending the *Final Results* to reflect the correction of these ministerial errors in the calculation of the final weighted-average dumping margin assigned to ARLANXEO Brasil, which changes from 21.22 percent to 18.38 percent.⁶

Amended Final Results of the Review

As a result of correcting these ministerial errors described above, Commerce determines that, for the period of review (POR) February 24, 2017 through August 31, 2018, the following weighted-average dumping margin exists:

Producer and/or Exporter	Weighted-Average Dumping Margin (percent)
ARLANXEO Brasil S.A.	18.38

Disclosure

We intend to disclose the calculation performed for these amended final results in accordance with 19 CFR 351.224(b).

Antidumping Duty Assessment

⁶ See Memorandum, “Ministerial Error Memorandum for the Final Results of the 2017-2018 Antidumping Duty Administrative Review of Emulsion Styrene-Butadiene Rubber from Brazil,” dated concurrently with, and hereby adopted by, this notice.

Pursuant to section 751(a)(2)(C) of the Act and 19 CFR 351.212(b)(1), Commerce has determined, and U.S. Customs and Border Protections (CBP) shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the amended final results of this review. We will calculate importer-specific assessment rates on the basis of the ratio of the total amount of antidumping duties calculated for each importer's examined sales and the total entered value of the sales in accordance with 19 CFR 351.212(b)(1).

Commerce's "automatic assessment" will apply to entries of subject merchandise during the POR produced by companies included in these amended final results of review for which the reviewed companies did not know that the merchandise they sold to the intermediary (*e.g.*, a reseller, trading company, or exporter) was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction.⁷

Cash Deposit Requirements

The following cash deposit requirements will be effective retroactively for all shipments of subject merchandise that entered, or withdrawn from warehouse, for consumption on or after June 29, 2020, the date of publication of the *Final Results* of this administrative review, as provided for by section 751(a)(2)(C) of the Act: (1) the cash deposit rate for ARLANXEO Brasil will be equal to the weighted-average dumping margin established in these amended final results of review; (2) for producers or exporters not covered in this review but covered in a prior segment of the proceeding, the cash deposit rate will continue to be the company-specific rate published for the most recently completed segment of this proceeding; (3) if the exporter is not a

⁷ For a full discussion of this practice, see *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003).

firm covered in this review or another completed segment of this proceeding, but the producer is, then the cash deposit rate will be the rate established for the most recently completed segment of this proceeding for the producer of the merchandise; and (4) if neither the exporter nor the producer is a firm covered in this or any previously completed segment of this proceeding, then the cash deposit rate will be the all-others rate of 19.61 percent established in the less-than-fair-value investigation.⁸ These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

Administrative Protective Order

This notice also serves as a reminder to parties subject to administrative protective orders (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of 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 sanctionable violation.

Notification to Interested Parties

⁸ See *Emulsion Styrene-Butadiene Rubber from Brazil: Final Affirmative Determination of Sales at Less Than Fair Value and Final Negative Determination of Critical Circumstances*, 82 FR 33048 (July 19, 2019).

These amended final results and notice are issued and published in accordance with sections 751(h) and 777(i) of the Act, and 19 CFR 351.224(e).

Dated: July 29, 2020.

Jeffrey I. Kessler,

Assistant Secretary

for Enforcement and Compliance.

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