



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; 2021-2022

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) is part of the China-wide entity, and continues to find 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 [Insert date of publication in the *Federal Register*].

FOR FURTHER INFORMATION CONTACT: Katherine Johnson, 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-
4929.

SUPPLEMENTARY INFORMATION:

Background

On December 28, 1994, Commerce published in the *Federal Register* the antidumping
duty order on certain cased pencils from the People's Republic of China (China).¹ On December
1, 2022, Commerce published in the *Federal Register* a notice of opportunity to request an

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

administrative review of the *Order*.² Based on timely requests for review, in accordance with 351.221(c)(1)(i), Commerce published the initiation of this administrative review on February 2, 2023, with respect to three companies: Tianjin Tonghe, Ningbo Homey, and Wah Yuen.³ The period of review (POR) is December 1, 2021, through November 30, 2022. Accordingly, on February 3, 2023, Commerce released the U.S. Customs and Border Protection (CBP) data to all interested parties under an administrative protective order and requested comments regarding the data and respondent selection.⁴ We received no comments on the CBP data. Moreover, no party filed a claim of no shipments, or a separate rate application or certification, as appropriate, within the time period specified in the *Initiation Notice*.⁵

Scope of the Order

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

² See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review and Join Annual Inquiry Service List*, 87 FR 73752 (December 1, 2022).

³ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 88 FR 7060 (February 2, 2023) (*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.

⁴ See Memorandum, “Release of Customers and Border Protection Data, dated February 3, 2023.

⁵ See *Initiation Notice*, 88 FR 7060, 7061. As noted in the *Initiation Notice*, “Exporters and producers must file a timely Separate Rate Application or Certification if they want to be considered for individual examination.”

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.

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 reviewed 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

In this review, Wah Yuen did not submit a separate rate certification that it continues to meet the criteria for obtaining a separate rate and neither Tianjin Tonghe nor Ningbo Homey submitted a separate rate application. Commerce considers all companies for which a review

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 Preliminary Determination of No Shipments; 2020-2021*, 87 FR 42998 (July 19, 2022), unchanged in *Certain Cased Pencils from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2020-2021*, 87 FR 54959 (September 8, 2022).

was requested, and which did not demonstrate separate rate eligibility, to be part of the China-wide entity.⁸ Accordingly, we preliminarily consider Wah Yuen, Tianjin Tonghe, and Ningbo Homey 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 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 by 5:00 pm Eastern Time and filed electronically via ACCESS.¹² Requests should contain the party's name, address, telephone number, the number of participants and whether any of those individuals is a foreign national, and a list of the issues

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 See 19 CFR 351.310(c).

to be discussed. Issues raised in the hearing will be limited to those raised in the respective case briefs. If a request for a hearing is made, we intend to hold the hearing at the date and time to be determined.¹³ 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 Wah Yuen, 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. 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) 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

¹³ *Id.*

proceeding, the cash deposit rate will continue to be the existing exporter-specific rate; (2) 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 (3) 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)(1) and 777(i)(1) of the Act, and 19 CFR 351.213 and 19 CFR 351.221(b)(4).

Dated: August 28, 2023.

Lisa W. Wang,
Assistant Secretary
for Enforcement and Compliance.
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