



DEPARTMENT OF COMMERCE

International Trade Administration

[C-570-157]

Aluminum Lithographic Printing Plates from the People's Republic of China: Preliminary Determination of Critical Circumstances, in Part, in the Countervailing Duty Investigation

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

SUMMARY: The U.S. Department of Commerce (Commerce) determines that critical circumstances exist, in part, with respect to imports of aluminum lithographic printing plates (printing plates) from certain producers and exporters from the People's Republic of China (China).

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

FOR FURTHER INFORMATION CONTACT: Ajay Menon, AD/CVD Operations, Office IX, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-0208.

SUPPLEMENTARY INFORMATION:

Background

In response to a countervailing duty (CVD) petition filed on September 28, 2023, Commerce published the initiation of a CVD investigation on printing plates from China.¹ Further, on March 1, 2024, Commerce published its affirmative *Preliminary Determination*.² In the *Preliminary Determination*, we examined one participating mandatory respondent, Fujifilm Printing Plate (China) Co., Ltd. (FFPS), and assigned a second respondent which failed to participate, Shanghai National Ink Co. Ltd. (Shanghai National), a rate based on adverse facts available (AFA).³

On March 8, 2024, the petitioner, Eastman Kodak Company, filed a timely allegation, pursuant to section 703(e)(1) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.206, that critical circumstances exist with respect to imports of printing plates from China.⁴ On March 14, 2024, FFPS filed comments on the petitioner's critical circumstances allegation,⁵ to which the petitioner responded on March 18, 2024.⁶

In accordance with section 703(e)(1) of the Act and 19 CFR 351.206(c)(1) and (2)(ii), because the petitioner submitted its critical circumstances allegation more than 30 days before the scheduled date of the final determination, Commerce will make a preliminary finding as to whether there is a reasonable basis to believe or suspect that critical circumstances exist and will issue a preliminary critical circumstances determination within 30 days after the allegation is filed.

¹ See *Aluminum Lithographic Printing Plates from the People's Republic of China: Initiation of Countervailing Duty Investigation*, 88 FR 73313 (October 25, 2023) (*Initiation Notice*).

² See *Aluminum Lithographic Printing Plates from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination, and Alignment of Final Determination with Final Antidumping Duty Determination*, 89 FR 15134 (March 1, 2024) (*Preliminary Determination*), and accompanying Preliminary Determination Memorandum (PDM).

³ *Id.*

⁴ See Petitioner's Letter, "Petitioner's Allegation of Critical Circumstances," dated March 8, 2024 (Critical Circumstances Allegation).

⁵ See FFPS' Letter, "FFPS Response to Critical Circumstances Allegation," dated March 14, 2024 (FFPS' Critical Circumstances Response).

⁶ See Petitioner's Letter, "Petitioner's Comments on FUJIFILM Printing Plate (China) Co., Ltd.'s Response to Critical Circumstances Allegation," dated March 18, 2024 (Petitioner's Critical Circumstances Rebuttal Comments).

Critical Circumstances Allegation

The petitioner alleges that there was a massive increase of imports of printing plates from China and provided monthly import data comparing a base period of May 2023 through September 2023 to a comparison period of October 2023 through February 2024.⁷ The petitioner asserts that this comparison shows that imports of printing plates from China increased by 56.10 percent,⁸ which is “massive” under 19 CFR 351.206(h)(2). The petitioner also alleges that there is a reasonable basis to believe that there are subsidies in this investigation which are inconsistent with the World Trade Organization’s Agreement on Subsidies and Countervailing Measures Agreement (SCM Agreement).⁹

Critical Circumstances Analysis

Section 703(e)(1) of the Act provides that Commerce will preliminarily determine that critical circumstances exist in a CVD investigation if there is a reasonable basis to believe or suspect that: (A) the alleged countervailable subsidy is inconsistent with the SCM Agreement;¹⁰ and (B) there have been massive imports of the subject merchandise over a relatively short period. Pursuant to 19 CFR 351.206(h)(2), imports must increase by at least 15 percent during the “relatively short period” to be considered “massive,” and 19 CFR 351.206(i) defines a “relatively short period” as normally being the period beginning on the date the proceeding begins (*i.e.*, the date the petition is filed) and ending at least three months later.¹¹ However, the regulations also provide that if Commerce finds that importers, or exporters or producers, had reason to believe, at some time prior to the beginning of the proceeding, that a proceeding was likely, Commerce may consider a period of not less than three months from the earlier time.¹²

⁷ See Critical Circumstances Allegation at Attachment 1.

⁸ *Id.* at 7.

⁹ *Id.* at 4.

¹⁰ Commerce limits its critical circumstances findings to those subsidies contingent upon export performance or use of domestic over imported goods (*i.e.*, those prohibited under Article 3 of the SCM Agreement). See, e.g., *Final Affirmative Countervailing Duty Determination and Final Negative Critical Circumstances Determination: Carbon and Certain Alloy Steel Wire from Germany*, 67 FR 55808, 55809-10 (August 30, 2002).

¹¹ See 19 CFR 351.206.

¹² See 19 CFR 351.206(i).

Alleged Countervailable Subsidies Are Inconsistent with the SCM Agreement

To determine whether an alleged countervailable subsidy is inconsistent with the SCM Agreement, in accordance with section 703(e)(1)(A) of the Act, Commerce considered the evidence currently on the record of this investigation. As discussed in the *Preliminary Determination*, we applied AFA to find that the non-cooperating mandatory respondent Shanghai National received countervailable subsidies under the following programs which the record indicates are export-contingent, rendering them inconsistent with the SCM Agreement: Export Buyer's Credit from China Export-Import (Ex-Im) Bank, Export Loans from State-Owned Banks, Export Seller's Credit from China Ex-Im Bank, Development of Famous Brands and China World Top Brands, Foreign Trade Development Fund Grants, and Export Assistance Grants.¹³

In the *Preliminary Determination*, we found that FFPS' unaffiliated producer JRT received countervailable subsidies under the Foreign Trade Development Fund Grants program during the POI and average useful life period.¹⁴ As discussed in the *Preliminary Determination*, because the Government of China failed to cooperate by not acting to the best of its ability to respond to our requests for information regarding the Foreign Trade Development Fund Grants program, we relied on sections 776(a)(1), (a)(2)(A)-(C), and 776(b) of the Act to find that this program constitutes a financial contribution and meets the specificity requirements of the Act.¹⁵ However, information from the petition indicates that this program is export contingent.¹⁶ Thus, because we find that the Foreign Trade Development Fund Grants program is export contingent,

¹³ See *Preliminary Determination* PDM at Appendix I.

¹⁴ As discussed in the PDM, FFPS provided responses from Huangshan Jinruitai Technology Co., Ltd., an unaffiliated producer of subject merchandise and the parent of Zhejiang Jinruitai New Material Co., Ltd., a trading company and producer of subject merchandise (collectively, JRT). See *Preliminary Determination* PDM at 2-3.

¹⁵ See *Preliminary Determination* PDM at 6-7.

¹⁶ *Id.* at 48; see also Checklist, "Countervailing Duty Investigation Initiation Checklist," dated October 18, 2023, at 16.

we primarily find that the criterion under section 703(e)(1)(A) of the Act has been met for FFPS.¹⁷

Therefore, Commerce preliminarily determines for purposes of this critical circumstances determination that there are subsidies in this investigation that are inconsistent with the SCM Agreement.

Massive Imports

In determining whether there have been “massive imports” over a “relatively short period,” pursuant to section 703(e)(1)(B) of the Act, Commerce normally compares the import volumes of the subject merchandise for at least three months immediately preceding the filing of the petition (*i.e.*, the “base period”) to a comparable period of at least three months following the filing of the petition (*i.e.*, the “comparison period”). In this case, Commerce compared the import volumes of subject merchandise, as provided by the cooperating mandatory respondent FFPS, for the four months immediately preceding and four months following the filing of the petition. Imports normally will be considered massive when imports during the comparison period have increased by 15 percent or more compared to imports during the base period.¹⁸

Because the petition was filed on September 28, 2023, to determine whether there was a massive surge in imports for FFPS, Commerce compared the total volume of shipments during the period of June 2023 through September 2023 with the volume of shipments during the period

¹⁷ We disagree with FFPS that there is an error in Commerce’s attribution of the benefit JRT received under this program. *See* FFPS’ Critical Circumstances Response; *see also* Petitioner’s Critical Circumstances Rebuttal Comments. Commerce attributed the benefit JRT received under this program in the manner intended; thus, our attribution of JRT’s benefits is a methodological decision, not an error that would lead us to determine that the benefits attributed to FFPS under this program are not measurable.

¹⁸ *See* 19 CFR 351.206(h)(2).

of October 2023 through January 2024.¹⁹ Based on this analysis, we primarily determine that there was a massive surge in imports between the base and comparison periods for FFPS.²⁰

For all other exporters and producers, in accordance with our practice,²¹ we examined monthly shipment data for the same time periods noted above using import data from Global Trade Atlas (GTA), adjusted to remove FFPS' shipment data.²² After subtracting FFPS' shipment data from the GTA data, we analyzed the overall shipment data by comparing the base and comparison periods, respectively. Based on this analysis, we find that there were no massive imports for all other exporters and producers from China.²³

Finally, as explained in the *Preliminary Determination*, we preliminarily applied AFA to Shanghai National because it failed to cooperate in this proceeding.²⁴ Therefore, for Shanghai National, we preliminarily determine, in accordance with section 776(b) of the Act, that there was a massive surge in imports between the base and comparison periods.

Conclusion

Based on the criteria and findings discussed above, we preliminarily determine that critical circumstances exist with respect to imports of printing plates from China produced or exported by FFPS and Shanghai National. We preliminarily determine that critical circumstances do not exist with respect to imports of printing plates from China with respect to all other exporters and producers.

Final Critical Circumstances Determination

We will make a final critical circumstances determination in the final CVD determination, which is currently scheduled for July 9, 2024.

Public Comment

¹⁹ See FFPS's Letter, "Fujifilm's Response to Request for Quantity & Value Data," dated March 19, 2024.

²⁰ See Memorandum, "Critical Circumstances Analysis," dated concurrently with this memorandum at Attachment 1 (Critical Circumstances Analysis Memo).

²¹ See *Countervailing Duty Investigation of Tin Mill Products from the People's Republic of China: Preliminary Determination of Critical Circumstances, in Part*, 88 FR 46738 (July 20, 2023).

²² *Id.*

²³ *Id.*

²⁴ See *Preliminary Determination* PDM at 7.

Case briefs or other written comments related to this preliminary determination of critical circumstances may be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date on which the last verification report is issued in this investigation. Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than five days after the date for filing case briefs.²⁵ Interested parties who submit case briefs or rebuttal briefs in this proceeding must submit: (1) a table of contents listing each issue; and (2) a table of authorities.²⁶

As provided under 19 CFR 351.309(c)(2) and (d)(2), in prior proceedings we have encouraged interested parties to provide an executive summary of their brief that should be limited to five pages total, including footnotes. In this investigation, we instead request that interested parties provide at the beginning of their briefs a public, executive summary for each issue raised in their briefs.²⁷ Further, we request that interested parties limit their public executive summary of each issue to no more than 450 words, not including citations. We intend to use the public executive summaries as the basis of the comment summaries included in the issues and decision memorandum that will accompany the final determination in this investigation. We request that interested parties include footnotes for relevant citations in the public executive summary of each issue. Note that Commerce has amended certain of its requirements pertaining to the service of documents in 19 CFR 351.303(f).²⁸

Electronically filed documents must be received successfully in their entirety by 5:00 p.m. Eastern Time on the due dates established.²⁹

Suspension of Liquidation

²⁵ See 19 CFR 351.309(d); see also *Administrative Protective Order, Service, and Other Procedures in Antidumping and Countervailing Duty Proceedings*, 88 FR 67069, 67077 (September 29, 2023) (*APO and Service Final Rule*).

²⁶ See 19 CFR 351.309(c)(2) and (d)(2).

²⁷ We use the term “issue” here to describe an argument that Commerce would normally address in a comment of the Issues and Decision Memorandum.

²⁸ See *APO and Service Final Rule*, 88 FR at 67069.

²⁹ See 19 CFR 351.303(b)(1).

In accordance with section 703(e)(2)(A) of the Act, for FFPS and Shanghai National, we intend to direct U.S. Customs and Border Protection (CBP) to suspend liquidation of any unliquidated entries of subject merchandise from the China entered, or withdrawn from warehouse for consumption, on or after December 1, 2023, which is 90 days prior to the date of publication of the *Preliminary Determination* in the *Federal Register*. For such entries, CBP shall require a cash deposit equal to the estimated preliminary subsidy rates established in the *Preliminary Determination*. This suspension of liquidation will remain in effect until further notice.

U.S. International Trade Commission (ITC) Notification

In accordance with section 703(f) of the Act, we intend to notify the ITC of this preliminary determination of critical circumstances.

This determination is issued and published pursuant to sections 703(f) and 777(i)(1) of the Act.

Dated: April 1, 2024.

Ryan Majerus,

Deputy Assistant Secretary

for Policy and Negotiations,

performing the non-exclusive functions and duties

of the Assistant Secretary for Enforcement and Compliance.

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