



DEPARTMENT OF COMMERCE

International Trade Administration

[C-570-185]

Hard Empty Capsules from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Determination with Final Antidumping Duty Determination

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

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily determines that
countervailable subsidies are being provided to producers and exporters of hard empty capsules
(capsules) from the People's Republic of China (China). The period of investigation is January
1, 2023, through December 31, 2023. Interested parties are invited to comment on this
preliminary determination.

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

FOR FURTHER INFORMATION CONTACT: Laura Delgado or John Conniff, AD/CVD
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Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone:
(202) 482-1468 or (202) 482-1009, respectively.

SUPPLEMENTARY INFORMATION:

Background

On November 20, 2024, Commerce published the notice of initiation of this
countervailing duty (CVD) investigation on capsules from China.¹ On January 15, 2025,

¹ See *Hard Empty Capsules from Brazil, the People's Republic of China, India, and the Socialist Republic of
Vietnam: Initiation of Countervailing Duty Investigations*, 89 FR 91680 (November 20, 2024) (*Initiation Notice*).

Commerce postponed the preliminary determination of this investigation until March 24, 2025.²

This preliminary determination is made in accordance with section 703(b) of the Tariff Act of 1930, as amended (the Act).

For a complete description of the events that followed the initiation of this investigation, *see* the Preliminary Decision Memorandum.³ A list of topics discussed 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>. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at <https://access.trade.gov/public/FRNoticesListLayout.aspx>.

Scope of the Investigation

The products covered by this investigation are capsules 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, (*i.e.*, scope).⁵ Certain interested parties commented on the scope of the investigation as it appeared in the *Initiation Notice*. For a summary of the scope comments and rebuttal responses submitted for this preliminary determination, and Commerce's accompanying preliminary analysis of all

² *See Hard Empty Capsules from Brazil, the People's Republic of China, India, and the Socialist Republic of Vietnam: Postponement of Preliminary Determinations in the Countervailing Duty Investigations*, 90 FR 3788 (January 15, 2025).

³ *See* Memorandum, "Decision Memorandum for the Preliminary Determination of the Countervailing Duty Investigation of Hard Empty Capsules from the People's Republic of China," 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*.

comments timely received, *see* the Preliminary Scope Decision Memorandum.⁶ Commerce is not preliminarily modifying the scope language as it appeared in the *Initiation Notice*.

Methodology

Commerce is conducting this investigation in accordance with section 701 of the Act. For each of the subsidy programs found countervailable, Commerce preliminarily determines that there is a subsidy, *i.e.*, a financial contribution by an “authority” that gives rise to a benefit to the recipient, and that the subsidy is specific.⁷ For a full description of the methodology underlying our preliminary determination, *see* Preliminary Decision Memorandum.

Commerce notes that, in making these findings, it relied, in part, on facts available and, because it finds that one or more respondents did not act to the best of their ability to respond to Commerce’s requests for information, it drew an adverse inference where appropriate in selecting from among the facts otherwise available.⁸ For further information, *see* the “Use of Facts Otherwise Available and Adverse Inferences” section in the Preliminary Decision Memorandum.

Alignment

As noted in the Preliminary Decision Memorandum, in accordance with section 705(a)(1) of the Act and 19 CFR 351.210(b)(4), Commerce is aligning the final countervailing duty (CVD) determination in this investigation with the final determination in the companion less-than-fair-value investigation of capsules from China based on a request made by the petitioner.⁹ Consequently, the final CVD determination will be issued on the same date as the final LTFV

⁶ *See* Memorandum, “Less-Than-Fair-Value and Countervailing Duty Investigations of Hard Empty Capsules from Brazil, the People’s Republic of China, India, and the Socialist Republic of Vietnam: Scope Comments Decision Memorandum for the Preliminary Determination,” dated concurrently with, and hereby adopted by, this notice (Preliminary Scope Decision Memorandum).

⁷ *See* sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

⁸ *See* sections 776(a) and (b) of the Act.

⁹ *See* Petitioner’s Letter, “Lonza’s Request to Align Final Antidumping and Countervailing Duty Determinations,” dated March 11, 2025.

determination, which is currently scheduled to be issued no later than August 5, 2025, unless postponed.

All-Others Rate

Sections 703(d) and 705(c)(5)(A) of the Act provide that in the preliminary determination, Commerce shall determine an estimated all-others rate for companies not individually examined. This rate shall be an amount equal to the weighted average of the estimated subsidy rates established for those companies individually examined, excluding any zero and *de minimis* rates and any rates based entirely under section 776 of the Act. If the rates established for all exporters and producers individually investigated are zero, *de minimis*, or determined entirely under facts available, Commerce may use any reasonable method to establish an all-others rate.¹⁰

Commerce preliminarily calculated individual estimated countervailable subsidy rates for Jiangsu Lefan Capsule Co., Ltd. (Jiangsu Lefan) and Shanxi JC Biological Co. Ltd. (Shanxi JC) that are not zero, *de minimis*, or based entirely on facts otherwise available. Commerce calculated the all-others rate using a weighted average of the individual estimated subsidy rates calculated for the examined respondents using each company's publicly-ranged values for the merchandise under consideration.¹¹

Preliminary Determination

Commerce preliminarily determines that the following estimated countervailable subsidy rates exist:

¹⁰ See sections 705(c)(5)(A)(i) and (ii) of the Act.

¹¹ With two respondents under examination, Commerce normally calculates: (A) a weighted-average of the estimated subsidy rates calculated for the examined respondents; (B) a simple average of the estimated subsidy rates calculated for the examined respondents; and (C) a weighted-average of the estimated subsidy rates calculated for the examined respondents using each company's publicly-ranged U.S. sale values for the merchandise under consideration. Commerce then compares (B) and (C) to (A) and selects the rate closest to (A) as the most appropriate rate for all other producers and exporters. See, e.g., *Ball Bearings and Parts Thereof from France, Germany, Italy, Japan, and the United Kingdom: Final Results of Antidumping Duty Administrative Reviews, Final Results of Changed-Circumstances Review, and Revocation of an Order in Part*, 75 FR 53661, 53662 (September 1, 2010), and accompanying Issues and Decision Memorandum at Comment 1. As complete publicly ranged sales data were available, Commerce based the all-others rate on the publicly ranged sales data of the mandatory respondents. For a complete analysis of the data, see the All-Others Rate Calculation Memorandum.

Company	Subsidy Rate (percent <i>ad valorem</i>)
Jiangsu Lefan Capsule Co., Ltd.	3.45
Shanxi JC Biological Technology Co., Ltd.	8.53
All Others	6.82

Disclosure

Commerce intends to disclose its calculations and analysis performed to interested parties in this preliminary determination within five days of its public announcement, or if there is no public announcement, within five days of the date of this notice in accordance with 19 CFR 351.224(b).

Consistent with 19 CFR 351.224(e), Commerce will analyze and, if appropriate, correct any timely allegations of significant ministerial errors by amending the preliminary determination. However, consistent with 19 CFR 351.224(d), Commerce will not consider incomplete allegations that do not address the significance standard under 19 CFR 351.224(g) following the preliminary determination. Instead, Commerce will address such allegations in the final determination together with issues raised in the case briefs or other written comments.

Suspension of Liquidation

In accordance with sections 703(d)(1)(B) and (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 the scope of the investigation entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the Federal Register. Further, pursuant to 19 CFR 351.205(d), Commerce will instruct CBP to require a cash deposit equal to the rates indicated above.

Verification

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

Public Comment

All interested parties will have the opportunity to submit scope case and rebuttal briefs on the preliminary decision regarding the scope of the LTFV and CVD investigations. The deadlines to submit scope case and rebuttal briefs are April 14, 2025 and April 21, 2025, respectively. For all scope case and rebuttal briefs, parties must file identical documents simultaneously on the records of the ongoing LTFV and CVD capsules investigations. No new factual information or business proprietary information may be included in either scope case or rebuttal briefs.

Case briefs or other written comments, excluding scope comments, 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.¹² Interested parties who submit case or rebuttal briefs in this proceeding must submit: (1) a table of contents listing each issue; and (2) a table of authorities.

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.¹³ Further, we request that interested parties limit their executive summary of each issue to no more than 450 words, not including citations. We intend to use the 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 executive summary of each issue.

¹² 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*).

¹³ We use the term “issue” here to describe an argument that Commerce would normally address in a comment of the Issues and Decision Memorandum.

Note that Commerce has amended certain of its requirements pertaining to the service of documents in 19 CFR 351.303(f).¹⁴

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 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.

U.S. International Trade Commission Notification

In accordance with section 703(f) of the Act, Commerce will notify the U.S. International Trade Commission (ITC) of its 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 capsules from China are materially injuring, or threaten material injury to, the U.S. industry.

Notification to Interested Parties

This determination is issued and published pursuant to sections 703(f) and 777(i) of the Act and 19 CFR 351.205(c).

Dated: March 24, 2025.

Christopher Abbott,

Deputy Assistant Secretary

for Policy and Negotiations,

performing the non-exclusive functions and duties

of the Assistant Secretary for Enforcement and Compliance.

¹⁴ See APO and Service Final Rule.

Appendix I

Scope of the Investigation

The merchandise subject to the scope of this investigation is hard empty capsules, which are comprised of two prefabricated, hollowed cylindrical sections (cap and body). The cap and body pieces each have one closed and rounded end and one open end, and are constructed with different or equal diameters at their open ends.

Hard empty capsules are unfilled cylindrical shells composed of at least 80 percent by weight of a water soluble polymer that is considered non-toxic and appropriate for human or animal consumption by the United States Pharmacopeia—National Formulary (USP–NF), Food Chemical Codex (FCC), or equivalent standards. The most common polymer materials in HECs are gelatin derived from animal collagen (including, but not limited to, pig, cow, or fish collagen), hydroxypropyl methylcellulose (HPMC), and pullulan.

Hard empty capsules may also contain water and additives, such as opacifiers, colorants, processing aids, controlled release agents, plasticizers, and preservatives. Hard empty capsules may also be imprinted or otherwise decorated with markings.

Hard empty capsules are covered by the scope of this investigation regardless of polymer material, additives, transparency, opacity, color, imprinting, or other markings.

Hard empty capsules are also covered by the scope of this investigation regardless of their size, weight, length, diameter, thickness, and filling capacity.

Cap and body pieces of hard empty capsules are covered by the scope of this investigation regardless of whether they are imported together or separately, and regardless of whether they are imported in attached or detached form.

Hard empty capsules covered by the scope of this investigation are those that disintegrate in water within 2 hours under tests specified in Chapter 701 of the USP–NF, or equivalent disintegration tests.

Hard empty capsules are classifiable under subheadings 9602.00.1040 and 9602.00.5010 of the Harmonized Tariff Schedule of the United States (HTSUS). In addition, hard empty capsules may be imported under HTSUS subheading 1905.90.9090; gelatin hard empty capsules may be imported under HTSUS subheading 3503.00.5510; HPMC hard empty capsules may be imported under HTSUS subheading 3923.90.0080; and pullulan hard empty capsules may be imported under HTSUS subheading 2106.90.9998. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise covered by this investigation is dispositive.

Appendix II

List of Topics Discussed in the Preliminary Decision Memorandum

- I. Summary
- II. Background
- III. Injury Test
- IV. Analysis of China's Financial System
- V. Diversification of China's Economy
- VI. Use of Facts Otherwise Available and Adverse Inferences
- VII. Subsidies Valuation
- VIII. Benchmarks and Interest Rates
- IX. Analysis of Programs
- X. Recommendation

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