

and (3) the curing agent represents 5 to 40 percent of the total weight of the product.

Excluded from the scope are preimpregnated fabrics or fibers, often referred to as “pre-pregs,” which are composite materials consisting of fabrics or fibers (typically carbon or glass) impregnated with epoxy resin.

This merchandise is currently classifiable under Harmonized Tariff Schedule of the United States (HTSUS) subheading 3907.30.0000. Subject merchandise may also be entered under subheadings 3907.29.0000, 3824.99.9397, 3214.10.0020, 2910.90.9100, 2910.90.9000, 2910.90.2000, and 1518.00.4000. The HTSUS subheadings are provided for convenience and customs purposes only; the written description of the scope 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. Critical Circumstances
- VIII. Recommendation

[FR Doc. 2024–20888 Filed 9–12–24; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–827]

Certain Cased Pencils From the People’s Republic of China: Rescission of Antidumping Duty Administrative Review; 2022–2023

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

SUMMARY: The U.S. Department of Commerce (Commerce) is rescinding the administrative review of the antidumping duty order on certain cased pencils (pencils) from the People’s Republic of China (China) for the period of review (POR) December 1, 2022, through November 30, 2023.

DATES: Applicable September 13, 2024.

FOR FURTHER INFORMATION CONTACT: Robert Copyak, 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) 482–3642.

SUPPLEMENTARY INFORMATION:

Background

On December 28, 1994, Commerce published in the **Federal Register** the antidumping duty order on pencils from

China.¹ On December 1, 2023, Commerce published in the **Federal Register** a notice of opportunity to request an administrative review of the *Order*.² Based on timely requests for review from Dixon Ticonderoga Company (the petitioner) and Aloha Pencil Co. (Aloha), in accordance with 351.221(c)(1)(i) and section 751(a) of the Tariff Act of 1930, as amended (the Act), Commerce published the initiation of this administrative review on February 8, 2024, with respect to 17 companies.³

On February 14, 2024, 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 from interested parties on the CBP data.

On March 7, 2024, the petitioner submitted an objection to Aloha’s request for administrative review alleging that Aloha did not qualify for producer, manufacturer, or wholesaler status during the POR.⁵ In the *Initiation Notice*, Commerce required that interested parties submit a separate rate application (SRA) or separate rate certification (SRC) within 30 days of publication of the *Initiation Notice*.⁶ Because of the petitioner’s objection to Aloha’s request for review, we extended the deadline for parties to file an SRA or SRC multiple times.⁷ However, no party submitted an SRA or SRC within the extended time frame.

On March 13, 2024, Commerce issued a questionnaire to Aloha to assess its standing as a domestic producer, manufacturer, or wholesaler of pencils

¹ See *Antidumping Duty Order: Certain Cased Pencils from the People’s Republic of China*, 59 FR 66909 (December 28, 1994) (*Order*).

² See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review and Join Annual Inquiry Service List*, 88 FR 83917 (December 1, 2023).

³ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 89 FR 8641, 8643 (February 8, 2024) (*Initiation Notice*).

⁴ See Memorandum, “Release of Customs Entry Data,” dated February 14, 2024.

⁵ See Petitioner’s Letter, “Refiled Dixon’s Objection to Aloha Pencil Co.’s Request for Administrative Review of the Antidumping Duty Order on Cased Pencils from the People’s Republic of China,” dated March 7, 2024.

⁶ See *Initiation Notice*, 89 FR at 8642 (“Exporters and producers must file a timely Separate Rate Application or Certification if they want to be considered for individual examination.”).

⁷ See Commerce’s Letters, “Extension for Separate Rate Application or Certification,” dated March 6, 2024; “Extension for Separate Rate Application or Certification,” dated March 21, 2024; and “Extension for Separate Rate Application or Certification,” dated April 3, 2024.

during the POR.⁸ On March 25, 2024, Aloha timely submitted its response.⁹ On March 29, 2024, the petitioner submitted rebuttal factual information regarding Aloha’s standing questionnaire response.¹⁰

On April 9, 2024, based on the information on the record, Commerce determined that Aloha was not a *bona fide* producer, manufacturer, or wholesaler of a domestic like product during the POR.¹¹ As a result, Commerce declined to find that Aloha is a domestic interested party and stated that it was: (1) treating Aloha’s review request as void; and (2) preliminarily rescinding this administrative review with respect to any company for which Aloha was the sole requestor.¹² Consequently, because Aloha’s request for review of 14 companies was void, and it was the sole party requesting a review of these companies, only three companies remained under review: (1) Shandong Wah Yuen Stationery Co. Ltd.; Wah Yuen Stationery Co. Ltd.; (2) Tianjin Tonghe Stationery Co., Ltd.; and (3) Ningbo Homey Union Co., Ltd.¹³

On May 2, 2024, we received comments from Aloha on the Standing Determination, arguing that Aloha had provided sufficient information to support its claims that it was a *bona fide* producer or manufacturer, and requesting that Commerce expedite its final decision.¹⁴ On May 9, 2024, the petitioner submitted rebuttal comments supporting the Standing Determination and requesting that Commerce reject Aloha’s request to expedite its final decision.¹⁵

On June 7, 2024, Commerce notified all interested parties of its intent to rescind this review in full because there were no reviewable, suspended entries of subject merchandise from the three remaining companies under review and invited comments from interested

⁸ See Commerce’s Letter, “Standing Questionnaire,” dated March 13, 2024.

⁹ See Aloha’s Letter, “Standing Questionnaire Response,” dated March 25, 2024 (Standing Questionnaire Response).

¹⁰ See Petitioner’s Letter, “Dixon’s Rebuttal to Aloha Pencil Co.’s Standing Questionnaire Responses,” dated March 29, 2024.

¹¹ See Memorandum, “Aloha Pencil Company’s Standing to Request Review,” dated April 9, 2024 (Standing Determination).

¹² *Id.*

¹³ See Petitioner’s Letter, “Request for Administrative Review,” dated January 2, 2024.

¹⁴ See Aloha’s Letter, “Request for Reconsideration and Alternative Request to Expedite Final Decision on Domestic Party Standing and Publish Final Partial Rescission in the **Federal Register**,” dated May 2, 2024.

¹⁵ See Petitioner’s Letter, “Dixon’s Response to Aloha Pencil Co.’s Request for Reconsideration,” dated May 9, 2024.

parties.¹⁶ On June 14, 2024, we received comments from Aloha, again arguing that Commerce should reconsider its standing as a domestic interested party.¹⁷

On July 22, 2024, Commerce tolled certain deadlines in this administrative proceeding by seven days. The deadline for the preliminary results is now September 9, 2024.¹⁸

Aloha's Reconsideration Request

We continue to determine that Aloha is not a *bona fide* producer or manufacturer.¹⁹ Thus, we do not find that Aloha has the requisite standing to be considered a domestic interested party and, therefore, its review request continues to be void. We disagree with Aloha's contention that Commerce overlooked record information and drew unsupported inferences in making its Standing Determination.²⁰ We note that Aloha's Reconsideration Request primarily summarizes information that Commerce already considered in its Standing Determination and Commerce reasonably drew its conclusions concerning Aloha's standing based on that record information.²¹ Further, nothing in Aloha's Reconsideration Request warrants a reversal of that decision. For instance, Aloha summarizes its corporate history, which Commerce already considered in its Standing Determination, and as explained in that determination, Aloha's corporate history throughout the POR is extremely limited to an extent that undermines its *bona fides* claim.²²

Aloha also contends that Commerce failed to seek clarification of any ambiguities in Aloha's questionnaire response.²³ However, Commerce did not find Aloha's submission ambiguous or deficient, as there were no gaps in the record and the evidence Aloha submitted was adequate for Commerce to make a standing determination.²⁴

¹⁶ See Memorandum, "Notice of Intent to Rescind Review," dated June 7, 2024.

¹⁷ See Aloha's Letter, "Comments on Commerce Intent to Rescind," dated June 14, 2024 (Aloha's Reconsideration Request).

¹⁸ See Memorandum, "Tolling of Deadlines for Antidumping and Countervailing Duty Proceedings," dated July 22, 2024.

¹⁹ The U.S. Court of International Trade (CIT) has noted that parties requesting standing pursuant to section 771(9)(C) of the Act must have a "stake" in the result of an investigation. See *Brother Indus. (USA) v. United States*, 801 F. Supp. 751, 757 (CIT 1992) ("The language in the legislative history is broad and unqualified. It contrasts industries suffering *adverse affect* with those having *no stake*: the former have standing; the latter do not.") (italics in original).

²⁰ See Aloha's Reconsideration Request at 2–7.

²¹ See Standing Determination.

²² *Id.* at 3–4.

²³ Aloha's Reconsideration Request at 7–11.

²⁴ See, generally, Standing Determination.

Aloha itself also notes that a number of documents did not even exist at either the time it requested this administrative review or when it received the questionnaire, and indicates that Aloha possibly possessed additional documents that it chose not to submit.²⁵

Aloha's Reconsideration Request also does not specify where such supposed deficiencies exist. Ultimately, the burden of creating an adequate record lies with the interested party.²⁶ Further, the requirements under section 782(d) of the Act concerning deficient submissions are not applicable here, as Aloha complied with Commerce's requests for information, even stating where information and documentation Commerce requested simply did not exist.²⁷ Commerce in its Standing Determination examined Aloha's status as a domestic interested party during the POR. Aloha's Reconsideration Request primarily refers to facts and documents that do not affect Aloha's standing as an interested party during the POR.²⁸ Lastly, each standing determination is a case-by-case, fact intensive analysis, and Commerce's determination is consistent with its practice with respect to its prior standing determinations.

Rescission of Review

Pursuant to 19 CFR 351.213(d)(3), it is Commerce's practice to rescind an administrative review of an antidumping duty order when there are no reviewable entries of subject merchandise during the POR for which liquidation is suspended.²⁹ Normally, upon completion of an administrative review, the suspended entries are liquidated at the antidumping duty assessment rate calculated for the

²⁵ Aloha's Reconsideration Request at 9, 10.

²⁶ See *Qingdao Sea-Line Trading Co. v. United States*, 766 F.3d 1378, 1386 (Fed. Cir. 2014).

²⁷ See Standing Questionnaire Response at 6–8, stating, e.g., that "Aloha Pencil incorporated as an LLC in the state of Hawai'i in November 2023, and does not have any business documents prior to that time." The CIT has found that, where a party responding to a questionnaire states such documentation does not exist, Commerce need not issue a deficiency notice and an opportunity to remedy. See *Jiangsu Senmao Bamboo & Wood Indus. Co. v. United States*, 651 F. Supp. 1348, 1368 (CIT 2023).

²⁸ See Aloha's Reconsideration Request, generally.

²⁹ See, e.g., *Dioctyl Terephthalate from the Republic of Korea: Rescission of Antidumping Administrative Review; 2021–2022*, 88 FR 24758 (April 24, 2023); see also *Certain Carbon and Alloy Steel Cut-to Length Plate from the Federal Republic of Germany: Rescission of Antidumping Administrative Review; 2020–2021*, 88 FR 4157 (January 24, 2023); and *Lightweight Thermal Paper from Japan: Rescission of Antidumping Administrative Review; 2022–2023*, 89 FR 18373 (March 13, 2024).

review period.³⁰ Therefore, for an administrative review to be conducted, there must be a reviewable, suspended entry that Commerce can instruct CBP to liquidate at the antidumping duty assessment rate calculated for the review period.³¹ As explained above, because Commerce declined to find that Aloha is a domestic interested party, its request for review of 14 companies is void and there were no reviewable, suspended entries of subject merchandise in the CBP data for the three companies remaining companies under review during the POR. Accordingly, in the absence of suspended entries of subject merchandise during the POR, we are hereby rescinding this administrative review, in its entirety, in accordance with 19 CFR 351.213(d)(3).

Assessment

Commerce will instruct CBP to assess antidumping duties on all appropriate entries.

Antidumping duties shall be assessed at rates equal to the cash deposit of estimated antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(1)(i). Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of this rescission notice in the **Federal Register**.

Administrative Protective Order

This notice serves as the only reminder to parties subject to an administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation subject to sanction.

Notification to Interested Parties

This notice is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.213(d)(4).

Dated: September 6, 2024.

Scot Fullerton,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2024–20798 Filed 9–12–24; 8:45 am]

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³⁰ See 19 CFR 351.212(b)(1).

³¹ See 19 CFR 351.213(d)(3).