



A-570-894

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November 15, 2017

MEMORANDUM TO: Gary Taverman
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations,
performing the non-exclusive functions and duties of the
Assistant Secretary for Enforcement and Compliance

FROM: James Maeder
Senior Director
performing the duties of Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Decision Memorandum for Preliminary Results of Antidumping
Duty Administrative Review: Certain Tissue Paper Products from
the People's Republic of China; 2016-2017

I. SUMMARY

In response to a request from an interested party, the Department of Commerce (Department) is conducting this administrative review of the antidumping duty (AD) order on certain tissue paper (tissue paper) from the People's Republic of China (PRC) for the period of review (POR) March 1, 2016, through February 28, 2017. The Department preliminarily determines that mandatory respondent Global Key, Inc. (Global Key) does not qualify for a separate rate and is, therefore, considered part of the PRC-wide entity. We also preliminarily determine that mandatory respondent Chung Rhy Specialty Paper Mfg. Co., Ltd. (Chung Rhy) had no shipments during the POR.

II. BACKGROUND

On March 31, 2017, the petitioner requested that the Department conduct administrative reviews of Global Key and Chung Rhy.¹ The Department published the notice of initiation of this administrative review on May 10, 2017.² On May 12, 2017, the Department issued the AD questionnaire to Global Key and Chung Rye. On May 31, 2017, the Department received a timely notice from Chung Rhy notifying the Department that it did not export or sell subject

¹ See Letter from Seaman Paper Company of Massachusetts, Inc. (the petitioner), "Certain Tissue Paper Products from the People's Republic of China: Request for Administrative Review," dated March 31, 2017.

² See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 82 FR 21513 (May 10, 2017) (*Initiation Notice*).



merchandise to the United States during the POR.³ Global Key did not respond to the Department's questionnaire.

III. SCOPE OF THE ORDER

The tissue paper products subject to this order are cut-to-length sheets of tissue paper having a basis weight not exceeding 29 grams per square meter. Tissue paper products subject to this order may or may not be bleached, dye-colored, surface-colored, glazed, surface decorated or printed, sequined, crinkled, embossed, and/or die cut. The tissue paper subject to this order is in the form of cut-to-length sheets of tissue paper with a width equal to or greater than one-half (0.5) inch. Subject tissue paper may be flat or folded, and may be packaged by banding or wrapping with paper or film, by placing in plastic or film bags, and/or by placing in boxes for distribution and use by the ultimate consumer. Packages of tissue paper subject to this order may consist solely of tissue paper of one color and/or style, or may contain multiple colors and/or styles.

The merchandise subject to this order does not have specific classification numbers assigned to them under the Harmonized Tariff Schedule of the United States (HTSUS). Subject merchandise may be under one or more of several different subheadings, including: 4802.30, 4802.54, 4802.61, 4802.62, 4802.69, 4804.31.1000, 4804.31.2000, 4804.31.4020, 4804.31.4040, 4804.31.6000, 4804.39, 4805.91.1090, 4805.91.5000, 4805.91.7000, 4806.40, 4808.30, 4808.90, 4811.90, 4823.90, 4802.50.00, 4802.90.00, 4805.91.90, 9505.90.40. The tariff classifications are provided for convenience and customs purposes; however, the written description of the scope of this order is dispositive.⁴

Excluded from the scope of this order are the following tissue paper products: (1) tissue paper products that are coated in wax, paraffin, or polymers, of a kind used in floral and food service applications; (2) tissue paper products that have been perforated, embossed, or die-cut to the shape of a toilet seat, *i.e.*, disposable sanitary covers for toilet seats; (3) toilet or facial tissue stock, towel or napkin stock, paper of a kind used for household or sanitary purposes, cellulose wadding, and webs of cellulose fibers (HTS 4803.00.20.00 and 4803.00.40.00).

IV. DISCUSSION OF THE METHODOLOGY

Preliminary Determination of No Shipments

As noted above, Chung Rhy reported that it made no shipments of subject merchandise to the United States during the POR.⁵ To confirm Chung Rhy's no-shipment claim, the Department issued a no-shipment inquiry to U.S. Customs and Border Protection (CBP) requesting that it review the company's no-shipment claim.⁶ CBP reported that it had no information to contradict

³ See Letter from Chung Rhy, "Antidumping Duty Administrative Review on Certain Tissue Paper Products from China (A-570-894) for the Period from March 1, 2016 to February 28, 2017," dated May 31, 2017 (No Shipment Certification).

⁴ On January 30, 2007, at the direction of U.S. Customs and Border Protection (CBP), the Department added the following HTSUS classifications to the AD/CVD module for tissue paper: 4802.54.3100, 4802.54.6100, and 4823.90.6700. However, we note that the six-digit classifications for these numbers were already listed in the scope.

⁵ See No Shipment Certification.

⁶ See "No shipments inquiry for certain tissue paper products from the People's Republic of China exported by

this company's claim of no shipments during the POR.⁷

Based on this information, the Department preliminarily determines that Chung Rhy had no shipments to the United States during the POR. Consistent with our practice in non-market economy (NME) cases, we are not rescinding this review, in part, but we intend to complete the review with respect to Chung Rhy, and issue appropriate instructions to CBP based on the final results of the review.⁸

NME Country Status

The Department considers the PRC to be an NME country.⁹ In accordance with section 771(18)(C)(i) of the Act, any determination that a foreign country is an NME country shall remain in effect until revoked by the Department. Therefore, we continue to treat the PRC as an NME country for purposes of these preliminary results.

Separate Rates

There is a rebuttable presumption that all companies within an NME are subject to government control and, thus, should be assessed a single AD rate.¹⁰ In the *Initiation Notice*, the Department notified parties of the application process by which exporters and producers may obtain separate rate status in NME proceedings.¹¹ It is the Department's policy to assign all exporters of the merchandise subject to review in NME countries a single rate unless an exporter can affirmatively demonstrate an absence of government control, both in law (*de jure*) and in fact (*de facto*), with respect to exports. To establish whether a company is sufficiently independent to be entitled to a separate, company-specific rate, the Department analyzes each exporting entity in an NME country under the test established in *Sparklers*,¹² as amplified by *Silicon Carbide*.¹³ However, if the Department determines that a company is wholly foreign-owned by individuals or companies located in a market economy, then a separate rate analysis is not necessary to determine whether it is independent from government control.¹⁴

Chung Rhy Specialty Paper Mfg. Co., Ltd. (A-570-894)," message number 7166303 (June 15, 2017).

⁷ See Memorandum, "No Shipment Inquiry for Chung Rhy Specialty Paper Mfg. Co., during the period 03/01/2016 - 02/28/2017," dated August 4, 2017.

⁸ See *Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties*, 76 FR 65694, 65694-95 (October 24, 2011).

⁹ See *Antidumping Duty Investigation of Certain Aluminum Foil from the People's Republic of China: Affirmative Preliminary Determination of Sales at Less-Than-Fair Value and Postponement of Final Determination*, 82 FR 50858, 50861 (November 2, 2017) and accompanying decision memorandum, *China's Status as a Non-Market Economy*.

¹⁰ See, e.g., *Notice of Final Determination of Sales at Less Than Fair Value, and Affirmative Critical Circumstances, In Part: Certain Lined Paper Products from the People's Republic of China*, 71 FR 53079, 53082 (September 8, 2006); and *Final Determination of Sales at Less Than Fair Value and Final Partial Affirmative Determination of Critical Circumstances: Diamond Sawblades and Parts Thereof from the People's Republic of China*, 71 FR 29303, 29307 (May 22, 2006).

¹¹ See *Initiation Notice* at 21514.

¹² See *Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China*, 56 FR 20588 (May 6, 1991) (*Sparklers*).

¹³ *Notice of Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China*, 59 FR 22585 (May 2, 1994) (*Silicon Carbide*), and 19 CFR 351.107(d).

¹⁴ See, e.g., *Certain New Pneumatic Off-the-Road Tires from the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 73 FR 9278, 9284

As noted above, Global Key did not respond to the AD questionnaire. The separate rate application and Section A of the AD questionnaire request information necessary to rebut the presumption that Global Key is subject to government control. Moreover, per the separate rate criteria, exporters and producers who submit a separate-rate status application or certification and subsequently are selected as mandatory respondents must respond to all parts of the questionnaire in order to be eligible for separate rate status.¹⁵ Because Global Key did not submit a response to the Department's questionnaire, it has failed to demonstrate its eligibility for a separate rate. Therefore, we preliminarily consider this company to be part of the PRC-wide entity. Because no review was requested of the PRC-wide entity, the pre-existing PRC-wide rate of 112.64 percent will apply to entries of Global Key's subject merchandise into the United States during the POR.¹⁶

V. RECOMMENDATION

We recommend applying the above methodology for these preliminary results.



Agree

Disagree

11/15/2017

X 

Signed by: GARY TAVERMAN

Gary Taverman

Deputy Assistant Secretary

for Antidumping and Countervailing Duty Operations
performing the non-exclusive functions and duties of the
Assistant Secretary for Enforcement and Compliance

(February 20, 2008), unchanged in *Certain New Pneumatic Off-The-Road Tires from the People's Republic of China: Final Affirmative Determination of Sale at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances*, 73 FR 40485 (July 15, 2008).

¹⁵ See *Initiation Notice* at 21514.

¹⁶ See *Notice of Amended Final Determination of Sales at Less than Fair Value and Antidumping Duty Order: Certain Tissue Paper Products from the People's Republic of China*, 70 FR 16223 (March 30, 2005). See also *Certain Tissue Paper Products from the People's Republic of China: Final Results of the 2008-2009 Antidumping Duty Administrative Review*, 75 FR 63806, 63809 (October 18, 2010), and accompanying Issues and Decision Memorandum, "Issues and Decision Memorandum for the Final Results of the 2008-2009 Administrative Review of Certain Tissue Paper Products from the People's Republic of China (PRC)."