
DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-827]

Certain Cased Pencils From the People's Republic of China: Final Results of the Expedited Third Sunset Review of the Antidumping Duty Order

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

DATES: *Effective Date:* March 7, 2011.

SUMMARY: On November 1, 2010, the Department of Commerce ("Department") published in the **Federal Register** the notice of initiation of the third sunset review of the antidumping duty order on certain cased pencils ("pencils") from the People's Republic of China ("PRC"), pursuant to section 751(c) of the Tariff Act of 1930, as amended ("the Act"). *See Initiation of Five-Year ("Sunset") Review*, 75 FR 67082 (November 1, 2010). The Department has conducted an expedited sunset review of this order pursuant to section 751(c)(3)(B) of the Act and 19

CFR 351.218(e)(1)(ii)(C)(2). As a result of the sunset review, the Department finds that revocation of the antidumping duty order would be likely to lead to continuation or recurrence of dumping at the margins identified in the “Final Results of Review” section of this notice.

FOR FURTHER INFORMATION CONTACT: Seth Isenberg or Yasmin Nair, AD/CVD Operations, Office 1, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482-0588 and (202) 482-3813, respectively.

SUPPLEMENTARY INFORMATION:

Background

The antidumping duty order that covers pencils from the PRC was published in the **Federal Register** on December 28, 1994. See *Antidumping Duty Order: Certain Cased Pencils from the People’s Republic of China*, 59 FR 66909 (December 28, 1994), amended at *Certain Cased Pencils From the People’s Republic of China; Notice of Amended Final Determination of Sales at Less Than Fair Value and Amended Antidumping Duty Order in Accordance With Final Court Decision*, 64 FR 25275 (May 11, 1999). On November 1, 2010, the Department initiated the third sunset review of this order, pursuant to section 751(c) of the Act. See *Initiation of Five-Year (“Sunset”) Review*, 75 FR 67082 (November 1, 2010). The Department received a notice of intent to participate from domestic interested parties Sanford Corp.; General Pencil Co., Inc.; and Musgrave Pencil Co. (collectively, “Petitioners”), within the deadline specified in 19 CFR 351.218(d)(1)(i). Petitioners claimed interested party status under section 771(9)(C) of the Act, as manufacturers of a domestic-like product in the United States. The Department also received a notice of intent to participate from Dixon Ticonderoga Company (“Dixon”), within the deadline specified in 19 CFR 351.218(d)(1)(i). Dixon claimed interested party status under section 771(4)(B) of the Act, as an importer of

the subject merchandise that is related to a foreign producer and exporter of the subject merchandise.

On December 1, 2010, the Department received a substantive response from Petitioners. In addition to meeting the other requirements of 19 CFR 351.218(d)(3), Petitioners provided information on the volume and value of exports of pencils from the PRC. The Department did not receive a substantive response from Dixon. The Department did not receive adequate substantive responses, or any response at all, from any respondent interested parties to this proceeding. As a result, pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2), the Department conducted an expedited (120-day) sunset review of the antidumping duty order on pencils from the PRC.

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 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.

Analysis of Comments Received

All issues raised in this review are addressed in the Issues and Decision Memorandum (“Decision Memorandum”) from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Ronald K. Lorentzen, Deputy Assistant Secretary for Import Administration, dated March 1, 2011, which is hereby adopted by this notice. The issues discussed in the Decision Memorandum include the likelihood of continuation or recurrence of dumping and the magnitude of the margins likely to prevail if the order were revoked. Parties can find a complete discussion of all issues raised in this review and the corresponding recommendations in this public memorandum, which is on file in the Central Records Unit in room 7046 of the main Commerce building.

In addition, a complete version of the Decision Memorandum can be accessed directly on the Internet at <http://ia.ita.doc.gov/frn>. The paper copy and electronic version of the Decision Memorandum are identical in content.

Final Results of Review

Pursuant to sections 752(c)(1) and (3) of the Act, we determine that revocation of the antidumping duty order on pencils from the PRC would be likely to lead to continuation or recurrence of dumping at the following weighted-average percentage margins:

Manufacturers/producers/exporters	Margin (percent)
China First Pencil Co., Ltd	8.60
Shanghai Three Star Stationery Industry Corp ¹	0.00
Shanghai Lansheng Corp	19.36
Shanghai Foreign Trade Corp	11.15
Guangdong Provincial Stationery & Sporting Goods Import & Export Corp ²	53.65

PRC-Wide Rate	53.65
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¹ In the original order and subsequent administrative reviews, China First Pencil Co. Ltd (“China First”) and Shanghai Three Star Stationery Industry Co., Ltd. (“Three Star”) were treated as separate entities. In the 1999–2000 administrative review, the Department determined that China First and Three Star should henceforth be treated as a single entity. See *Certain Cased Pencils from the People’s Republic of China; Final Results and Partial Rescission of Antidumping Duty Administrative Review*, 67 FR 48612 (July 25, 2002) (“99–00 Pencils Final”) and accompanying Issues and Decision Memorandum at Comment 12, amended at *Notice of Amended Final Results and Partial Rescission of Antidumping Duty Administrative Review: Certain Cased Pencils from the People’s Republic of China*, 67 FR 59049 (September 19, 2002). The Department continued to treat China First and Three Star as a single entity in the four successive administrative reviews. In the 2006–2007 administrative review, the Department determined that due to new evidence regarding the relationship between China First and Three Star there was no longer a sufficient basis to combine the two companies. See *Certain Cased Pencils from the People’s Republic of China; Final Results and Partial Rescission of Antidumping Duty Administrative Review*, 74 FR 33406 (July 13, 2009) and accompanying Issues and Decision Memorandum at Comment 1, amended at *Certain Cased Pencils from the People’s Republic of China: Amended Final Results of Antidumping Duty Administrative Review*, 74 FR 45177 (September 1, 2009). The Department continues to view China First and Three Star as separate and distinct entities as a result of the 2006–2007 administrative review determination. See *Certain Cased Pencils From the People’s Republic of China; Final Results of the Antidumping Duty Administrative Review*, 75 FR 38980 (July 7, 2010).

² The Department originally excluded from the order exports made by Guangdong Provincial Stationery & Sporting Goods Import & Export Corp. (“Guangdong”) and produced by Three Star. However, the Department determined in the 1999–2000 administrative review that the Guangdong/Three Star sales chain was no longer excluded from the order, and that all merchandise exported by Guangdong was subject to the cash deposit requirements at the PRC-Wide Rate. See *99–00 Pencils Final* and accompanying Issues and Decision Memorandum at Comment 1, amended at 67 FR 59049.

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

We are issuing and publishing the final results and notice in accordance with sections 751(c), 752(c), and 777(i)(1) of the Act.

Dated: March 1, 2011.

Ronald K. Lorentzen,
Deputy Assistant Secretary for Import Administration.

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