

## DEPARTMENT OF COMMERCE

## International Trade Administration

[A-570-827]

**Certain Cased Pencils from the People's Republic of China; Final Results and Partial Rescission of Antidumping Duty Administrative Review**

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

**ACTION:** Notice of Final Results and Partial Rescission of Antidumping Duty Administrative Review.

**SUMMARY:** On January 17, 2002, the Department of Commerce (the Department) published the preliminary results of the administrative review of the antidumping duty order on pencils from the People's Republic of China (PRC). The merchandise covered by this order is certain cased pencils (pencils). We initiated this review on 39 named respondents.<sup>1</sup> Three of the named respondents actively participated in this review: China First Pencil Company, Ltd. (CFP), Shanghai Foreign Trade

Corporation (OIHSFTC), Kaiyuan Group Corporation (Kaiyuan) and their producers/suppliers. The period of review (POR) is December 1, 1999, through November 30, 2000.

Based on our analysis of the comments received, we have made changes in our margin calculations. Therefore, the final results differ from the preliminary results. The final weighted-average dumping margins for the reviewed companies are listed below in the section entitled "Final Results of Review." For details regarding these changes, see the section of the notice entitled "Changes Since the Preliminary Results."

**EFFECTIVE DATE:** July 25, 2002.

**FOR FURTHER INFORMATION CONTACT:** Paul Stolz, Michele Mire, or Crystal Crittenden, Office of AD/CVD Enforcement, Office 4, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482-4474, (202) 482-4711, or (202) 482-0989, respectively.

**SUPPLEMENTARY INFORMATION:****The Applicable Statute and Regulations**

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department's regulations are to 19 CFR Part 351 (2000).

**Background**

On January 17, 2002, the Department published the preliminary results of the administrative review of the antidumping duty order on pencils from the PRC. *See Certain Cased Pencils From the People's Republic of China; Preliminary Results and Rescission in Part of Antidumping Duty Administrative Review*, 67 FR 2402 (January 17, 2002). We invited parties to comment on our preliminary results of review.

Since the publication of the preliminary results, the following events have occurred. During January and February 2002 we conducted verification of the questionnaire responses of CFP, Shanghai Three Star Stationery Company, Ltd. (Three Star), Guangdong Provincial Stationery & Sporting Goods Import and Export Corporation (Guangdong), Kaiyuan, and its supplier, Laizhou Pencil Making Factory (Laizhou). During March, and April, 2002 interested parties submitted

publicly available information, comments and rebuttal comments regarding surrogate values. On May 8, 2002, the Department extended the time limit for completion of the final results until no later than July 16, 2002. *See Certain Cased Pencils from the People's Republic of China: Extension of Time Limit for Final Results of Antidumping Duty Administrative Review*, 67 FR 35790 (May 21, 2002). During April and June, petitioners and respondents submitted factual information regarding CFP's relationship with Three Star. Interested parties submitted case briefs and rebuttal briefs during June, 2002.

The Department has conducted this administrative review in accordance with section 751 of the Act.

**Scope of Review**

Imports covered by this review are shipments of certain cased pencils of any shape or dimension 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 this order are classified under item number 9609.10.00 of the Harmonized Tariff Schedule of the United States (HTSUS). Specifically excluded from the scope of this order are mechanical pencils, cosmetic pencils, pens, non-cased crayons (wax), pastels, charcoals, and chalks.

Although the HTSUS item number is provided for convenience and customs purposes our written description of the scope of the order is dispositive.

**Final Partial Rescission**

The Department verified that Laizhou City Guangming Pencil-Making Lead Co., Ltd. (Laizhou) did not export subject merchandise to the United States during the POR. Therefore, we are rescinding this review with respect to Laizhou.

**Period of Review**

The POR is December 1, 1999 to November 30, 2000.

**Analysis of Comments Received**

All issues raised in the case and rebuttal briefs by parties to this administrative review are addressed in the "Issues and Decision Memorandum" (*Decision Memorandum*) from Bernard T. Carreau, Deputy Assistant Secretary, Import Administration, to Faryar Shirzad, Assistant Secretary for Import Administration, dated concurrently with this notice, which is hereby

<sup>1</sup> We initiated this administrative review on 39 parties. The following three companies actively participated in this review: China First Pencil Company, Ltd.; Shanghai Foreign Trade Corporation; and Kaiyuan Group Corporation. The following three companies stated that they made no sales of subject merchandise during the POR: Guangdong Provincial Stationery & Sporting Goods Import & Export Corporation; Shanghai Three Star Stationery Company, Ltd.; and Laizhou City Guangming Pencil-Making Lead Co., Ltd. We sent questionnaires to the following 16 companies and received no response: Anhui Light Industrial Products I/E Corporation; Anhui Provincial Imports & Exports Corporation; Anhui Import/Export Group Corporation; Beijing Pencil Factory; Beijing Light Industrial Products I/E Corp.; Dalian Light Industrial Products Import/Export Corporation; Jinan Pencil Factory; Liaoning Light Industrial Products Import/Export Corporation; Qingdao Light Industrial Products Import/Export Corporation; Shandong Light Industrial Products Import/Export Corporation; Sichuan Light Industrial Products Import/Export Corporation; Songnan Pencil Factory; Tianjin Stationery and Sporting Goods Import/Export Corporation; Tianjin Pencil Factory; Xinbang Joint Venture Pencil Factory; and Zhenjiang Foreign Trade Corporation. We could not locate addresses for the following 12 companies: Anhui Bengbu Pencil Factory; Anhui Stationery Company; China Second Pencil Company, Ltd.; Guangdong Textile Factory; Harbin Pencil Factory; Jiangsu Pencil Factory; Juihai Pencil Factory; Julong Pencil Factory; New Century; Qingdao Pencil Factory; Shanghai JV Stationery Co., Ltd./Shanghai Jay-Vee Stationery Co., Ltd.; Factory; Shanghai JV Stationery Co., Ltd./Shanghai Jay-Vee Stationery Co., Ltd.; Shenyang Pencil Factory. Questionnaires issued to the following five parties were returned to us as undeliverable: China National Light Industrial Products Import & Export Corporation (all branches); Dalian Pencil Factory; Donghua Pencil Factory; Jiangsu Light Industrial Products Import/Export Group Corp.; Jilin Provincial Machinery & Equipment Import & Export Corporation.

adopted by this notice. A list of the issues which parties have raised and to which we have responded, all of which are in the Decision Memorandum, is attached to this notice as an Appendix. 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 Record Unit, room B-099 of the main Department of Commerce building. In addition, a complete version of the Decision Memorandum can be accessed directly on the International Trade Administration's Web site at [www.ita.doc.gov](http://www.ita.doc.gov). The paper copy and electronic version of the Decision Memorandum are identical in content.

### Changes Since the Preliminary Results

Based on our analysis of comments received, we have made certain changes in the margin calculations. We have also corrected certain programming and clerical errors in our preliminary results, where applicable.

### Rescission of Review With Respect to Guangdong and Three Star

Since the preliminary results in this review, evidence has been placed on the record regarding the relationship between CFP and Three Star which supports treating these two entities as a single entity for purposes of our antidumping analysis. See the *Decision Memorandum* to Comment 12. Because we find the CFP/Three Star entity to be distinct from the Three Star entity in the Three Star/Guangdong sales chain that was excluded from the antidumping duty order, we are no longer excluding the Three Star/Guangdong sales chain from the order. Thus, we have not rescinded this review with respect to Guangdong. We will instruct U.S. Customs to begin suspending liquidation of entries of pencils identified as produced by Three Star and exported by Guangdong effective as of the date of publication of this notice. All merchandise exported by Guangdong will be subject to cash deposit requirements at the PRC-wide rate. With respect to Three Star, we note that although Three Star did not ship subject merchandise directly to the United States during the POR, we are treating CFP and Three Star as a single entity for purposes of assigning an antidumping duty rate, and thus we have not rescinded the review with respect to Three Star. We will assign the CFP/Three Star entity the antidumping duty rate calculated for CFP in this review.

### Factors of Production

Based on our findings at verification, and our analysis of comments received, we made adjustments to the factors of production, surrogate values, and methodologies used to calculate margins in the preliminary results. These adjustments are listed below and discussed in detail in the *Decision Memorandum*.

### Surrogate Values

The Department has determined that South Korea, Thailand, and Indonesia maintain broadly available, non-industry specific export subsidies which may benefit all exporters to all export markets. Therefore, for the final results of this review, we eliminated the quantities and values of imports from these countries from the import statistics used to calculate surrogate values. See *Final Determination of Sales at Less Than Fair Value: Certain Automotive Replacement Glass Windshields From the People's Republic of China*, 67 FR 6482 (February 12, 2002).

For glue, cores, and lacquer, we eliminated aberrational prices for merchandise from countries with low import volumes from the Indian import statistics used to calculate surrogate values. For respondents, other than CFP, we valued erasers using Indonesian import statistics because we found the surrogate value calculated from Indian import statistics to be aberrational. See OHSFTC, CFP, and Kaiyuan Calculation Memorandums and the *Decision Memorandum* at Comment 4. For CFP, we recalculated the surrogate value for erasers using the actual purchase price paid by CFP to a market economy supplier in U.S. dollars during the POR. See CFP Calculation Memorandum and the *Decision Memorandum* at Comment 3.

We recalculated the financial ratios using the financial statements of a Philippine wood products producer. See OHSFTC, CFP, and Kaiyuan Calculation Memorandums and the *Decision Memorandum* at Comment 5.

### CFP

We made minor corrections identified at verification. See CFP Calculation Memorandum.

### OHSFTC

We revised the methodology used to value certain pencils sold to the United States by OHSFTC. OHSFTC obtained finished pencils from a supplier (supplier A) which obtained raw pencils from another supplier (supplier B). In the preliminary results, we valued raw pencils as a factor of production for

supplier A. For the final results of this review, we modified our approach and valued the factors of production consumed by supplier B to produce a raw pencil and the factors of production consumed by supplier A to finish the pencils it subsequently supplied to OHSFTC.

We recalculated the dumping margin for uncooperative suppliers using partial adverse facts available. See OHSFTC Calculation Memorandum and the *Decision Memorandum* at Comment 10.

We made minor corrections identified at verification. See OHSFTC Calculation Memorandum.

### Kaiyuan

We made minor corrections identified at verification. See Kaiyuan Calculation Memorandum and the *Decision Memorandum* at Comment 11.

### Verification

As provided in section 782(i) of the Act, we verified the information submitted by the respondents for use in our final results. We used standard verification procedures including examination of relevant accounting and production records, and original source documents provided by the respondents.

### Final Results of Review

We determine that the following weighted-average percentage margins exist for the period December 1, 1999 through November 30, 2000:

| Exporter/Manufacturer                           | Margin (percent) |
|-------------------------------------------------|------------------|
| China First Pencil Co., Ltd. <sup>2</sup> ..... | 11.39            |
| Shanghai Foreign Trade Corporation .....        | 14.53            |
| Kaiyuan Group Corporation .....                 | 123.11           |
| PRC Wide-Rate. ....                             | 123.11           |

<sup>2</sup> As noted above, Shanghai Three Star Stationery Company Ltd. is now considered to be part of China First Pencil Co., Ltd. Further, products produced by Shanghai Three Star Stationery

As noted in the preliminary results of review, the firms named in the notice of initiation that received, but did not respond to our questionnaire are not eligible for separate rate status and therefore will be treated as part of the PRC-wide entity. The firms named in the notice of initiation that did not receive our questionnaire have not been granted separate rate status in prior segments of this proceeding and thus will continue to be treated as part of the PRC-wide entity.

### Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of this notice of final results of administrative review for all shipments of pencils from the PRC entered, or withdrawn from warehouse, for consumption on or after the date of publication, as provided by section 751(a)(1) of the Act: (1) the cash deposit rates for the reviewed companies will be the rates shown above; (2) for previously reviewed or investigated companies not listed above, that have separate rates, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) the cash deposit rate for all other PRC exporters will be 123.11 percent; and 4) the cash deposit rate for non-PRC exporters will be the rate applicable to the PRC supplier of that exporter.

These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

### Assessment

The Department will determine, and the Customs Service will assess, antidumping duties on all entries of subject merchandise in accordance with these final results. For assessment purposes, we have calculated exporter-specific duty assessment rates for subject merchandise based on the ratio of the total amount of antidumping duties calculated for the examined sales during the POR to the total quantity of sales examined during the POR. We calculated exporter-specific assessment rates because there was no information on the record which identified the importers of record. The Department will issue appraisal instructions directly to Customs.

### Reimbursement of Duties

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

### Administrative Protective Orders

This notice also serves as the only reminder to parties subject to administrative protective orders (APOs) of their responsibility concerning the return or destruction of proprietary information disclosed under an APO in

accordance with 19 CFR 351.305 of the Department's regulations. Timely written notification of the return/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 which is subject to sanction.

We are issuing and publishing this determination and notice in accordance with sections section 751(a)(1) and 771(i) of the Act.

Dated: July 16, 2002.

**Faryar Shirzad,**

*Assistant Secretary for Import Administration.*

### Appendix Issues in Decision Memorandum

#### Comments

*Comment 1:* Whether to Rescind the Review with Respect to Guangdong/Three Star

*Comment 2:* The Appropriate Surrogate Values for Semi-Finished Pencils

*Comment 3:* Whether CFP's Erasers Should be Valued Based on Purchases

*Comment 4:* Whether Indian Surrogate Values for Erasers, Cores, Glue, and Lacquer are Aberrational

*Comment 5:* The Appropriate Surrogate Source for Financial Ratios

*Comment 6:* Ministerial Error in OIHSFTC's Margin Calculation

*Comment 7:* Whether India is the Appropriate Principal Surrogate Market Economy Country

*Comment 8:* The Appropriate Surrogate Source for Logs and Slats

*Comment 9:* The Appropriate China-Wide Rate

*Comment 10:* Use of Partial Adverse Facts Available with Respect to OIHSFTC's Uncooperative Producers

*Comment 11:* Verification

Discrepancies—Kaiyuan/Laizhou

*Comment 12:* Whether CFP and Three Star Should be Treated as a Single Entity for Antidumping Purposes

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[I.D. 071702D]

### North Pacific Fishery Management Council; Public Meeting

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice of committee meeting.

**SUMMARY:** The North Pacific Fishery Management Council's (Council) Gulf of Alaska Working Group will meet in Anchorage.

**DATES:** The meeting will be held on August 21, 2002, from 9:30 a.m. until 5 p.m.

**ADDRESSES:** The meeting will be held at the Hawthorn Suites, Ltd., 1110 West 8th Avenue, Ballroom A, Anchorage, AK 99501.

*Council address:* North Pacific Fishery Management Council, 605 W. 4th Ave., Suite 306, Anchorage, AK 99501-2252.

**FOR FURTHER INFORMATION CONTACT:** Council Staff at 907-271-2809.

**SUPPLEMENTARY INFORMATION:** On Wednesday, August 21st, the committee will meet to review Council direction on groundfish management issues related to rationalizing the Gulf of Alaska groundfish fisheries, committee assignments, and requested data reports.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

### Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Gail Bendixen, 907-271-2809, at least 5 working days prior to the meeting date.

Dated: July 17, 2002.

**Richard W. Surdi,**

*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[I.D. 071602D]

### Marine Mammals; File No. 998-1678

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.