

DEPARTMENT OF COMMERCE

International Trade Administration

(C-570-984)

Drawn Stainless Steel Sinks from the People's Republic of China: Final Affirmative Countervailing Duty Determination

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

SUMMARY: The Department of Commerce ("the Department") determines that countervailable subsidies are being provided to producers and exporters of drawn stainless steel sinks ("SS sinks") from the People's Republic of China ("PRC"). For information on the estimated subsidy rates, *see* the "Suspension of Liquidation" section of this notice.

EFFECTIVE DATE: (Insert date of publication in the *Federal Register*).

FOR FURTHER INFORMATION CONTACT: Shane Subler or Austin Redington, 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) 482-0189 or (202) 482-1664, respectively.

**Petitioner**

The petitioner in this investigation is Elkay Manufacturing Company ("Petitioner").

**Period of Investigation**

The period for which we are measuring subsidies, or period of investigation, is January 1, 2011, through December 31, 2011.

## Case History

The following events have occurred since the *Preliminary Determination*.<sup>1</sup>

On August 7, 2012, the Department initiated its investigation of new subsidy allegations.<sup>2</sup> Questionnaires regarding these subsidies were sent to the Government of the People's Republic of China ("GOC"), Guangdong Yingao Kitchen Utensils Co., Ltd. and Foshan Magang Kitchen Utensils Co., Ltd. (collectively, "Yingao"), and Zhongshan Superte Kitchenware Co., Ltd. and Foshan Zhaoshun Trade Co., Ltd. (collectively, "Superte"), and we received responses between August 22 and October 23, 2012.

On September 20, 2012, the Department published a notice aligning the deadline for this final countervailing duty ("CVD") determination with the deadline for the final determination in the antidumping duty ("AD") investigation.<sup>3</sup>

We conducted verification of Yingao's, Superte's and the GOC's questionnaire responses from November 5, to November 16, 2012, and subsequently issued verification reports.

On January 8, 2013, the Department issued post-preliminary analyses for Yingao and Superte on January 8, 2013.<sup>4</sup>

The GOC, Yingao, Superte, and Petitioner submitted case briefs on January 17, 2013, and rebuttal briefs on January 25, 2013.

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<sup>1</sup> See *Drawn Stainless Steel Sinks from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination*, 77 FR 46717 (August 6, 2012) ("*Preliminary Determination*").

<sup>2</sup> See Memorandum from Jennifer Meek to Susan Kuhbach, "Drawn Stainless Steel Sinks from the People's Republic of China Countervailing Duty Investigation: Initiation of New Subsidy Allegation," dated August 7, 2012.

<sup>3</sup> See *Drawn Stainless Steel Sinks From the People's Republic of China: Countervailing Duty Investigation*, 77 FR 58355 (September 20, 2012).

<sup>4</sup> See Memoranda from Susan Kuhbach through Christian Marsh to Paul Piquado, "Countervailing Duty Investigation of Drawn Stainless Steel Sinks from the People's Republic of China: Post-Preliminary Analysis Memorandum for Zhongshan Superte Kitchenware Co., Ltd ("Superte") and Foshan Zhaoshun Trade Co., Ltd. ("Zhaoshun")," and "Countervailing Duty Investigation of Drawn Stainless Steel Sinks from the People's Republic of China: Post-Preliminary Analysis Memorandum for Guangdong Yingao Kitchen Utensils Co., Ltd. ("Yingao") and Foshan Magang Kitchen Utensils Co., Ltd. ("Magang")," dated January 8, 2013.

## Scope Comments

In accordance with the preamble to the Department's regulations,<sup>5</sup> in the *Initiation Notice*,<sup>6</sup> we set aside a period of time for parties to raise issues regarding product coverage, and encouraged all parties to submit comments within 20 calendar days of publication of the *Initiation Notice*. As described in the *Preliminary Determination*, we received scope comments from Blanco America, Inc. ("Blanco"), an importer of subject merchandise, on April 10, 2012. Blanco's scope comments were addressed in the preliminary determination of the corresponding AD investigation to this case.<sup>7</sup> As stated in the *AD Preliminary Determination*, we have determined not to change the scope language as presented below and in the *Initiation Notice*.

## Scope of the Investigation

The products covered by the scope of this investigation are SS sinks with single or multiple drawn bowls, with or without drain boards, whether finished or unfinished, regardless of type of finish, gauge, or grade of stainless steel. Mounting clips, fasteners, seals, and sound-deadening pads are also covered by the scope of this investigation if they are included within the sales price of the SS sinks.<sup>8</sup> For purposes of this scope definition, the term "drawn" refers to a manufacturing process using metal forming technology to produce a smooth basin with seamless, smooth, and rounded corners. SS sinks are available in various shapes and configurations and may be described in a number of ways including flush mount, top mount, or undermount (to

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<sup>5</sup> See *Antidumping Duties; Countervailing Duties*, 62 FR 27296, 27323 (May 19, 1997).

<sup>6</sup> See *Drawn Stainless Steel Sinks From the People's Republic of China: Initiation of Countervailing Duty Investigation*, 77 FR 18211 (March 27, 2012) ("Initiation Notice").

<sup>7</sup> See *Drawn Stainless Steel Sinks From the People's Republic of China: Antidumping Duty Investigation*, 77 FR 60673 (October 4, 2012) ("AD Preliminary Determination") and accompanying Preliminary Determination Decision Memorandum at 3.

<sup>8</sup> Mounting clips, fasteners, seals, and sound deadening pads are not covered by the scope of this investigation if they are not included within the sales price of the SS sinks, regardless of whether they are shipped with or entered with SS sinks.

indicate the attachment relative to the countertop). SS sinks with multiple drawn bowls that are joined through a welding operation to form one unit are covered by the scope of the investigation. SS sinks are covered by the scope of the investigation whether or not they are sold in conjunction with non-subject accessories such as faucets (whether attached or unattached), strainers, strainer sets, rinsing baskets, bottom grids, or other accessories.

Excluded from the scope of the investigation are SS sinks with fabricated bowls. Fabricated bowls do not have seamless corners, but rather are made by notching and bending the stainless steel, and then welding and finishing the vertical corners to form the bowls. SS sinks with fabricated bowls may sometimes be referred to as “zero radius” or “near zero radius” sinks.

The products covered by this investigation are currently classified in the Harmonized Tariff Schedule of the United States (“HTSUS”) under statistical reporting number 7324.10.0000 and 7324.10.0010. Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the products under investigation is dispositive of its inclusion as subject merchandise.

### **Analysis of Subsidy Programs and Comments Received**

The subsidy programs under investigation and all issues raised in the case and rebuttal briefs by parties to this investigation are addressed in the Memorandum from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Import Administration, titled “Issues and Decision Memorandum for the Final Determination in the Countervailing Duty Investigation of Drawn Stainless Steel Sinks from the People’s Republic of China” (February 19, 2013) (hereafter, “Decision Memorandum”), which is hereby adopted by this notice. Attached to this notice as an

Appendix is a list of the issues that parties have raised and to which we have responded in the Decision Memorandum. The Decision Memorandum is a public document and is on file electronically *via* Import Administration’s Antidumping and Countervailing Duty Centralized Electronic Service System (“IA ACCESS”). IA ACCESS is available to registered users at <http://iaaccess.trade.gov> and in the Central Records Unit, room 7046 of the main Department of Commerce building. In addition, a complete version of the Decision Memorandum can be accessed directly on the internet at <http://www.trade.gov/ia/>. The signed Decision Memorandum and the electronic versions of the Decision Memorandum are identical in content.

### **Suspension of Liquidation**

In accordance with section 705(c)(1)(B)(i)(I) of the Tariff Act of 1930, as amended (“Act”), we have calculated an individual countervailable subsidy rate for each respondent. Section 705(c)(5)(A)(i) of the Act states that for companies not individually investigated, we will determine an all others rate equal to the weighted average of the countervailable subsidy rates established for exporters and producers individually investigated, excluding any zero and *de minimis* countervailable subsidy rates, and any rates based entirely on adverse facts available under section 776 of the Act. Notwithstanding the language of section 705(c)(5)(A)(i) of the Act, we have not calculated the “all others” rate by weight averaging the rates of Yingao and Superte, because doing so risks disclosure of proprietary information. Therefore, for the all others rate, we have calculated a simple average of Yingao’s and Superte’s rates.

We determine the total estimated net countervailable subsidy rates to be:

<b>Producer/Exporter</b>	<b>Net Subsidy Rate</b>
Guangdong Yingao Kitchen Utensils Co., Ltd., and Foshan Magang Kitchen Utensils Co., Ltd.	4.80 percent
Zhongshan Superte Kitchenware Co., Ltd.	12.21 percent
Foshan Zhaoshun Trade Co., Ltd.	12.26 percent
All Others	8.51 percent

As a result of our *Preliminary Determination* and pursuant to section 703(d) of the Act, we instructed U.S. Customs and Border Protection (“CBP”) to suspend liquidation of all entries of subject merchandise from the PRC that were entered, or withdrawn from warehouse, for consumption on or after August 6, 2012, the date of the publication of the *Preliminary Determination* in the *Federal Register*. In accordance with section 703(d) of the Act, we issued instructions to CBP to discontinue the suspension of liquidation for CVD purposes for subject merchandise entered, or withdrawn from warehouse, on or after December 4, 2012, but to continue the suspension of liquidation of all entries from August 6, 2012, through December 3, 2012.

If the International Trade Commission (“ITC”) issues a final affirmative injury determination, we will issue a CVD order and reinstate the suspension of liquidation under section 706(a) of the Act, and we will require a cash deposit of estimated CVDs for such entries of merchandise in the amounts indicated above. If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated and all estimated duties deposited or securities posted as a result of the suspension of liquidation will be refunded

or canceled.

### **ITC Notification**

In accordance with section 705(d) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non-privileged and non-proprietary information related to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order (“APO”), without the written consent of the Assistant Secretary for Import Administration.

### **Return or Destruction of Proprietary Information**

In the event that the ITC issues a final negative injury determination, this notice will serve as the only reminder to parties subject to an APO of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). 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.

This determination is published pursuant to sections 705(d) and 777(i) of the Act.

  
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Paul Piquado  
Assistant Secretary  
for Import Administration

19 FEBRUARY 2013  
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(Date)

## **APPENDIX**

### *List of Comments and Issues in the Decision Memorandum*

#### **General Issues**

**Comment 1 Application of the CVD Law to the People's Republic of China**

**Comment 2 Double Counting/Overlapping Remedies**

#### **Policy Lending to the Stainless Steel Sinks Industry**

**Comment 3 National and Regional Policy Lending Programs**

**Comment 4 Specificity to Drawn Stainless Steel Sink Producers**

#### **Preferential Export Financing**

**Comment 5 Timing of Department's Determination**

**Comment 6 Contingency of Loans on Exports**

**Comment 7 Countervailability of One of Yingao's Loans**

#### **Provision of Stainless Steel Coil for LTAR**

**Comment 8 Specificity Under Section 771(5A)(D)(III)(i) of the Act**

**Comment 9 Benchmark Analysis**

**Comment 10 Government Authority Analysis**

**Comment 11 Superte's Additional Stainless Steel Coil Producer Information**

**Comment 12 Stainless Steel Quality Differences Between Benchmark and Superte's Purchases**

#### **Provision of Electricity for LTAR**

**Comment 13 Application of AFA and Benchmark Analysis**

#### **Provision of Land for LTAR**

**Comment 14 Policies and Incentives, Marketing of Industrial Zones, and Pricing**