

**DEPARTMENT OF COMMERCE****International Trade Administration**

(A-533-848)

**Commodity Matchbooks from India:  
Initiation of Antidumping Duty  
Investigation**

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

**EFFECTIVE DATE:** November 24, 2008.

**FOR FURTHER INFORMATION CONTACT:**  
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**SUPPLEMENTARY INFORMATION:****The Petition**

On October 29, 2008, the Department of Commerce (the Department) received a petition concerning imports of commodity matchbooks from India (the petition) filed in proper form by D.D. Bean & Sons Inc. (the petitioner). *See* the Petition on Commodity Matchbooks from India filed on October 29, 2008. On November 3, 2008, the Department issued requests for additional information and clarification of certain areas of the petition, including the scope. Further, on November 6, 2008, the Department also requested additional information regarding constructed export price (CEP) profit. Based on the Department's requests, the petitioner filed two supplements to the petition on November 6, 2008, and an

additional supplement on November 10, 2008. On November 17, 2008, the Government of India, an interested party to this proceeding as defined in section 771(9)(B) of the Act, submitted a letter challenging the definition of the domestic like product as well as the completeness of the industry as reported by the petitioner. The petitioner filed its reply to this challenge on November 18, 2008.

In accordance with section 732(b) of the Tariff Act of 1930, as amended (the Act), the petitioner alleges that imports of commodity matchbooks from India are being, or are likely to be, sold in the United States at less than fair value, within the meaning of section 731 of the Act, and that such imports materially injure, or threaten material injury to, an industry in the United States.

The Department finds that the petitioner filed this petition on behalf of the domestic industry because the petitioner is an interested party as defined in section 771(9)(C) of the Act, and it has demonstrated sufficient industry support with respect to the antidumping duty investigation that the petitioner is requesting that the Department initiate (*see* "Determination of Industry Support for the Petition" section, below).

**Scope of Investigation**

The merchandise covered by this investigation is commodity matchbooks. *See* Attachment I to this notice for a complete description of the merchandise covered by this investigation.

### Comments on Scope of Investigation

During our review of the petition, we discussed the scope with the petitioner to ensure that it is an accurate reflection of the products for which the domestic industry is seeking relief. Moreover, as discussed in the preamble to the regulations (*Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27323 (May 19, 1997)), we are setting aside a period for interested parties to raise issues regarding product coverage. The Department encourages all interested parties to submit such comments within 20 calendar days of the publication of this notice.

Comments should be addressed to Import Administration's Central Records Unit (CRU), Room 1117, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230. The period of scope consultations is intended to provide the Department with ample opportunity to consider all comments and to consult with parties prior to the issuance of the preliminary determination.

### Comments on Product Characteristics for Antidumping Duty Questionnaire

We are requesting comments from interested parties regarding the appropriate physical characteristics of commodity matchbooks to be reported in response to the Department's antidumping duty questionnaire. This information will be used to identify the key physical characteristics of the subject merchandise in order to more accurately report the relevant factors and costs of production, as well as to develop appropriate product comparison criteria.

Interested parties may provide any information or comments that they feel are relevant to the development of an accurate listing of physical characteristics. Specifically, they may provide comments as to which characteristics are appropriate to use as: 1) general product characteristics; and 2) the product comparison criteria. We note that it is not always appropriate to use all product characteristics as product comparison criteria. We base product comparison criteria on meaningful commercial differences among products. In other words, while there may be some physical product characteristics utilized by manufacturers to describe commodity matchbooks, it may be that only a select few product characteristics take into account commercially meaningful physical characteristics. In addition, interested parties may comment on the order in which the physical

characteristics should be used in product matching. Generally, the Department attempts to list the most important physical characteristics first and the least important characteristics last.

In order to consider the suggestions of interested parties in developing and issuing the antidumping duty questionnaire, we must receive comments at the above-referenced address by December 1, 2008.

Additionally, rebuttal comments must be received by December 8, 2008.

### Determination of Industry Support for the Petition

Section 732(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 732(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) at least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 732(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, the Department shall: (i) poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A); or (ii) determine industry support using a statistically valid sampling method.

Section 771(4)(A) of the Act defines the "industry" as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs the Department to look to producers and workers who produce the domestic like product. The U.S. International Trade Commission (ITC), which is responsible for determining whether "the domestic industry" has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC must apply the same statutory definition regarding the domestic like product (section 771(10) of the Act), they do so for different purposes and pursuant to a separate and distinct authority. In addition, the Department's determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency

contrary to law. *See USEC, Inc. v. United States*, 132 F. Supp. 2d 1, 8 (CIT 2001), citing *Algoma Steel Corp. Ltd. v. United States*, 688 F. Supp. 639, 644 (CIT 1988), *aff'd* 865 F.2d 240 (Fed. Cir. 1989), *cert. denied* 492 U.S. 919 (1989).

Section 771(10) of the Act defines the domestic like product as "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title." Thus, the reference point from which the domestic like product analysis begins is "the article subject to an investigation" (*i.e.*, the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition).

With regard to the domestic like product, the petitioner does not offer a definition of domestic like product distinct from the scope of the investigation. On November 17, 2008, the Government of India, an interested party to this proceeding as defined in section 771(9)(B) of the Act, submitted a letter challenging the definition of the domestic like product. On November 18, 2008, the petitioner filed its reply to this challenge. We have analyzed these comments, and based on our analysis of the information submitted on the record, we have determined that commodity matchbooks as defined by the petitioner constitute a single domestic like product and we have analyzed industry support in terms of that domestic like product. For a discussion of the domestic like product analysis in this case, *see* Antidumping Duty Investigation Initiation Checklist: Commodity Matchbooks from India (Initiation Checklist), at Attachment II (Analysis of Industry Support for the Petition), on file in the CRU, Room 1117 of the main Department of Commerce building.

With regard to section 732(c)(4)(A) of the Act, in determining whether the petitioner has standing (*i.e.*, the domestic workers and producer supporting the petition account for: (1) at least 25 percent of the total production of the domestic like product; and (2) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition), we considered the industry support data contained in the petition with reference to the domestic like product as defined in the "Scope of Investigation" section, above. According to the petitioner, there are three producers of the domestic like product: itself; Bradley Industries, LLC; and Atlas Match Corp., LLC. (Atlas Match Corp. is owned by Bradley Industries, LLC.) To establish industry support, the

petitioner provided its production of the domestic like product for calendar year 2007. In addition, Bradley Industries, LLC provided a letter of support for the petition and included its production figures for calendar year 2007. *See* Petition at 3; *see also* Letter of Support filed by Bradley Industries, LLC, on October 31, 2008. We have relied upon data provided by the petitioner and supporters of the petition for purposes of measuring industry support. For further discussion, *see* Initiation Checklist at Attachment II.

The Department's review of the data provided in the petition, and other information readily available to the Department, indicates that the petitioner has established industry support. First, the petition establishes support from domestic producers (or workers) accounting for more than 50 percent of the total production of the domestic like product and, as such, the Department is not required to take further action in order to evaluate industry support (*e.g.*, polling). *See* section 732(c)(4)(D) of the Act and Initiation Checklist at Attachment II. Second, the domestic producers (or workers) have met the statutory criteria for industry support under section 732(c)(4)(A)(i) of the Act because the domestic producers (or workers) who support the petition account for at least 25 percent of the total production of the domestic like product. *See* Initiation Checklist at Attachment II. Finally, the domestic producers (or workers) have met the statutory criteria for industry support under section 732(c)(4)(A)(ii) of the Act because the domestic producers (or workers) who support the petition account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Accordingly, the Department determines that the petition was filed on behalf of the domestic industry within the meaning of section 732(b)(1) of the Act. *See* Initiation Checklist at Attachment II.

The Department finds that the petitioner filed the petition on behalf of the domestic industry because it is an interested party as defined in section 771(9)(C) of the Act and has demonstrated sufficient industry support with respect to the antidumping investigation that it is requesting the Department initiate. *See* Initiation Checklist at Attachment II.

#### **Allegations and Evidence of Material Injury and Causation**

The petitioner alleges that the U.S. industry producing the domestic like product is being materially injured, or is

threatened with material injury, by reason of the imports of the subject merchandise sold at less than normal value (NV). In addition, the petitioner alleges that subject imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act.

The petitioner contends that the industry's injured condition is illustrated by reduced market share, underselling and price depressing and suppressing effects, lost sales and revenue, reduced production and capacity utilization, reduced shipments, reduced employment, and an overall decline in financial performance. We have assessed the allegations and supporting evidence regarding material injury, threat of material injury, and causation, and we have determined that these allegations are properly supported by adequate evidence and meet the statutory requirements for initiation. *See* Initiation Checklist at Attachment III (Analysis of Allegations and Evidence of Material Injury and Causation for the Petition).

#### **Period of Investigation**

In accordance with 19 CFR 351.204(b)(1), because this petition was filed on October 29, 2008, the period of investigation (POI) is October 1, 2007, through September 30, 2008.

#### **Allegation of Sales at Less Than Fair Value**

The following is a description of the allegation of sales at less than fair value upon which the Department has based its decision to initiate an investigation. The sources of data for the deductions and adjustments relating to U.S. price and NV are discussed in greater detail in the Initiation Checklist. Should the need arise to use any of this information as facts available under section 776 of the Act, we may reexamine the information and revise the margin calculations, if appropriate.

#### **Constructed Export Price**

The petitioner calculated CEP based on actual POI sales prices obtained from a U.S. distributor for Indian-produced commodity matchbooks sold by an Indian producer through its U.S. affiliate. The petitioner made adjustments to the starting price, where applicable, for foreign inland freight, ocean freight, and marine insurance. The petitioner calculated foreign inland freight, ocean freight, and marine insurance based on price quotes obtained from service providers. Because the petitioner's calculation of CEP excluded CEP profit, we requested further information from the petitioner on this issue. On November 10, 2008,

the petitioner stated that the information necessary to calculate CEP profit was not reasonably available to it. Therefore, to be conservative, the Department has not made an adjustment for CEP profit in our calculation of CEP. *See* Initiation Checklist and "Fair Value Comparisons" section, below, for the CEP-to-NV margins.

#### **Normal Value**

With respect to NV, the petitioner stated that home market prices were not reasonably available to it. The petitioner made a reasonable attempt to determine the existence of a viable home market for commodity matchbooks in India. According to the petitioner, it was unsuccessful in obtaining such pricing information, despite its best efforts. *See* the Petition at Exhibit 32. Therefore, the petitioner based NV on third country prices.

The petitioner calculated NV based on a purchase of Indian-made commodity matchbooks from a Canadian matchbook retailer. The petitioner deducted a series of standard markups to estimate the price at the importer level. The petitioner made additional adjustments to the starting third country price, where applicable, for foreign inland freight, ocean freight, marine insurance, and Canadian customs duties. *See* the Petition at page 42 and Exhibit 36.

#### **Fair-Value Comparison**

Based on the data provided by the petitioner, there is reason to believe that imports of commodity matchbooks from India are being, or are likely to be, sold in the United States at less than fair value. Based on a comparison of CEP to NV, the estimated dumping margin is 135.95 percent.

#### **Initiation of Antidumping Investigation**

Based upon the examination of the petition on commodity matchbooks from India and other information reasonably available to the Department, the Department finds that this petition meets the requirements of section 732 of the Act. Therefore, we are initiating an antidumping duty investigation to determine whether imports of commodity matchbooks from India are being, or are likely to be, sold in the United States at less than fair value. In accordance with section 733(b)(1)(A) of the Act, unless postponed, we will make our preliminary determination no later than 140 days after the date of this initiation.

#### **Respondent Selection**

The Department intends to select respondents based on U.S. Customs and Border Protection (CBP) data for U.S.

imports during the POI. We intend to release the CBP data under Administrative Protective Order (APO) to all parties with access to information protected by APO within five days of publication of this **Federal Register** notice, and make our decision regarding respondent selection within 20 days of publication of this notice. The Department invites comments regarding the CBP data and respondent selection within 10 days of publication of this **Federal Register** notice.

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305. Instructions for filing such applications may be found on the Department's Website at <http://ia.ita.doc.gov/apo>.

#### **Distribution of Copies of the Petition**

In accordance with section 732(b)(3)(A) of the Act and 19 CFR 351.202(f), copies of the public version of the petition have been provided to the representatives of the Government of India. We will attempt to provide a copy of the public version of the petition to all known foreign producers/exporters, consistent with 19 CFR 351.203(c)(2).

#### **International Trade Commission (ITC) Notification**

We have notified the ITC of our initiation, as required by section 732(d) of the Act.

#### **Preliminary Determination by the International Trade Commission**

The ITC will preliminarily determine, no later than December 13, 2008, whether there is a reasonable indication that imports of commodity matchbooks from India materially injure, or threaten material injury to, a U.S. industry. A negative ITC determination covering all classes or kinds of merchandise covered by the petition would result in the investigation being terminated. Otherwise, this investigation will proceed according to statutory and regulatory time limits.

This notice is issued and published pursuant to section 777(i) of the Act.

Dated: November 18, 2008.

**Stephen J. Claeys,**

*Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.*

#### **Attachment I**

#### **Scope of the Investigation Covering Commodity Matchbooks from the India**

The scope of this investigation covers commodity matchbooks, also known as commodity book matches, paper matches or booklet matches.<sup>1</sup>

<sup>1</sup> Such commodity matchbooks are also referred to as "for resale" because they always enter into

Commodity matchbooks typically, but do not necessarily, consist of twenty match stems which are usually made from paperboard or similar material tipped with a match head composed of any chemical formula. The match stems may be stitched, stapled or otherwise fastened into a matchbook cover of any material, on which a striking strip composed of any chemical formula has been applied to assist in the ignition process.

Commodity matchbooks included in the scope of this investigation may or may not contain printing. For example, they may have no printing other than the identification of the manufacturer or importer. Commodity matchbooks may also be printed with a generic message such as "Thank You" or a generic image such as the American Flag, with store brands (e.g., *Kroger*, *7-Eleven*, *Shurfine* or *Giant*); product brands for national or regional advertisers such as cigarettes or alcoholic beverages; or with corporate brands for national or regional distributors (e.g., *Penley Corp.* or *Diamond Brands*). They all enter retail distribution channels. Regardless of the materials used for the stems of the matches and regardless of the way the match stems are fastened to the matchbook cover, all commodity matchbooks are included in the scope of this investigation.

All matchbooks, including commodity matchbooks, typically comply with the United States Consumer Product Safety Commission (CPSC) Safety Standard for Matchbooks, codified at 16 CFR § 1202.1 et seq.

The scope of this investigation excludes promotional matchbooks, often referred to as "not for resale," or "specialty advertising" matchbooks, as they do not enter into retail channels and are sold to businesses that provide hospitality, dining, drinking or entertainment services to their customers, and are given away by these businesses as promotional items. Such promotional matchbooks are distinguished by the physical characteristic of having the name and/or logo of a bar, restaurant, resort, hotel, club, café/coffee shop, grill, pub, eatery, lounge, casino, barbecue or individual establishment printed prominently on the matchbook cover. Promotional matchbook cover printing also typically includes the address and the phone number of the business or establishment being promoted.<sup>2</sup> Also excluded are all

retail channels, meaning businesses that sell a general variety of tangible merchandise, e.g. convenience stores, supermarkets, dollar stores, drug stores and mass merchandisers.

<sup>2</sup> The gross distinctions between commodity matchbooks and promotional matchbooks may be

other matches that are not fastened into a matchbook cover such as wooden matches, stick matches, box matches, kitchen matches, pocket matches, penny matches, household matches, strike-anywhere matches (aka "SAW" matches), strike-on-box matches (aka "SOB" matches), fireplace matches, barbecue/grill matches, fire starters, and wax matches.

The merchandise subject to this investigation is properly classified under subheading 3605.00.0060 of the Harmonized Tariff Schedule of the United States (HTSUS). Subject merchandise may also enter under subheading 3605.00.0030 of the HTSUS. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

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summarized as follows: (1) if it has no printing, or is printed with a generic message such as "Thank You" or a generic image such as the American Flag, or printed with national or regional store brands or corporate brands, it is commodity; (2) if it has printing, and the printing includes the name of a bar, restaurant, resort, hotel, club, café/coffee shop, grill, pub, eatery, lounge, casino, barbecue, or individual establishment prominently displayed on the matchbook cover, it is promotional.