

prematurely. The closed session of the meeting will involve committee discussions and guidance regarding U.S. Government strategies and policies.

The open session will be accessible via teleconference. To join the conference, submit inquiries to Ms. Yvette Springer at Yvette.Springer@bis.doc.gov, no later than September 5, 2023. A limited number of seats will be available for the public session. Reservations are not accepted. To the extent time permits, members of the public may present oral statements to the Committee. The public may submit written statements at any time before or after the meeting. However, to facilitate distribution of public presentation materials to Committee members, the Committee suggests that presenters forward the public presentation materials prior to the meeting to Ms. Springer.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on April 24, 2023, pursuant to 5 U.S.C. 1009(d) of the FACA, that the portion of the meeting dealing with pre-decisional changes to the Commerce Control List and the U.S. export control policies shall be exempt from the provisions relating to public meetings found in 5 U.S.C. 1009(a)(1) and 1009(a)(3). The remaining portions of the meeting will be open to the public.

For more information, contact Ms. Springer via email.

Yvette Springer,
Committee Liaison Officer.

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DEPARTMENT OF COMMERCE

International Trade Administration

[A-552-008]

Gas Powered Pressure Washers From the Socialist Republic of Vietnam: Final Affirmative Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) determines that certain gas-powered pressure washers (pressure washers) from the Socialist Republic of Vietnam (Vietnam) are being, or are likely to be, sold in the United States at less than fair value

(LTFV). The period of investigation (POI) is April 1, 2022, through September 30, 2022.

DATES: Applicable August 29, 2023.

FOR FURTHER INFORMATION CONTACT: Laurel LaCivita or Matthew Palmer, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-4243 or (202) 482-1678, respectively.

SUPPLEMENTARY INFORMATION:

Background

On June 15, 2023, Commerce published in the **Federal Register** its preliminary determination in the LTFV investigation of pressure washers from Vietnam.¹ Commerce invited interested parties to comment on the *Preliminary Determination*.

For a complete description of the events that followed the *Preliminary Determination*, see the Issues and Decision Memorandum.² The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <https://access.trade.gov/public/FRNoticesListLayout.aspx>.

Scope of the Investigation

The products covered by this investigation are gas powered pressure washers from Vietnam. For a complete description of the scope of this investigation, see Appendix I.

Analysis of Comments Received

All issues raised in case and rebuttal briefs are discussed in the Issues and Decision Memorandum. A list of the issues raised in the Issues and Decision Memorandum is attached to Appendix II of this notice.

¹ See *Gas Powered Pressure Washers from the Socialist Republic of Vietnam: Preliminary Affirmative Determination of Sales at Less Than Fair Value and Preliminary Determination of Critical Circumstances*, 88 FR 39221 (June 15, 2023) (*Preliminary Determination*), and accompanying Preliminary Decision Memorandum (PDM).

² See Memorandum, "Issues and Decision Memorandum for the Final Affirmative Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstance in the Investigation of Gas Powered Pressure Washers from the Socialist Republic of Vietnam," dated concurrently with, and hereby adopted by this notice (Issues and Decision Memorandum).

Scope Comments

During the course of this investigation and the concurrent LTFV and countervailing duty investigations of pressure washers from the People's Republic of China, Commerce received scope comments from interested parties. Commerce issued a Preliminary Scope Memorandum to address these comments and set aside a period of time for parties to address scope issues in scope-specific case and rebuttal briefs.³ We received comments from interested parties on the Preliminary Scope Memorandum, which we address in the Final Scope Memorandum.⁴ We did not make any changes to the scope of these investigations from the scope published in the *Preliminary Determination*, as noted in Appendix I.

Final Affirmative Determination of Critical Circumstances

In accordance with sections 735(a)(3)(B) and 776(a) and (b) of the Tariff Act of 1930, as amended (the Act) and 19 CFR 351.206, as well as our analysis of comments received regarding our affirmative preliminary determination of critical circumstances,⁵ Commerce continues to find that critical circumstances exist with respect to imports of pressure washers from Vietnam for the Vietnam-Wide Entity. For a full description of the methodology and results of Commerce's critical circumstances analysis, see the Issues and Decision Memorandum.

Vietnam-Wide Entity and Use of Adverse Facts Available (AFA)

In this final determination, consistent with the *Preliminary Determination*,⁶ we relied solely on the application of AFA for the Vietnam-wide entity, pursuant to sections 776(a) and (b) of the Act. Further, because we continue to find that all exporters of pressure washers from Vietnam are part of the Vietnam-wide entity, no companies are eligible for a separate rate. There is no new information on the record that would cause us to reconsider our decision in the *Preliminary Determination*. Thus, we made no changes to our analysis or to the Vietnam-wide entity's dumping margin for the final determination. For a full description of the methodology

³ See Memorandum, "Preliminary Scope Decision Memorandum," dated June 8, 2023.

⁴ See Memorandum, "Final Scope Decision Memorandum," dated concurrently with this notice.

⁵ See MWE Investments' Letter, "Case Brief," dated July 20, 2023 (MWE Investments' Case Brief); see also Petitioner's Letter, "Rebuttal Brief," dated July 27, 2023 (Petitioner's Rebuttal Brief).

⁶ See *Preliminary Determination* PDM at 4-9.

underlying Commerce's determination, see the Issues and Decision Memorandum.

Combination Rates

In the *Initiation Notice*,⁷ Commerce stated that it would calculate producer/exporter combination rates for the respondents that are eligible for a separate rate in this investigation. Policy Bulletin 05.1 describes this practice.⁸ In this case, because no respondent qualified for a separate rate, producer/exporter combination rates continue to not be calculated for this final determination.

Final Determination

Commerce determines that the following estimated weighted-average dumping margin exists for the period, April 1, 2022, through September 30, 2022:

Producer/exporter	Estimated weighted-average dumping margin (percent)
Vietnam-Wide Entity ⁹	225.65

Continuation of Suspension of Liquidation

In accordance with 735(c)(4) of the Act, because we continue to find that critical circumstances exist, Commerce will instruct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of all entries of subject merchandise, as described in Appendix I of this notice, which were entered, or withdrawn from warehouse, for consumption on or after March 17, 2023, which is 90 days before the date of publication of the *Preliminary Determination* in the **Federal Register**. These suspension of liquidation instructions will remain in effect until further notice.

Pursuant to section 735(c)(1)(B)(ii) of the Act and 19 CFR 351.210(d), upon the publication of this notice, we will instruct CBP to require a cash deposit for estimated antidumping duties for all entries from Vietnam at the rate indicated above.

⁷ See *Initiation Notice*, 88 FR at 4811.

⁸ See Enforcement and Compliance's Policy Bulletin No. 05.1, regarding, "Separate-Rates Practice and Application of Combination Rates in Antidumping Investigations Involving Non-Market Economy Countries," (April 5, 2005) (Policy Bulletin 05.1), available on Commerce's website at <https://access.trade.gov/Resources/policy/bull05-1.pdf>.

⁹ See Issues and Decision Memorandum at section VIII, "Application of Facts Available and Adverse Inferences."

Disclosure

Normally, Commerce discloses to interested parties the calculations performed in connection with a final determination within five days of its public announcement or, if there is no public announcement, within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b). However, because Commerce relied entirely on facts available with adverse inferences for the Vietnam-Wide Entity in accordance with section 776 of the Act, and the applied AFA rate is based solely on the petition, there are no calculations to disclose.

U.S. International Trade Commission Notification

In accordance with section 735(d) of the Act, Commerce will notify the U.S. International Trade Commission (ITC) of its final affirmative determination of sales at LTFV. Because the final determination in this investigation is affirmative, in accordance with section 735(b)(2) of the Act, the ITC will make its final determination as to whether the domestic industry in the United States is materially injured or threatened with material injury by reason of imports of pressure washers from Vietnam no later than 45 days after our final determination. If the ITC determines that such injury does not exist, this proceeding will be terminated, and all cash deposits posted will be refunded. If the ITC determines that such injury does exist, Commerce will issue an antidumping duty order directing CBP to assess, upon further instruction by Commerce, antidumping duties on all imports of the subject merchandise entered or withdrawn from warehouse for consumption on or after the effective date of the suspension of liquidation, as discussed in the "Continuation of Suspension of Liquidation" section.

Administrative Protective Order

This notice serves as a final reminder to the parties subject to an administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or 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 subject to sanction.

Notification to Interested Parties

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act and 19 CFR 351.205(c).

Dated: August 22, 2023.

Abdelali Elouaradia,

Deputy Assistant Secretary for Enforcement and Compliance.

Appendix I

Scope of the Investigation

The merchandise covered by this investigation is cold water gas powered pressure washers (also commonly known as power washers), which are machines that clean surfaces using water pressure that are powered by an internal combustion engine, air-cooled with a power take-off shaft, in combination with a positive displacement pump. This combination of components (*i.e.*, the internal combustion engine, the power take-off shaft, and the positive displacement pump) is defined as the "power unit." The scope of this investigation covers cold water gas powered pressure washers, whether finished or unfinished, whether assembled or unassembled, and whether or not containing any additional parts or accessories to assist in the function of the "power unit," including, but not limited to, spray guns, hoses, lances, and nozzles. The scope of this investigation covers cold water gas powered pressure washers, whether or not assembled or packaged with a frame, cart, or trolley, with or without wheels attached.

For purposes of this investigation, an unfinished and/or unassembled cold water gas powered pressure washer consists of, at a minimum, the power unit or components of the power unit, packaged or imported together. Importation of the power unit whether or not accompanied by, or attached to, additional components including, but not limited to a frame, spray guns, hoses, lances, and nozzles constitutes an unfinished cold water gas powered pressure washer for purposes of this scope. The inclusion in a third country of any components other than the power unit does not remove the cold water gas powered pressure washer from the scope. A cold water gas powered pressure washer is within the scope of this investigation regardless of the origin of its engine. Subject merchandise also includes finished and unfinished cold water gas powered pressure washers that are further processed in a third country or in the United States, including, but not limited to, assembly or any other processing that would not otherwise remove the merchandise from the scope of this investigation if performed in the country of manufacture of the in-scope cold water gas powered pressure washers.

The scope excludes hot water gas powered pressure washers, which are pressure washers that include a heating element used to heat the water sprayed from the machine.

Also specifically excluded from the scope of this investigation is merchandise covered by the scope of the antidumping and countervailing duty orders on certain vertical shaft engines between 99cc and up to 225cc, and parts thereof from the People's Republic of China. See *Certain Vertical Shaft Engines Between 99 cc and Up to 225cc, and Parts Thereof from the People's Republic of China: Antidumping and Countervailing Duty Orders*, 86 FR 023675 (May 4, 2021).

The cold water gas powered pressure washers subject to this investigation are

classified in the Harmonized Tariff Schedule of the United States (HTSUS) at subheadings 8424.30.9000 and 8424.90.9040. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope is dispositive.

Appendix II

List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Period of Investigation
- IV. Scope of Investigation
- V. Scope Comments
- VI. Affirmative Determination of Critical Circumstances
- VII. Use of Facts Otherwise Available and Adverse Inferences
- VIII. Discussion of the Issues
 - Comment 1: Commerce Unlawfully Applied AFA in its Preliminary Determination of Critical Circumstances Based on an Unrelated Adverse Inference
 - Comment 2: Commerce Unlawfully Applied AFA by Ignoring Record Data Demonstrating That No Massive Imports Exist
- IX. Recommendation

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–351–842]

Certain Uncoated Paper From Brazil: Notice of Court Decision Not in Harmony With the Results of Antidumping Duty Administrative Review; Notice of Amended Final Results

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: On August 18, 2023, the U.S. Court of International Trade (CIT) issued its final judgment in *Suzano S.A. v. United States*, Court No. 21–00069, sustaining the U.S. Department of Commerce (Commerce)’s second remand results pertaining to the review of the antidumping duty (AD) order on certain uncoated paper (paper) from Brazil covering the period March 1, 2018, through February 28, 2019. Commerce is notifying the public that the CIT’s final judgment is not in harmony with Commerce’s final results of the administrative review, and that Commerce is amending the final results with respect to the dumping margin assigned to Suzano S.A. (Suzano).

DATES: Applicable August 28, 2023.

FOR FURTHER INFORMATION CONTACT:

Rachel Jennings, AD/CVD Operations, Office V, Enforcement and Compliance,

International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–1110.

SUPPLEMENTARY INFORMATION:

Background

On January 27, 2021, Commerce published its final results in the 2018–2019 AD administrative review of paper from Brazil. Commerce declined to rely on Suzano’s proposed financial expense ratio calculation that excluded the derivative losses associated with its acquisition of Fibria Celulose S.A. (Fibria), a pulp producer in Brazil, for calculating Suzano’s cost of production (COP).¹ In the *Final Results*, Commerce calculated a weighted-average dumping margin of 32.31%.²

Suzano appealed Commerce’s *Final Results*. On August 16, 2022, the CIT remanded the *Final Results* to Commerce, holding that Commerce’s rationale³ for declining to rely on Suzano’s proposed financial expense ratio calculation was unsupported by substantial evidence.⁴ Accordingly, the CIT instructed Commerce to provide further explanation, and, if appropriate, to reconsider the agency’s cost analysis pursuant to section 773(f)(1)(A) of the Tariff Act of 1930, as amended (the Act).⁵

In its first remand redetermination, issued in November 2022, Commerce made no changes to the *Final Results*, but provided additional explanation regarding its decision not to modify Suzano’s COP to exclude the derivative losses from the financial expense ratio.⁶ The CIT remanded for a second time, holding that, while Commerce’s determination that Suzano’s derivative losses were not investment-related costs

was supported by substantial evidence and in accordance with the CIT’s remand instructions, the determination that Suzano’s derivative losses were not extraordinary was not supported by substantial evidence.⁷ Therefore, the CIT remanded to Commerce for further explanation, and if appropriate, reconsideration, of the determination that Suzano’s derivative expenses were not extraordinary for purposes for the COP calculation.⁸

In its final remand redetermination, issued in July 2023, Commerce further explained why it considers Suzano’s derivative losses to be a result of an expansion of the company’s normal operations, and, therefore, not extraordinary.⁹ However, upon further review of the facts at issue, Commerce determined that it was appropriate to revise Suzano’s financial expense ratio to include Fibria’s financial expenses and cost of sales.¹⁰ Therefore, Commerce calculated a weighted-average dumping margin of 8.63 percent.¹¹ The CIT sustained Commerce’s final redetermination.¹²

Timken Notice

In its decision in *Timken*,¹³ as clarified by *Diamond Sawblades*,¹⁴ the U.S. Court of Appeals for the Federal Circuit held that, pursuant to sections 516A(c) and (e) of the Act, Commerce must publish a notice of court decision that is not “in harmony” with a Commerce determination and must suspend liquidation of entries pending a “conclusive” court decision. The CIT’s August 18, 2023, judgment constitutes a final decision of the CIT that is not in harmony with Commerce’s *Final Results*. Thus, this notice is published in fulfillment of the publication requirements of *Timken*.

Amended Final Results

Because there is now a final court judgment, Commerce is amending its *Final Results* with respect to Suzano as follows:

⁷ See *Suzano S.A. v. United States*, 633 F.Supp.3d 1232, 1238 (CIT 2023).

⁸ *Id.* at 1243.

⁹ See *Final Results of Redetermination Pursuant to Court Remand, Suzano S.A. v. United States*, Court No. 21–00069, Slip Op. 23–56, dated July 20, 2023, at 5–11.

¹⁰ *Id.* at 10.

¹¹ *Id.* at 24–25.

¹² See *Suzano S.A. v. United States*, Court No. 21–00069, Slip Op. 23–117 (CIT August 18, 2023).

¹³ See *Timken Co. v. United States*, 893 F.2d 337 (Fed. Cir. 1990) (*Timken*).

¹⁴ See *Diamond Sawblades Manufacturers Coalition v. United States*, 626 F.3d 1374 (Fed. Cir. 2010) (*Diamond Sawblades*).

¹ See *Certain Uncoated Paper from Brazil: Final Results of Antidumping Duty Administrative Review; 2018–2019*, 86 FR 7254 (January 27, 2021) (*Final Results*), and accompanying Issues and Decision Memorandum (IDM) at Comment 1.

² *Id.* 86 FR 7254.

³ In the *Final Results*, we explained: “While it is Commerce’s practice to exclude only investment-related gains or losses from the calculation of cost of production, the capital management mechanisms practiced by Suzano by way of these derivative transactions are reasonably associated with the company’s cost of borrowing. . . . Moreover, we disagree with Suzano’s claim that these derivative expenses are extraordinary and stem from an isolated event. . . . Here, the auditors who issued an unqualified opinion on Suzano’s financial statements did not classify the derivative expenses as extraordinary.” See *Final Results* IDM at 5 (internal citations omitted).

⁴ See *Suzano S.A. v. United States*, 589 F. Supp. 3d 1225, 1233 (CIT 2022).

⁵ *Id.* at 1237.

⁶ See *Final Results of Redetermination Pursuant to Court Remand, Suzano S.A. v. United States*, Court No. 21–00069, Slip-Op 22–95, dated November 14, 2022, available at <https://access.trade.gov/Resources/remands/22-95.pdf>.