



DEPARTMENT OF COMMERCE

International Trade Administration

[A-469-824]

Thermal Paper from Spain: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Extension of Provisional Measures

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

SUMMARY: The Department of Commerce (Commerce) preliminarily determines that thermal paper from Spain is being, or is likely to be, sold in the United States at less than fair value (LTFV). The period of investigation (POI) is October 1, 2019, through September 30, 2020. Interested parties are invited to comment on this preliminary determination.

DATES: Applicable [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: Abdul Alnoor, AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-4554.

SUPPLEMENTARY INFORMATION:

Background

This preliminary determination is made in accordance with section 733(b) of the Tariff Act of 1930, as amended (the Act). Commerce published the notice of initiation of this investigation on November 3, 2020.¹ On February 25, 2021, Commerce postponed the deadline

¹ See *Thermal Paper from Germany, Japan, the Republic of Korea, and Spain: Initiation of Less-Than-Fair-Value Investigations*, 85 FR 69580 (November 3, 2020) (*Initiation Notice*).

for the preliminary determination in this investigation; the revised deadline is now May 5, 2021.² For a complete description of the events that followed the initiation of this investigation, *see* the Preliminary Decision Memorandum.³ A list of topics discussed in the Preliminary Decision Memorandum is in Appendix II to this notice. The Preliminary 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 Preliminary Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/>.

Scope of the Investigation

The products covered by this investigation are thermal paper from Spain. For a complete description of the scope of this investigation, *see* Appendix I.

Scope Comments

In accordance with the *Preamble* to Commerce's regulations,⁴ in the *Initiation Notice* we set aside a period of time for parties to raise issues regarding product coverage (*i.e.*, scope).⁵ Certain interested parties commented on the scope of the investigation as it appeared in the *Initiation Notice*. For a summary of the product coverage comments and rebuttals submitted on the record of this investigation, and accompanying discussion and analysis of all comments timely received, *see* the Preliminary Scope Decision Memorandum.⁶ Commerce is not preliminarily modifying the scope language as it appeared in the *Initiation Notice*. *See* the scope in Appendix I to this notice.

Methodology

² *See Thermal Paper from Germany, Japan, the Republic of Korea, and Spain: Postponement of Preliminary Determinations in the Less-Than-Fair-Value Investigations*, 86 FR 11502 (February 25, 2021).

³ *See* Memorandum, "Decision Memorandum for the Preliminary Determination in the Less-Than-Fair-Value Investigation of Thermal Paper from Spain," dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

⁴ *See Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27323 (May 19, 1997) (*Preamble*).

⁵ *See Initiation Notice*, 85 FR 69580, 69581.

⁶ *See* Memorandum, "Thermal Paper from Germany, Japan, the Republic of Korea, and Spain: Preliminary Scope Decision," dated May 5, 2021.

Commerce is conducting this investigation in accordance with section 731 of the Act. Pursuant to sections 776(a) and (b) of the Act, Commerce has preliminarily relied upon facts otherwise available to assign an estimated weighted-average dumping margin to the sole mandatory respondent in this investigation, Torraspapel S.A. (Torraspapel) because Torraspapel failed to submit a full response to Commerce's antidumping duty questionnaire. Furthermore, Commerce is preliminarily determining that Torraspapel failed to cooperate by not acting to the best of its ability to comply with a request for information and is using an adverse inference when selecting from among the facts otherwise available (*i.e.*, is basing Torraspapel's dumping margin on total adverse facts available (AFA), in accordance with section 776(b) of Act). For a full description of the methodology underlying the preliminary determination, *see* the Preliminary Decision Memorandum.

All-Others Rate

Sections 733(d)(1)(ii) and 735(c)(5)(A) of the Act provide that, in the preliminary determination, Commerce shall determine an estimated all-others rate for all exporters and producers not individually examined. This rate shall be equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero and *de minimis* dumping margins, and any dumping margins determined entirely under section 776 of the Act.

Pursuant to section 735(c)(5)(B) of the Act, if the estimated weighted-average dumping margins established for all exporters and producers individually examined are zero, *de minimis* or determined based entirely on facts otherwise available, Commerce may use any reasonable method to establish the estimated weighted-average dumping margin for all-other producers or exporters. Commerce has preliminarily determined the estimated weighted-average dumping margin for the sole mandatory respondent, Torraspapel, under section 776 of the Act. Consequently, pursuant to section 735(c)(5)(B) of the Act, Commerce's normal practice under these circumstances has been to calculate the "all-others" rate as a simple average of the alleged dumping margins from the

petition.⁷ For a full description of the methodology underlying Commerce’s analysis, see the Preliminary Decision Memorandum.

Preliminary Determination

Commerce preliminarily determines that the following estimated weighted-average dumping margins exist:

Exporter/Producer	Dumping Margin (percent)
Torraspapel S.A.	41.45
All Others	37.07

Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise, as described in the Appendix I, entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the *Federal Register*. Further, pursuant to section 733(d)(1)(B) of the Act and 19 CFR 351.205(d), Commerce will instruct CBP to require a cash deposit equal to the estimated weighted-average dumping margin or the estimated all-others rate, as follows: (1) the cash deposit rate for the respondent listed above will be equal to the company-specific estimated weighted-average dumping margin determined in this preliminary determination; (2) if

⁷ See, e.g., *Notice of Preliminary Determination of Sales at Less Than Fair Value: Sodium Nitrite from the Federal Republic of Germany*, 73 FR 21909, 21912 (April 23, 2008), unchanged in *Notice of Final Determination of Sales at Less Than Fair Value: Sodium Nitrite from the Federal Republic of Germany*, 73 FR 38986, 38987 (July 8, 2008), and accompanying Issues and Decision Memorandum at Comment 2; see also *Notice of Final Determination of Sales at Less Than Fair Value: Raw Flexible Magnets from Taiwan*, 73 FR 39673, 39674 (July 10, 2008); *Steel Threaded Rod from Thailand: Preliminary Determination of Sales at Less Than Fair Value and Affirmative Preliminary Determination of Critical Circumstances*, 78 FR 79670, 79671 (December 31, 2013), unchanged in *Steel Threaded Rod from Thailand: Final Determination of Sales at Less Than Fair Value and Affirmative Final Determination of Critical Circumstances*, 79 FR 14476, 14477 (March 14, 2014); Petitioners’ Letter, “Petitions for the Imposition of Antidumping Duties on Imports of Thermal Paper From Germany, Japan, Korea, and Spain,” dated October 7, 2020 at Volume V; Petitioners’ Letter, “Response of Petitioners to Volumes I-V Supplemental Questionnaires: Thermal Paper from Germany, Japan, Korea, and Spain,” dated October 16, 2020 at section “Petitioners’ Responses to Supplemental Questions Regarding Volume V”; and Checklist, “Enforcement and Compliance Office of AD/CVD Operations Antidumping Duty Investigation Initiation Checklist: Thermal Paper from Spain,” dated October 27, 2020.

the exporter is not a respondent identified above, but the producer is, then the cash deposit rate will be equal to the company-specific estimated weighted-average dumping margin established for that producer of the subject merchandise; and (3) the cash deposit rate for all other producers and exporters will be equal to the all-others estimated weighted-average dumping margin. These suspension of liquidation instructions will remain in effect until further notice.

Disclosure

Normally, Commerce discloses to interested parties the calculations performed in connection with a preliminary determination within five days of any public announcement or, if there is no public announcement, within five days of the date of publication of the notice of preliminary determination in the *Federal Register*, in accordance with 19 CFR 351.224(b). However, because Commerce preliminarily applied AFA to the mandatory respondent in this investigation, Torraspapel, in accordance with section 776 of the Act, and the AFA dumping margin is based solely on the petition, there are no calculations to disclose.

Verification

Because the mandatory respondent in this investigation did not act to the best of its ability to provide information requested by Commerce, and Commerce preliminarily determined that the mandatory respondent is uncooperative, we will not conduct verification.

Public Comment

Case briefs or other written comments on non-scope issues may be submitted to the Assistant Secretary for Enforcement and Compliance no later than 21 days after the date of publication of the preliminary determination in the *Federal Register*.⁸ Rebuttal briefs on non-scope issues, limited to issues raised in case briefs on non-scope issues, may be submitted no later than seven days after the deadline for case briefs.⁹ The deadlines for submitting case and rebuttal briefs on scope issues are in the Preliminary Scope Decision Memorandum. Note that

⁸ See 19 CFR 351.309(c)(1)(i); see also 19 CFR 351.303 (for general filing requirements). Commerce has exercised its discretion under 19 CFR 351.309(c)(1)(i) to alter the time limit for submission of case briefs.

⁹ See 19 CFR 351.309; see also 19 CFR 351.303 (for general filing requirements).

Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information, until further notice.¹⁰ Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this investigation are encouraged to submit with each argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, within 30 days after the date of publication of this notice in the *Federal Register*. Requests for a hearing should contain: (1) the requesting party's name, address, and telephone number; (2) the number of individuals from the requesting party's firm that will attend the hearing, including whether any individual is a foreign national; and (3) a list of the issues the party intends to discuss at the hearing. If a request for a hearing is made, Commerce intends to hold the hearing at a time and date to be determined. Parties should confirm by telephone the date, and time of the hearing two days before the scheduled hearing date.

Postponement of Final Determination and Extension of Provisional Measures

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination in the *Federal Register* if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise, or in the event of a negative preliminary determination, a request for such postponement is made by the petitioner. Section 351.210(e)(2) of Commerce's regulations requires that a request by exporters for postponement of the final determination be accompanied

¹⁰ See *Temporary Rule Modifying AD/CVD Service Requirements Due to COVID-19*, 85 FR 17006 (March 26, 2020); and *Temporary Rule Modifying AD/CVD Service Requirements Due to COVID-19; Extension of Effective Period*, 85 FR 41363 (July 10, 2020).

by a request for extension of provisional measures from a four-month period to a period not more than six months in duration.

On April 27, 2021, pursuant to 19 CFR 351.210(e), Torraspapel requested that Commerce postpone the final determination and that provisional measures be extended not more than six months.¹¹ In accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii), because: (1) the preliminary determination is affirmative; (2) the requesting exporter accounts for a significant proportion of exports of the subject merchandise; and (3) no compelling reasons for denial exist, Commerce is postponing the final determination and extending the provisional measures from a four-month period to a period not greater than six months. Accordingly, Commerce will make its final determination no later than 135 days after the date of publication of this preliminary determination in the *Federal Register*.

International Trade Commission Notification

In accordance with section 733(f) of the Act, Commerce will notify the International Trade Commission (ITC) of its affirmative preliminary determination. If the final determination is affirmative, the ITC will determine, before the later of 120 days after the date of this preliminary determination or 45 days after Commerce's final determination, whether subject imports are materially injuring, or threaten material injury to, the U.S. industry.

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: May 5, 2021.

Christian Marsh,

Acting Assistant Secretary

¹¹ See Torraspapel's Letter, "Thermal Paper from Spain; AD Investigation; Request for Postponement of Final Determination and Extension of Provisional Measures Period," dated April 27, 2021.

for Enforcement and Compliance.

Appendix I

Scope of the Investigation

The scope of this investigation covers thermal paper in the form of “jumbo rolls” and certain “converted rolls.” The scope covers jumbo rolls and converted rolls of thermal paper with or without a base coat (typically made of clay, latex, and/or plastic pigments, and/or like materials) on one or both sides; with thermal active coating(s) (typically made of sensitizer, dye, and co-reactant, and/or like materials) on one or both sides; with or without a top coat (typically made of pigments, polyvinyl alcohol, and/or like materials), and without an adhesive backing. Jumbo rolls are defined as rolls with an actual width of 4.5 inches or more, an actual weight of 65 pounds or more, and an actual diameter of 20 inches or more (jumbo rolls). All jumbo rolls are included in the scope regardless of the basis weight of the paper. Also included in the scope are “converted rolls” with an actual width of less than 4.5 inches, and with an actual basis weight of 70 grams per square meter (gsm) or less.

The scope of this investigation covers thermal paper that is converted into rolls with an actual width of less than 4.5 inches and with an actual basis weight of 70 gsm or less in third countries from jumbo rolls produced in the subject countries.

The merchandise subject to this investigation may be classified in the Harmonized Tariff Schedule of the United States (HTSUS) under subheadings 4811.90.8030 and 4811.90.9030. Although HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.

Appendix II

List of Topics Discussed in the Preliminary Decision Memorandum

- I. Summary
- II. Background
- III. Period of Investigation
- IV. Scope Comments
- V. Scope of the Investigation
- VI. Application of Facts Available, Use of Adverse Inferences, and Calculation of All-Others Rate
- VII. Recommendation

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