



DEPARTMENT OF COMMERCE

**International Trade Administration**

**[C-570-153]**

**Certain Paper Shopping Bags from the People’s Republic of China: Preliminary Affirmative Determination of Countervailable Subsidies, Preliminary Affirmative Determination of Critical Circumstances, and Alignment of Final Determination with Final Antidumping Duty Determination**

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

**SUMMARY:** The U.S. Department of Commerce (Commerce) preliminarily determines that countervailable subsidies are being provided to producers and exporters of certain paper shopping bags (paper bags) from the People’s Republic of China (China). The period of investigation (POI) is January 1, 2022, through December 31, 2022. Interested parties are invited to comment on this preliminary determination.

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

**FOR FURTHER INFORMATION CONTACT:** Seth Brown, AD/CVD Operations, Office IX, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-0029.

**SUPPLEMENTARY INFORMATION:**

Background

This preliminary determination is made in accordance with section 703(b) of the Tariff Act of 1930, as amended (the Act). Commerce published the notice of initiation of this

countervailing duty (CVD) investigation on June 26, 2023.<sup>1</sup> On August 7, 2023, Commerce postponed the preliminary determination until October 30, 2023.<sup>2</sup>

For a complete description of the events that followed the initiation of this investigation, *see* the Preliminary Decision Memorandum.<sup>3</sup> A list of topics discussed in the Preliminary Decision Memorandum is included as 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 <https://access.trade.gov/public/FRNoticesListLayout.aspx>.

#### Scope of the Investigation

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

#### Scope Comments

In accordance with the preamble to Commerce's regulations,<sup>4</sup> the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage (scope).<sup>5</sup> We received comments from interested parties commented on the scope of the concurrent antidumping duty (AD) and CVD investigations as it appeared in the *Initiation Notice*, which are listed in the Preliminary Decision Memorandum.<sup>6</sup> We are currently evaluating the scope comments filed by interested parties and intend to issue our preliminary decision regarding the scope of the AD and CVD investigations prior to or concurrently with the AD preliminary

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<sup>1</sup> *See Certain Paper Shopping Bags from India and the People's Republic of China: Initiation of Countervailing Duty Investigations*, 88 FR 41380 (June 26, 2023) (*Initiation Notice*).

<sup>2</sup> *See Certain Paper Shopping Bags from the People's Republic of China and India: Postponement of Preliminary Determinations in the Countervailing Duty Investigations*, 88 FR 52122 (August 7, 2023).

<sup>3</sup> *See* Memorandum, "Decision Memorandum for Preliminary Affirmative Determination of the Countervailing Duty Investigation of Certain Paper Shopping Bags from the People's Republic of China," dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

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

<sup>5</sup> *See Initiation Notice*, 88 FR at 41380.

<sup>6</sup> *See Preliminary Decision Memorandum* at 2-3.

determinations. We will incorporate the scope decisions from the AD investigations into the scope of the final CVD determination for this investigation, after considering any relevant comments submitted in scope case and rebuttal briefs.<sup>7</sup>

### Preliminary Affirmative Determination of Critical Circumstances

In accordance with section 703(e)(1) of the Act, we preliminarily find that critical circumstances exist with respect to imports of subject merchandise for Dongzheng Paper Bag (Dalian) Factory (Dongzheng), Fujian Nanwang Environment Protection Scien-tech Co., Ltd. (Fujian Nanwan) the non-responsive companies,<sup>8</sup> and all other producers and/or exporters. For a full discussion of our preliminary critical circumstances determination, see the “Critical Circumstances” section of the Preliminary Decision Memorandum.

### Methodology

Commerce is conducting this investigation in accordance with section 701 of the Act. For each of the subsidy programs found countervailable, Commerce preliminarily determines that there is a subsidy, *i.e.*, a financial contribution by an “authority” that gives rise to a benefit to the recipient, and that the subsidy is specific.<sup>9</sup>

Commerce notes that, in making these findings, it relied, in part, on facts available, and, because it finds that one or more respondents did not act to the best of their ability to respond to Commerce’s requests for information, it drew an adverse inference where appropriate in selecting from among the facts otherwise available.<sup>10</sup> For further information, *see* the “Use of Facts Otherwise Available and Adverse Inferences” section of the Preliminary Decision Memorandum.

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<sup>7</sup> The deadline for interested parties to submit scope case and rebuttal briefs will be established in the preliminary scope decision memorandum.

<sup>8</sup> The non-responsive companies are: (1) Bagitan Packaging; (2) Changzhou Anjucheng; (3) Courage Packaging; (4) Evertrust Packaging; (5) Geotegrity EcoPack; (6) GrandIntelligent; (7) Li & Fung; (8) Qindao Chenyu Packaging Co., Ltd.; (9) Shanghai Macolink Supply Chain Management Co., Ltd.; (10) Shanghai Sanxi Paper Co., Ltd.; (11) Xiamen C&D Pulp & Paper Co., Ltd.; (12) Xiamen Champion FMCG; (13) Xiamen New Idea Packaging Co., Ltd.; and (14) Xiamen Wonderful Bag Import and Export Co., Ltd.

<sup>9</sup> *See* sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

<sup>10</sup> *See* sections 776(a) and (b) of the Act.

## Alignment

In accordance with section 705(a)(1) of the Act and 19 CFR 351.210(b)(4), Commerce is aligning the final CVD determination in this investigation with the final determination in the companion AD investigation of paper bags from China based on a request made by the Coalition for Fair Trade in Shopping Bags (the petitioner).<sup>11</sup> Consequently, the final CVD determination will be issued on the same date as the final AD determination, which is currently scheduled to be issued no later than March 11, 2024, unless postponed.

## All-Others Rate

Sections 703(d) and 705(c)(5)(A) of the Act provide that in the preliminary determination, Commerce shall determine an estimated all-others rate for companies not individually examined. This rate shall be an amount equal to the weighted average of the estimated subsidy rates established for those companies individually examined, excluding any zero and *de minimis* rates and any rates based entirely under section 776 of the Act.

In this investigation, Commerce preliminarily calculated individual estimated countervailable subsidy rates for Dongzheng and Fujian Nanwang that are not zero, *de minimis*, or based entirely on facts otherwise available.<sup>12</sup> Therefore, Commerce calculated the all-others rate using a weighted average of the individually estimated subsidy rates calculated for the examined respondents using each company's public ranged data for the value of its exports of subject merchandise to the United States.<sup>13</sup>

## Preliminary Determination

Commerce preliminarily determines that the following estimated countervailable subsidy rates exist:

<b>Company</b>	<b>Subsidy Rate (percent <i>ad valorem</i>)</b>
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<sup>11</sup> See Petitioner's Letter, "Petitioner's Request to Align Countervailing Duty Investigation Final Determination with Antidumping Duty Investigation Final Determination," dated October 5, 2023.

<sup>12</sup> See Preliminary Decision Memorandum at Appendix I.

<sup>13</sup> See Memorandum, "Calculations of 'All Others' Rate for the Preliminary Determination of the Countervailing Duty Investigation of Certain Paper Shopping Bags from the People's Republic of China," dated concurrently with this notice, at 1.

Bagitan Packaging	144.03
Changzhou Anjucheng	144.03
Courage Packaging	144.03
Dongzheng Paperbag (DaLian) Factory	12.43
Evertrust Packaging	144.03
Fujian Nanwang Environment Protection Scien-Tech Co., Ltd. <sup>14</sup>	13.96
Geotegrity EcoPack	144.03
GrandIntelligent	144.03
Li & Fung	144.03
Qindao Chenyu Packaging Co., Ltd.	144.03
Shanghai Macolink Supply Chain Management Co., Ltd.	144.03
Shanghai Shanxi Paper Co., Ltd.	144.03
Xiamen C&D Pulp & Paper Co., Ltd	144.03
Xiamen Champion FMCG	144.03
Xiamen New Idea Packaging Co., Ltd.	144.03
Xiamen Wonderful Bag Import and Export Co., Ltd.	144.03
All Others	13.84

### Suspension of Liquidation

In accordance with section 703(e)(2)(A) of the Act, because we find that critical circumstances exist for Dongzhen, Fujian Nanwang, the non-response companies, and all other producers and/or exporters, Commerce will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise as described in the scope of the investigation section entered, or withdrawn from warehouse, for consumption on or after the date 90 days prior to the date of publication of this notice in the *Federal Register*. Further, pursuant to 19 CFR 351.205(d), Commerce will instruct CBP to require a cash deposit equal to the rates indicated above.

### Disclosure

Commerce intends to disclose its calculations and analysis performed to interested parties in this preliminary determination within five days of its public announcement, or if there is no public announcement, within five days of the date of the publication of this notice, in accordance with 19 CFR 351.224(b).

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<sup>14</sup> As discussed in the Preliminary Decision Memorandum, Commerce has found the following companies to be cross-owned with Fujian Nanwang: Zhuhai Zhongyue Paper Cup Container Co., Ltd.; Anhui Nanwang Environmental Protection Technology Co., Ltd., Xianghe Nanwang Environmental Protection Technology Co., Ltd.; and Hubei Nanwang Environmental Protection Technology Co., Ltd.

## Verification

As provided in section 782(i)(1) of the Act, Commerce intends to verify the information relied upon in making its final determination.

## Public Comment

All interested parties will have the opportunity to submit scope case and rebuttal briefs on the preliminary decision regarding the scope of the AD and CVD investigations. The deadlines to submit scope case and rebuttal briefs will be provided in the preliminary scope decision memorandum. For all scope case and rebuttal briefs, parties must file identical documents simultaneously on the records of the ongoing AD and CVD paper bags investigations. No new factual information or business proprietary information may be included in either scope case or rebuttal briefs.

Case briefs or other written comments on non-scope issues may be submitted to the Assistant Secretary for Enforcement and Compliance. Interested parties will be notified of the timeline for the submission of case briefs and written comments at a later date. Rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than seven days after the deadline date for case briefs after the deadline date for case briefs.<sup>15</sup> Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case 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. Note that Commerce has amended certain of its requirements pertaining to the service of documents in 19 CFR 351.303(f).<sup>16</sup>

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. Requests should contain the party's name, address, and

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<sup>15</sup> See 19 CFR 351.309; *see also* 19 CFR 351.303 (for general filing requirements).

<sup>16</sup> See *Administrative Protective Order, Service, and Other Procedures in Antidumping and Countervailing Duty Proceedings; Final Rule*, 88 FR 67069 (September 29, 2023).

telephone number, the number of participants, and a list of the issues to be discussed. Oral presentations at the hearing will be limited to issues raised in the briefs. If a request for a hearing is made, parties will be notified of the time and date for the hearing.<sup>17</sup>

#### U.S. International Trade Commission Notification

In accordance with section 703(f) of the Act, Commerce will notify the U.S. International Trade Commission (ITC) of its 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 the final determination whether these 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 703(f) and 777(i)(1) of the Act, and 19 CFR 351.205(c).

Dated: October 30, 2023.

**Lisa W. Wang,**

*Assistant Secretary*

*for Enforcement and Compliance.*

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<sup>17</sup> See 19 CFR 351.310(d).

## Appendix I

### Scope of the Investigation

The products within the scope of this investigation are paper shopping bags with handles of any type, regardless of whether there is any printing, regardless of how the top edges are finished (*e.g.*, folded, serrated, or otherwise finished), regardless of color, and regardless of whether the top edges contain adhesive or other material for sealing closed. Subject paper shopping bags have a width of at least 4.5 inches and depth of at least 2.5 inches.

Paper shopping bags typically are made of kraft paper but can be made from any type of cellulose fiber, paperboard, or pressboard with a basis weight less than 300 grams per square meter (GSM).

A non-exhaustive illustrative list of the types of handles on shopping bags covered by the scope include handles made from any materials such as twisted paper, flat paper, yarn, ribbon, rope, string, or plastic, as well as die-cut handles (whether the punchout is fully removed or partially attached as a flap).

Excluded from the scope are:

- Paper sacks or bags that are of a 1/6 or 1/7 barrel size (*i.e.*, 11.5-12.5 inches in width, 6.5-7.5 inches in depth, and 13.5-17.5 inches in height) with flat paper handles or die-cut handles;
- Paper sacks or bags with die-cut handles, a grams per square meter weight of less than 62 GSM, and a height of less than 11.5 inches; and
- Shopping bags (i) with non-paper handles made wholly of woven ribbon or other similar woven fabric and (ii) that are finished with folded tops or for which tied knots or t-bar aglets (made of wood, metal, or plastic) are used to secure the handles to the bags.

The above-referenced dimensions are provided for paper bags in the opened position. The height of the bag is the distance from the bottom fold edge to the top edge (*i.e.*, excluding the height of handles that extend above the top edge). The depth of the bag is the distance from the front of the bag edge to the back of the bag edge (typically measured at the bottom of the bag). The width of the bag is measured from the left to the right edges of the front and back panels (upon which the handles typically are located).

This merchandise is currently classifiable under Harmonized Tariff Schedule of the United States (HTSUS) subheadings 4819.30.0040 and 4819.40.0040. The HTSUS subheadings are provided for convenience and customs purposes only; the written description of the scope is dispositive.

## Appendix II

### List of Topics Discussed in the Preliminary Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the Investigation
- IV. Scope Comments
- V. Injury Test
- VI. Analysis of China's Financial System
- VII. Diversification of China's Economy
- VIII. Use of Facts Otherwise Available and Adverse Inferences
- IX. Subsidies Valuation
- X. Benchmarks and Interest Rates
- XI. Analysis of Programs
- XII. Critical Circumstances
- XIII. Recommendation

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