



DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-152]

Certain Paper Shopping Bags from the People's Republic of China: Preliminary Affirmative Determinations of Sales at Less Than Fair Value, Preliminary Affirmative Determination of Critical Circumstances, Postponement of Final Determination, and Extension of Provisional Measures

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

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily determines that certain paper shopping bags (paper bags) from the People's Republic of China (China) are being, or are likely to be, sold in the United States at less than fair value (LTFV). The period of investigation (POI) is October 1, 2022, through March 31, 2023. Interested parties are invited to comment on this preliminary determination.

DATES: Applicable [Insert date of publication in the *Federal Register*].

FOR FURTHER INFORMATION CONTACT: Tyler Weinhold, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-1211.

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 June 27, 2023.¹ On October 3, 2023, Commerce postponed the preliminary determination of this investigation until December 27, 2023.²

For a complete description of the events that followed the initiation of this investigation, *see* the Preliminary Decision Memorandum.³ A list of topics included 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,⁴ in the *Initiation Notice*, Commerce set aside a period of time for parties to raise issues regarding product coverage (*i.e.*, scope).⁵ Certain parties commented on the scope of the investigation as it appeared in the *Initiation Notice*. For a summary of the product coverage comments and rebuttal responses submitted to the record for this investigation and accompanying discussion and analysis of all comments timely received, *see* the Preliminary Scope Decision Memorandum.⁶ As discussed in

¹ *See Certain Paper Shopping Bags from Cambodia, the People's Republic of China, Colombia, India, Malaysia, Portugal, Taiwan, the Republic of Turkey, and the Socialist Republic of Vietnam: Initiation of Less-Than-Fair-Value Investigations*, 88 FR 41589 (June 27, 2023) (*Initiation Notice*).

² *See Certain Paper Shopping Bags from Cambodia, the People's Republic of China, Colombia, India, Malaysia, Portugal, Taiwan, the Republic of Turkey, and the Socialist Republic of Vietnam: Postponement of Preliminary Determinations in the Less-Than-Fair-Value Investigations*, 88 FR 68097 (October 3, 2023).

³ *See* Memorandum, "Decision Memorandum for the Preliminary Affirmative Determination in the Less-Than-Fair Value 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).

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

⁵ *See Initiation Notice*, 88 FR at 41590.

⁶ *See* Memorandum, "Preliminary Scope Decision Memorandum," dated concurrently with this notice (Preliminary Scope Decision Memorandum).

the Preliminary Scope Decision Memorandum, Commerce preliminarily modified the scope language as it appeared in the *Initiation Notice*. In the Preliminary Scope Decision Memorandum, Commerce established the deadline for parties to submit scope case and rebuttal briefs.

Methodology

Commerce is conducting this investigation in accordance with section 731 of the Act. Commerce has calculated export prices in accordance with section 772(a) of the Act. Because China is a non-market economy within the meaning of section 771(18) of the Act, Commerce has calculated normal value in accordance with section 773(c) of the Act.

In addition, pursuant to sections 776(a) and (b) of the Act because the China-wide entity did not cooperate to the best of its ability in responding to Commerce's request for data, Commerce preliminarily has relied upon facts otherwise available, with adverse inferences, in determining the estimated weighted-average dumping margin for the China-wide entity. For a full description of the methodology underlying Commerce's preliminary determination, *see* the Preliminary Decision Memorandum.

Preliminary Affirmative Determination of Critical Circumstances, In Part

In accordance with section 733(e)(1) of the Act and 19 CFR 351.206(c), Commerce preliminarily determines that critical circumstances exist with respect to imports of paper bags from China for Dongzheng Paperbag (DaLian) Factory (Dongzheng), the non-selected respondents eligible for a separate rate, and the China-wide entity. Commerce preliminarily determines that critical circumstances do not exist with respect to imports of paper bags from China for UUPAK Co., Ltd. (UUPAK). For a full description of the methodology and results of Commerce's analysis, *see* the Preliminary Decision Memorandum.

Combination Rates

In the *Initiation Notice*,⁷ Commerce stated that it would calculate producer/exporter

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

combination rates for the respondents that are eligible for a separate rate in this investigation.

Commerce’s Policy Bulletin 05.1 describes this practice.⁸ In this investigation, we calculated producer/exporter combination rates for respondents eligible for separate rates.

Separate Rates

In addition to Dongzheng and UUPAK, we have preliminarily granted a separate rate to certain respondents that we did not select for individual examination.⁹ In calculating the rate for non-individually examined separate rate respondents in a non-market economy LTFV investigation, Commerce normally looks to section 735(c)(5)(A) of the Act, which pertains to the calculation of the all-others rate in a market economy LTFV investigation, for guidance. Pursuant to section 735(c)(5)(A) of the Act, normally this rate shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for those companies individually examined, excluding zero and *de minimis* and any rates based entirely under section 776 of the Act. Commerce calculated individual estimated weighted-average dumping margins for Dongzheng and UUPAK that are not zero, *de minimis*, or based entirely on facts otherwise available. Thus, the weighted-average dumping margins calculated for Dongzheng and UUPAK are the basis to determine the weighted-average dumping margin for the non-examined, separate rate companies, investigation. See the table below in the “Preliminary Determination” section of this notice.

Preliminary Determination

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

Exporter	Producer	Weighted-Average Dumping Margin (percent)	Cash Deposit Rate (Adjusted for Export Subsidy offset(s) (percent)
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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 <http://enforcement.trade.gov/policy/bull05-1.pdf>.

⁹ See the Preliminary Decision Memorandum for additional details.

Dongzheng Paperbag (DaLian) Factory	Dongzheng Paperbag (DaLian) Factory	59.41	48.86
UUPAK Co., Ltd.	Tianjin Haishun Printing & Packing Co., Ltd.	24.15	12.81
Fujian Eco Packaging Co., Ltd.	Fujian Hongkai Packaging Co., Ltd.	40.55	29.21
Fujian Eco Packaging Co., Ltd.	Fujian Yihe Packaging Co., Ltd.	40.55	29.21
Fujian Eco Packaging Co., Ltd.	Guangdong Union Eco-Packaging Scien-Tech Co., Ltd.	40.55	29.21
Fujian Eco Packaging Co., Ltd.	Xiamen Huide Eco-friendly Paper Bags Co., Ltd.	40.55	29.21
Fujian Eco Packaging Co., Ltd.	Xiamen Jihong Technology Co., Ltd.	40.55	29.21
Fujian Nanwang Environment Protection Scien-tech Co., Ltd.	Anhui Nanwang Environmental Protection Technology Co., Ltd.	40.55	29.15
Fujian Nanwang Environment Protection Scien-tech Co., Ltd.	Fujian Nanwang Environment Protection Scien-tech CO., LTD	40.55	29.15
Fujian Nanwang Environment Protection Scien-tech Co., Ltd.	Hubei Nanwang Environmental Protection Scien-tech Co., Ltd.	40.55	29.15
Fujian Nanwang Environment Protection Scien-tech Co., Ltd.	Xianghe Nanwang Environmental Protection Technology Co., Ltd.	40.55	29.15
Fujian Nanwang Environment Protection Scien-tech Co., Ltd.	Zhuhai Zhongyue Paper CUP Container Co., Ltd.	40.55	29.15
Grand Intelligent Limited	Ruichuang Limited	40.55	29.21
Max Fortune Industrial Ltd.	Winner Printing and Packaging (He Yuan) Ltd.	40.55	29.21
Ningbo Beiheng Import & Export Company Limited	Wenzhou Weijie Packing Co., Ltd.	40.55	29.21
Shanghai Miho Package & Product Co., Ltd.	Zhejiang Shengxiang Industrial Co., Ltd.	40.55	29.21
Union Packaging Group Limited	Guangdong Union Eco-Packaging Scien-Tech Co., Ltd.	40.55	29.21
Wuxi Hualite Metal Plastic Products Co., Ltd.	Wuxi Hualite Paper Products Co., Ltd.	40.55	29.21
Xiamen Bag Imp. & Exp. Co., Ltd.	Xiamen CYR Green-Tech Co., Ltd.	40.55	29.21
Xiamen Huide Xiesheng Packaging Co., Ltd.	Xiamen Huide Eco-Friendly Paper Bags Co., Ltd.	40.55	29.21
Xiamen Jihong Technology Co., Ltd.	Xiamen Jihong Technology Co., Ltd.	40.55	29.21
Xiamen Joy Supply Chain Co., Ltd.	Fujian Huian Nice Paper Products Co., Ltd.	40.55	29.21

Xiamen Joy Supply Chain Co., Ltd.	Xiamen THINKER Packaging Products Co., Ltd.	40.55	29.21
Xiamen Nice Packaging Products Co., Ltd.	Fujian Huian Nice Paper Products Co., Ltd.	40.55	29.21
Xiamen Nice Packaging Products Co., Ltd.	Xiamen THINKER Packaging Products Co., Ltd.	40.55	29.21
China-wide Entity ¹⁰		146.32	135.77

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 subject merchandise, as described in the scope of the investigation section, entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the *Federal Register*, or earlier, as discussed below. 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 weighted average amount by which normal value exceeds U.S. price, as indicated in the chart above, as follows: (1) for the producer/exporter combinations listed in the table above, the cash deposit rate is equal to the estimated weighted-average dumping margin listed for that combination in the table; (2) for all combinations of Chinese producers/exporters of subject merchandise that have not established eligibility for their own separate rates, the cash deposit rate will be equal to the estimated weighted-average dumping margin established for the China-wide entity; and (3) for all third-country exporters of subject merchandise not listed in the table above, the cash deposit rate is the cash deposit rate applicable to the Chinese producer/exporter combination (or China-wide entity) that supplied that third-country exporter.

Section 733(e)(2) of the Act provides that, given an affirmative determination of critical circumstances, any suspension of liquidation shall apply to unliquidated entries of merchandise entered, or withdrawn from warehouse, for consumption on or after the later of (a) the date

¹⁰ We have not granted a separate rate to Qingdao Deepack Co., Ltd.; thus, the China-wide Entity preliminarily includes Qingdao Deepack Co., Ltd. See the Preliminary Decision Memorandum for additional details.

which is 90 days before the date on which the suspension of liquidation was first ordered, or (b) the date on which notice of initiation of the investigation was published. Commerce preliminarily finds that critical circumstances exist for imports of subject merchandise from Dongzheng, the non-selected respondents eligible for a separate rate, and the China-wide entity.¹¹ However, we have found that critical circumstances do not exist for UUPAK.¹² In accordance with section 733(e)(2)(A) of the Act, the suspension of liquidation shall apply to all unliquidated entries of merchandise from Dongzheng, the non-selected respondents eligible for a separate rate, and the China-wide entity that were entered, or withdrawn from warehouse, for consumption on or after the date which is 90 days before the publication of this notice in the *Federal Register*.

To determine the cash deposit rate, Commerce normally adjusts the estimated weighted-average dumping margin by the amount of domestic subsidy pass-through and export subsidies determined in a companion countervailing duty (CVD) proceeding when CVD provisional measures are in effect. Accordingly, where Commerce has made a preliminary affirmative determination for domestic subsidy pass-through or export subsidies, Commerce offset the calculated estimated weighted-average dumping margin by the appropriate rate(s). Any such adjusted rates may be found in the chart of estimated weighted-average dumping margins in the “Preliminary Determination” section above.

Should provisional measures in the companion CVD investigation expire prior to the expiration of provisional measures in this LTFV investigation, Commerce will direct CBP to begin collecting cash deposits at a rate equal to the estimated weighted-average dumping margins calculated in this preliminary determination unadjusted for export subsidies at the time the CVD provisional measures expire. These suspension of liquidation instructions will remain in effect until further notice.

¹¹ See Preliminary Decision Memorandum.

¹² *Id.*

Disclosure

Commerce intends to disclose to interested parties the calculations performed in connection with this preliminary 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 the *Federal Register* in accordance with 19 CFR 351.224(b).

Verification

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

Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date on which the verification report is issued in this investigation. Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than five days after the date for filing case briefs.¹³ Interested parties who submit case briefs or rebuttal briefs in this proceeding must submit: (1) a table of contents listing each issue; and (2) a table of authorities.¹⁴

As provided under 19 CFR 351.309(c)(2) and (d)(2), in prior proceedings we have encouraged interested parties to provide an executive summary of their brief that should be limited to five pages total, including footnotes. In this investigation, we instead request that interested parties provide at the beginning of their briefs a public, executive summary for each issue raised in their briefs.¹⁵ Further, we request that interested parties limit their executive summary of each issue to no more than 450 words, not including citations. We intend to use the executive summaries as the basis of the comment summaries included in the issues and decision memorandum that will accompany the final determination in this investigation. We request that interested parties include footnotes for relevant citations in the executive summary of each issue. Note that Commerce has amended certain of its requirements pertaining to the service of documents in 19 CFR 351.303(f).¹⁶

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 telephone number, the number of participants, whether any participant is a foreign national, and

¹³ See 19 CFR 351.309(d); *see also Administrative Protective Order, Service, and Other Procedures in Antidumping and Countervailing Duty Proceedings*, 88 FR 67069, 67077 (September 29, 2023) (*APO and Service Final Rule*).

¹⁴ See 19 CFR 351.309(c)(2) and (d)(2).

¹⁵ We use the term "issue" here to describe an argument that Commerce would normally address in a comment of the Issues and Decision Memorandum.

¹⁶ See *APO and Service Final Rule*.

a list of the issues to be discussed. 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, time, and location of the hearing two days before the scheduled 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 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 petitioners. Pursuant to 19 CFR 351.210(e)(2), Commerce requires that requests by respondents for postponement of a final antidumping duty determination be accompanied by a request for extension of provisional measures from a four-month period to a period not more than six months in duration.

On November 21, 2023, the Coalition For Fair Trade in Shopping Bags (the petitioner) timely requested that Commerce fully extend the deadline for the final determination in the event of a negative preliminary determination.¹⁷ On December 19, 2023, Dongzheng timely requested that Commerce fully extend the deadline for the final determination in the event of an affirmative preliminary determination.¹⁸ 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, pursuant to section 735(a)(2) of the

¹⁷ See Petitioner's Letter, "Request to Postpone Final Determination," dated November 6, 2023.

¹⁸ See Dongzheng's Letter, "Request to Extend Final Determination," dated December 19, 2023.

Act. Furthermore, as the final CVD determination has been aligned with the final LTFV determination, Commerce will make its final CVD determination no later than 135 days after the date of publication of this preliminary determination.¹⁹

U.S. International Trade Commission Notification

In accordance with section 733(f) of the Act, Commerce will notify the U.S. International Trade Commission (ITC) of its preliminary determination of sales at LTFV. 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 of the subject merchandise 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: December 27, 2023.

Abdelali Elouaradia,
Deputy Assistant Secretary
For Enforcement and Compliance.

¹⁹ See *Certain Paper Shopping Bags from the People's Republic of China and India: Preliminary Affirmative Countervailing Duty Determination, Preliminary Affirmative Critical Circumstances Determination, in Part, and Alignment of Final Determination with Final Antidumping Duty Determination*, 88 FR 76180 (November 6, 2023).

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 paper weight of less than 86 GSM, and a height of less than 11.5 inches; and
- Paper sacks or bags (i) with non-paper handles made wholly of woven ribbon or other similar woven fabric²⁰ 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

²⁰ Paper sacks or bags with handles made of braided or twisted materials, such as rope or cord, do not qualify for this exclusion.

- II. Background
- III. Period of Investigation
- IV. Discussion of the Methodology
- V. Critical Circumstances
- VI. Adjustment Under Section 777A(f) of the Tariff Act of 1930, As Amended
- VII. Adjustment to Cash Deposit Rate for Export Subsidies
- VIII. Currency Conversion
- IX. Recommendation

[FR Doc. 2023-28938 Filed: 1/2/2024 8:45 am; Publication Date: 1/3/2024]