



DEPARTMENT OF COMMERCE

International Trade Administration

[A-533-917]

Certain Paper Shopping Bags from India: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Preliminary Negative 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 India 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 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: Gorden Struck, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-8151.

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 in the *Federal Register* on June 27, 2023.¹ On October 3, 2023, Commerce

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*, 88 FR 41589 (June 27, 2023) (*Initiation Notice*).

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 India. 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 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 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 the Preliminary Scope Decision Memorandum, Commerce preliminarily modified the scope language as it appeared in the *Initiation Notice*. In the Preliminary Scope Decision

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*, 88 FR 68097 (October 03, 2023).

³ *See* Memorandum, "Decision Memorandum for the Preliminary Affirmative Determination in the Less-Than-Fair-Value Investigation of Certain Paper Shopping Bags from India" 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).

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. Normal value is calculated in accordance with section 773 of the Act. Furthermore, pursuant to sections 776(a) and (b) of the Act, Commerce preliminarily has relied upon facts otherwise available, with adverse inferences (AFA) for Apex Paper and Plastic and Film, Asha Overseas, Godhani Exports, and Pack Easy Paper Products. For a full description of the methodology underlying the preliminary determination, *see* the Preliminary Decision Memorandum.

Preliminary Negative Determination of Critical Circumstances

In accordance with section 733(e) of the Act and 19 CFR 351.206, Commerce preliminarily finds that critical circumstances do not exist with respect to imports of paper bags from India for the two mandatory respondents, Aero Plast Packaging Solution Private Limited (APSL) and Kuloday Plastomers Pvt Ltd. (KPPL), and all other Indian producers and exporters. For a full description of the methodology and results of Commerce's critical circumstances analysis, *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 an amount 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* margins, and any margins determined entirely under section 776 of the Act.

Commerce preliminarily determined a zero rate for APSL. Therefore, the only rate that is not zero, *de minimis* or based entirely on facts otherwise available is the rate calculated for

KPPL. Consequently, the rate calculated for KPPL is also assigned as the rate for all other producers and exporters.

Preliminary Determination

Commerce preliminarily determines that the following estimated weighted-average dumping margins exist:⁷

Exporter/Producer	Weighted-Average Dumping Margin (percent)	Cash Deposit Rate (Adjusted for Subsidy Offset(s)) (percent)
Aero Plast Packaging Solutions Private Limited; Aeroplast Limited; Aero Business Solutions Private Limited	0.00	Not Applicable
Kuloday Plastomers Pvt Ltd.	10.64	7.17
Adeera Packaging Pvt. Ltd.	10.64	7.17
Amate Products Pvt Ltd	10.64	7.17
Apex Paper and Plastic and Film	57.87*	54.40
Archies Limited	10.64	7.17
Asha Overseas	57.87*	54.40
Carrywell Packaging Pvt Ltd	10.64	7.17
Colorbox	10.64	7.17
Dynaflex Private Limited	10.64	7.17
Godhani Exports	57.87*	54.40
Pack Easy Paper Products	57.87*	54.40
Pack Planet Pvt Ltd	10.64	7.17
Poonam	10.64	7.17
Shriniwas Enterprises	10.64	7.17
Tejaswi Plastic Pvt Ltd	10.64	7.17
The Velvin Group (DBA Velvin Packaging Solutions Pvt. Ltd. and Velvin Paper Products)	10.64	7.17
Vama Packaging	10.64	7.17
All Others	10.64	7.17

*Rate based on AFA.

Consistent with section 733(b)(3) of the Act, Commerce disregards *de minimis* rates and preliminarily determines that APSL, the individually examined respondent with a zero rate, has not made sales of subject merchandise at LTFV.

Disclosure

⁷ Commerce preliminarily determines that Aero Plast Packaging Solutions Private Limited, Aeroplast Limited, and Aero Business Solutions Private Limited are a single entity. See Preliminary Decision Memorandum.

Commerce intends to disclose the calculations performed in connection with this preliminary determination to interested parties within five days of any 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).

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 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 respondents listed above will be equal to the company-specific estimated weighted-average dumping margins determined in this preliminary determination; (2) if 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, except as explained below; and (3) the cash deposit rate for all other producers and exporters will be equal to the all-others estimated weighted-average dumping margin.

Because the estimated weighted-average dumping margin for APSL is zero, entries of shipments of subject merchandise from this company will not be subject to suspension of liquidation or cash deposit requirements. In such situations, Commerce applies the exclusion to the provisional measures to the producer/exporter combination that was examined in the investigation. Accordingly, Commerce is directing CBP not to suspend liquidation of entries of subject merchandise produced and exported by APSL. Entries of shipments of subject merchandise from this company in any other producer/exporter combination, or by third parties

that sourced subject merchandise from the excluded producer/exporter combination, are subject to the provisional measures at the all-others rate.

Should the final estimated weighted-average dumping margin be zero or *de minimis* for the producer/exporter combination identified above, entries of shipments of subject merchandise from the producer/exporter combination will be excluded from the potential antidumping duty order. Such an exclusion is not applicable to merchandise exported to the United States by this respondent in any other producer/exporter combination or by third parties that sourced subject merchandise from the excluded producer/exporter combination.

Commerce normally adjusts cash deposits for estimated antidumping duties by the amount of export subsidies countervailed in a companion countervailing duty (CVD) proceeding, when CVD provisional measures are in effect. Accordingly, where Commerce preliminarily made an affirmative determination for countervailable export subsidies, Commerce has offset the estimated weighted-average dumping margins by the appropriate CVD rate. Any such adjusted cash deposit rate may be found 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 estimated antidumping duty cash deposits unadjusted for countervailed export subsidies at the time that the provisional CVD measures expire. These suspension of liquidation instructions will remain in effect until further notice.

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

Case briefs or other written comments on non-scope issues may be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date on

which the last verification report is issued in this investigation.⁸ A timeline for the submission of case briefs and written comments will be notified to interested parties at a later date. 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.⁹ 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.¹⁰

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.¹¹ 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).¹²

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 a list of the issues to be discussed. If a request for a hearing is made, Commerce intends to hold

⁸ See 19 CFR 351.309(c)(1)(i); *see also* 19 CFR 351.303 (for general filing requirements).

⁹ 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*).

¹⁰ See 19 CFR 351.309(c)(2) and (d)(2).

¹¹ We use the term "issue" here to describe an argument that Commerce would normally address in a comment of the Issues and Decision Memorandum.

¹² See *APO and Service Final Rule*.

the hearing at the U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230, 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 petitioner. Section 351.210(e)(2) of Commerce's regulations requires that a request by exporters for postponement of the final 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.¹³

On November 21, 2023, Coalition for Fair Trade in Shopping Bags (the petitioner) requested that Commerce postpone the final determination in the event of a negative preliminary determination.¹⁴ On November 28, 2023, pursuant to 19 CFR 351.210(e), KPPL requested that Commerce postpone the final determination in the event of an affirmative preliminary determination and that provisional measures be extended to a period not to exceed six months.¹⁵ 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,

¹³ See 19 CFR 351.210(e)(2).

¹⁴ See Petitioner's Letter, "Certain Paper Shopping Bags from Cambodia, China, Colombia, India, Malaysia, Portugal, Taiwan, Turkey, and Vietnam / Petitioner's Request for Postponement of the Final Determinations," dated November 21, 2023.

¹⁵ See KPPL's Letter, "Request to Extend Final Determination," dated November 28, 2023.

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 Act.

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. 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 paper bags from India 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.

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 fabric¹⁶ 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.

¹⁶ Paper sacks or bags with handles made of braided or twisted materials, such as rope or cord, do not qualify for this exclusion.

Appendix II

List of Topics Discussed in the Preliminary Decision Memorandum

- I. Summary
- II. Background
- III. Period of Investigation
- IV. Use of Facts Available with Adverse Inferences
- V. Discussion of the Methodology
- VI. Preliminary Negative Determination of Critical Circumstances
- VII. Currency Conversion
- VIII. Adjustments to Cash Deposits Rates for Export Subsidies in Companion Countervailing Duty Investigation
- IX. Recommendation

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