



DEPARTMENT OF COMMERCE

International Trade Administration

[A-583-872]

Certain Paper Shopping Bags from Taiwan: Preliminary Affirmative

Determination 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 that certain paper shopping bags (paper bags) from Taiwan are being, or are likely to be, sold in the United States at less than fair value (LTFV). The period of investigation 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: Nathan James, 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) 482-5305.

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 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 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 certain paper shopping bags from Taiwan. 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

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 Taiwan," 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 for Haurtyi Paper Bag Co. (Haurtyi) in accordance with section 772(a) of the Act. Normal value for Haurtyi is calculated in accordance with section 773 of the Act. Furthermore, pursuant to sections 776(a) and (b) of the Act, Commerce has preliminarily relied on facts otherwise available, with adverse inferences (AFA), for Juang Jia Guoo Co., Ltd. (JJG). For a full description of the methodology underlying the preliminary determination, *see* the Preliminary Decision Memorandum.

Preliminary Affirmative Determination of Critical Circumstances

In accordance with section 733(e) of the Act and 19 CFR 351.206(c), Commerce preliminarily determines that critical circumstances exist with respect to imports of paper bags from Taiwan for JJG and for all other 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)(A)(ii) and 735(c)(5)(A) of the Act provide that, in a 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.

Where the rates for individually investigated companies are all zero or *de minimis*, or determined entirely using facts otherwise available, section 735(c)(5)(B) of the Act instructs Commerce to rely on “any reasonable method to establish the estimated all-others rate for exporters and producers not individually investigated, including averaging the estimated weighted-average dumping margins determined for the exporters and producers individually investigated.”

Commerce has preliminarily determined the dumping margin for JJG under section 776 of the Act and has calculated an estimated weighted-average dumping margin for Haurtyi of zero. Consequently, pursuant to section 735(c)(5)(B) of the Act, we calculated the all-others rate based on a simple average of the zero percent dumping margin and the dumping margin based on AFA.

Preliminary Determination

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

Producer/Exporter	Weighted-Average Dumping Margin (percent)
Haurtyi Paper Bag Co.	0.00
Juang Jia Guoo Co., Ltd.	60.26*
All Others	30.13

* Rate based on AFA.

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 rates 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; and (3) the cash deposit rate for all other producers and exporters will be equal to the all-others estimated weighted-average dumping margin.

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 subject merchandise entered, or withdrawn from warehouse, for consumption on or after the later of: (a) the date 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 produced or exported by JJG. In accordance with section 733(e)(2)(A) of the Act, the suspension of liquidation shall apply to unliquidated entries of shipments of subject merchandise from the producer/exporter identified in this paragraph that were entered, or withdrawn from warehouse, for consumption on or after the date which is 90 days before the publication of this notice.

Because the estimated weighted-average dumping margin for Haurtyi 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 Haurtyi. Entries of shipments of subject merchandise from Haurtyi 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 Haurtyi, entries of shipments of subject merchandise produced and exported by the company will be excluded from the potential antidumping duty order. Such an exclusion would not be 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. These suspension of liquidation measures will remain in effect until further notice.

Disclosure

Commerce intends to disclose its calculations and analysis performed to interested parties in this 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 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 the 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 last 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.⁷ 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.⁸

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

⁷ 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*).

⁸ See 19 CFR 351.309(c)(2) and (d)(2)

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.⁹ 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).¹⁰

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 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 petitioner. Pursuant to 19 CFR 351.210(e)(2), Commerce requires that requests by exporters

⁹ We use the term "issue" here to describe an argument that Commerce would normally address in a comment of the Issues and Decision Memorandum.

¹⁰ See *APO and Service Final Rule*.

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.

On November 21, 2023, the Coalition For Fair Trade in Shopping Bags (the petitioner) requested that Commerce postpone the final determination in the event of a negative preliminary determination.¹¹ On December 13, 2023, Haurtyi requested that Commerce postpone the final determination and that provisional measures be extended to a period not to exceed six months.¹² 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.

U.S. International Trade Commission Notification

In accordance with section 733(f) of the Act, Commerce will notify the 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 imports of paper bags from Taiwan are materially injuring, or threaten material injury to, the U.S. industry.

Notification to Interested Parties

This preliminary 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

¹¹ See Petitioner's Letter, "Petitioner's Request for Postponement of the Final Determinations," dated November 21, 2023.

¹² See Haurtyi's Letter, "Request for Extension of Final Determination," dated December 13, 2023.

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 fabric¹³ 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

¹³ Paper sacks or bags with handles made of braided or twisted materials, such as rope or cord, do not qualify for this exclusion.

- III. Period of Investigation
- IV. Use of Facts Available with Adverse Inferences
- V. Discussion of the Methodology
- VI. Critical Circumstances
- VII. Currency Conversion
- VIII. Recommendation

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