



## **DEPARTMENT OF COMMERCE**

### **International Trade Administration**

**[A-570-152]**

### **Certain Paper Shopping Bags from the People's Republic of China: Final Affirmative Determination of Sales at Less Than Fair Value and Final Affirmative Critical Circumstances Determination**

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

**SUMMARY:** The U.S. Department of Commerce (Commerce) 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 is  
October 1, 2022, through March 31, 2023.

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

**FOR FURTHER INFORMATION CONTACT:** Jinny Ahn or 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) 482-0339 or (202) 482-1121, respectively.

### **SUPPLEMENTARY INFORMATION:**

#### Background

On January 3, 2024, Commerce published in the *Federal Register* its preliminary  
affirmative determination in the LTFV investigation of paper bags from China, in which we also

postponed the final determination until May 17, 2024.<sup>1</sup> We invited parties to comment on the *Preliminary Determination*.<sup>2</sup>

A summary of the events that occurred since Commerce published the *Preliminary Determination*, as well as a full discussion of the issues raised by parties for this final determination, may be found in the Issues and Decision Memorandum.<sup>3</sup> The Issues and Decision Memorandum is a public document and is made available to the public 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 Issues and 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

During the course of this investigation, Commerce received scope comments from parties. Commerce issued a Preliminary Scope Decision Memorandum to address these comments and set aside a period of time for parties to address scope issues in scope-specific case and rebuttal briefs.<sup>4</sup> We received comments from parties on the Preliminary Scope Decision Memorandum, which we address in the Final Scope Decision Memorandum.<sup>5</sup> We made no

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<sup>1</sup> *See 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*, 89 FR 344 (January 3, 2024) (*Preliminary Determination*), and accompanying Preliminary Decision Memorandum (PDM).

<sup>2</sup> *Id.*

<sup>3</sup> *See* Memorandum, "Decision Memorandum for the Final Affirmative Determination in the Less-Than-Fair-Value Investigation of Certain Paper Bags from the People's Republic of China," dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

<sup>4</sup> *See* Memorandum, "Less-Than-Fair-Value and Countervailing Duty Investigations of 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: Preliminary Scope Decision Memorandum," dated December 27, 2023 (Preliminary Scope Decision Memorandum).

<sup>5</sup> *See* Memorandum, "Less-Than-Fair Value and Countervailing Duty Investigations of Certain Paper Shopping Bags from Cambodia, the People's Republic of China, Colombia, India, Malaysia, Portugal, Taiwan, the Republic of

changes to the scope of the investigation from the scope published in the *Preliminary Determination*, as noted in Appendix I to this notice.

#### Final Affirmative Determination of Critical Circumstances

We continue to find that critical circumstances exist for imports of paper bags from China for Dongzheng Paperbag (DaLian) Factory (Dongzheng), the non-selected separate rate companies, and the China-wide entity pursuant to section 735(a)(3)(B) of Tariff Act of 1930, as amended (the Act), and 19 CFR 351.206, we continue to find that that critical circumstances exist with respect to imports of paper bags exported by the non-selected separate rate companies and the China-wide entity (including Dongzheng). In addition, we continue to find that critical circumstances do not exist for UUPAK Co., Ltd. (UUPAK). For further discussion of this issue, *see* the Issues and Decision Memorandum.

#### Verification

Commerce was unable to conduct an on-site verification of the information relied upon in making its final determination. However, from March 4 through 8, 2024, we took additional steps, in lieu of an on-site verification, to verify the information relied upon in making this final determination, in accordance with section 782(i) of the Act,<sup>6</sup> by conducting virtual verification of UUPAK.

#### Analysis of Comments Received

All issues raised in the case and rebuttal briefs submitted by interested parties in briefs are addressed in the Issues and Decision Memorandum. A list of the issues addressed in the Issues and Decision Memorandum is attached as Appendix II to this notice.

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Turkey, and the Socialist Republic of Vietnam: Final Scope Decision Memorandum,” dated March 11, 2024 (Final Scope Decision Memorandum).

<sup>6</sup> *See* Memorandum, “Verification of the Sales Responses of UUPAK Company Limited,” dated March 25, 2024.

### Changes Since the *Preliminary Determination*

As explained below, we have found Dongzheng to be part of the China-wide entity.<sup>7</sup> Additionally, based on our review and analysis of the comments received from interested parties, we made one change to the margin calculations for UUPAK.<sup>8</sup> For a discussion of this change, see the Issues and Decision Memorandum.

### Treatment of Dongzheng Paperbag (DaLian) Factory

In the *Preliminary Determination*, Commerce granted a separate rate to Dongzheng, as a cooperative mandatory respondent.<sup>9</sup> As explained in further detail in the Issues and Decision Memorandum, Dongzheng notified Commerce that it would not continue to cooperate with this investigation and withdrew its participation from the scheduled verification.<sup>10</sup> Therefore, because we were unable to verify Dongzheng's information, we have found that Dongzheng is part of the China-wide entity.<sup>11</sup>

### Application of Total of Adverse Facts Available with Respect to the China-Wide Entity

Consistent with the *Preliminary Determination*,<sup>12</sup> Commerce continues to find, pursuant to sections 776(a)(1) and (a)(2)(A)-(D) of the Act, that the use of facts available is warranted in determining the rate of the China-wide entity, which includes, as noted above, Dongzheng, as well as Qingdao Deepack Co., Ltd. (Qingdao Deepack), which submitted a separate rate application (SRA) but did not respond adequately to all of our requests for information.<sup>13</sup> Furthermore, we continue to find that an adverse inference is warranted in selecting from the facts otherwise available, pursuant to section 776(b) of the Act and 19 CFR 351.308(a), because the China-wide entity failed to cooperate by not acting to the best of their ability to comply with Commerce's requests for information. For the final determination, consistent with the

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<sup>7</sup> See the "Final Determination" section of this notice, *infra*, at footnote 23.

<sup>8</sup> See Issues and Decision Memorandum at Comment 2.

<sup>9</sup> See *Preliminary Determination*, 89 FR at 344-45.

<sup>10</sup> See Issues and Decision Memorandum at the "Application of Facts Available" section and Comment 1.

<sup>11</sup> See the "Final Determination" section of this notice, *infra*; see also Issues and Decision Memorandum at the "China-Wide Rate" section and Comment 1, for a full discussion.

<sup>12</sup> See *Preliminary Determination PDM* at 14-17.

<sup>13</sup> See the "Final Determination" section of this notice, *infra*, at footnote 18.

*Preliminary Determination*,<sup>14</sup> as adverse facts available, we are applying Dongzheng’s highest individual calculated dumping margin, 146.32 percent, to the China-wide entity, because it is a rate derived from information submitted on the record and achieves the right balance between the goal of inducing future cooperation by the uncooperative respondent and the rate not being punitive.<sup>15</sup>

### Separate Rates

We preliminarily found the mandatory respondents Dongzheng and UUPAK to be eligible for a separate rate in the *Preliminary Determination*.<sup>16</sup> No party commented on our preliminary separate rate determination with respect to UUPAK and we have no basis to otherwise reconsider this determination. Accordingly, we continue to find that UUPAK is eligible for a separate rate in the final determination.<sup>17</sup> As explained above, because Dongzheng refused to participate in verification of its SRA, we, have denied Dongzheng separate rate status. In addition, no party commented on our decision in the *Preliminary Determination* to grant separate status to certain other respondents that we did not select for individual examination or on our preliminary determination to deny a separate rate to Qingdao Deepack, which failed to establish its eligibility for a separate rate by not complying with all of our requests for information. Accordingly, we have continued to treat Qingdao Deepack as a part of the China-wide entity.

Further, generally, Commerce looks to section 735(c)(5)(A) of the Act, which provides instructions for calculating the all-others rate in an investigation, for guidance when calculating the rate for separate rate respondents which we did not individually examine. The statute further provides that, where all margins are zero, *de minimis*, or based entirely on facts available under section 776 of the Act, Commerce may use “any reasonable method” for assigning the rate to

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<sup>14</sup> See *Preliminary Determination*, 89 FR at 344-45.

<sup>15</sup> See the “Final Determination” section of this notice, *infra*; see also Issues and Decision Memorandum at the “China-Wide Rate” section and Comment 1, for a full discussion.

<sup>16</sup> See *Preliminary Determination PDM* at 12-13.

<sup>17</sup> See Issues and Decision Memorandum at the “Separate Rates” section for further discussion.

non-selected respondents.<sup>18</sup> In this final determination, the only participating mandatory respondent (*i.e.*, UUPAK) has received a weighted-average dumping margin which is not zero, *de minimis*, or based entirely on facts available. Therefore, in accordance with section 735(c)(5)(A) of the Act, we have assigned UUPAK’s calculated weighted-average dumping margin (*i.e.*, 73.05 percent) to the non-examined separate rate respondents.

### Combination Rates

Consistent with the *Initiation Notice*,<sup>19</sup> *Preliminary Determination*, and Policy Bulletin 05.1,<sup>20</sup> Commerce calculated combination rates for the sole respondent that is eligible for a separate rate in this investigation.

### Final Determination

The final estimated weighted-average dumping margins are as follows:

<b>Exporter</b>	<b>Producer</b>	<b>Weighted-Average Dumping Margin (percent)</b>	<b>Cash Deposit Rate (Adjusted for Export Subsidy offset(s) (percent)</b>
UUPAK Co., Ltd.	Tianjin Haishun Printing & Packing Co., Ltd.	73.05	62.07
Fujian Eco Packaging Co., Ltd.	Fujian Hongkai Packaging Co., Ltd.	73.05	62.07
Fujian Eco Packaging Co., Ltd.	Fujian Yihe Packaging Co., Ltd.	73.05	62.07
Fujian Eco Packaging Co., Ltd.	Guangdong Union Eco-Packaging Scien-Tech Co., Ltd.	73.05	62.07
Fujian Eco Packaging Co., Ltd.	Xiamen Huide Eco-friendly Paper Bags Co., Ltd.	73.05	62.07
Fujian Eco Packaging Co., Ltd.	Xiamen Jihong Technology Co., Ltd.	73.05	62.07
Fujian Nanwang Environment Protection Scien-tech Co., Ltd.	Anhui Nanwang Environmental Protection Technology Co., Ltd.	73.05	61.65

<sup>18</sup> See section 735(c)(5)(B) of the Act.

<sup>19</sup> 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, 41594 (June 27, 2023) (*Initiation Notice*).

<sup>20</sup> 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,” dated April 5, 2005 (Policy Bulletin 05.1), available on Commerce’s website at <https://enforcement.trade.gov/policy/bull05-1.pdf>.

Fujian Nanwang Environment Protection Scien-tech Co., Ltd.	Fujian Nanwang Environment Protection Scien-tech CO., LTD	73.05	61.65
Fujian Nanwang Environment Protection Scien-tech Co., Ltd.	Hubei Nanwang Environmental Protection Scien-tech Co., Ltd.	73.05	61.65
Fujian Nanwang Environment Protection Scien-tech Co., Ltd.	Xianghe Nanwang Environmental Protection Technology Co., Ltd.	73.05	61.65
Fujian Nanwang Environment Protection Scien-tech Co., Ltd.	Zhuhai Zhongyue Paper CUP Container Co., Ltd.	73.05	61.65
Grand Intelligent Limited	Ruichuang Limited	73.05	62.07
Max Fortune Industrial Ltd.	Winner Printing and Packaging (He Yuan) Ltd.	73.05	62.07
Ningbo Beiheng Import & Export Company Limited	Wenzhou Weijie Packing Co., Ltd.	73.05	62.07
Shanghai Miho Package & Product Co., Ltd.	Zhejiang Shengxiang Industrial Co., Ltd.	73.05	62.07
Union Packaging Group Limited	Guangdong Union Eco-Packaging Scien-Tech Co., Ltd.	73.05	62.07
Wuxi Hualite Metal Plastic Products Co., Ltd.	Wuxi Hualite Paper Products Co., Ltd.	73.05	62.07
Xiamen Bag Imp. & Exp. Co., Ltd.	Xiamen CYR Green-Tech Co., Ltd.	73.05	62.07
Xiamen Huide Xiasheng Packaging Co., Ltd.	Xiamen Huide Eco-Friendly Paper Bags Co., Ltd.	73.05	62.07
Xiamen Jihong Technology Co., Ltd.	Xiamen Jihong Technology Co., Ltd.	73.05	62.07
Xiamen Joy Supply Chain Co., Ltd.	Fujian Huian Nice Paper Products Co., Ltd.	73.05	62.07
Xiamen Joy Supply Chain Co., Ltd.	Xiamen THINKER Packaging Products Co., Ltd.	73.05	62.07
Xiamen Nice Packaging Products Co., Ltd.	Fujian Huian Nice Paper Products Co., Ltd.	73.05	62.07
Xiamen Nice Packaging Products Co., Ltd.	Xiamen THINKER Packaging Products Co., Ltd.	73.05	62.07
China-wide Entity <sup>21</sup>		146.32*	135.77

\* Rate based on AFA.

<sup>21</sup> As explained above, we have not granted a separate rate to Dongzheng or Qingdao Deepack; thus, the China-wide entity includes Dongzheng and Qingdao Deepack. See the Issues and Decision Memorandum for additional details.

## Disclosure

We intend to disclose the calculations performed in this final determination within five days of the date of publication of this notice in the *Federal Register* in accordance with 19 CFR 351.224(b).

## Continuation of Suspension of Liquidation

In accordance with section 735(c)(4) of the Act, because Commerce continues to find that critical circumstances exist for the non-selected separate rate companies and the China-wide entity, we will instruct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of subject merchandise, as described in Appendix I of this notice, entered, or withdrawn from warehouse, for consumption, on or after October 5, 2023, which is 90 days prior to the date of the date of publication of the affirmative *Preliminary Determination* in the *Federal Register*. For UUPAK, in accordance with section 735(c)(1)(B) of the Act, we will instruct CBP to continue to suspend liquidation of all entries of certain paper bags from China, as described in Appendix I of this notice, which were entered, or withdrawn from warehouse for consumption on or after January 3, 2024, the date of publication in the *Federal Register* of the *Preliminary Determination*.

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 makes an affirmative determination for domestic subsidy pass-through or export subsidies, Commerce offsets the calculated estimated weighted-average dumping margin by the appropriate rates. Commerce has continued to adjust the cash deposit rate for the China-wide entity for export subsidies in the companion CVD investigation by the appropriate export subsidy rate as indicated in the above chart.<sup>22</sup> However, suspension of liquidation of provisional measures in the companion CVD case has been

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<sup>22</sup> See Memorandum, “Final Determination Analysis,” dated concurrently with this notice, for more information.

discontinued;<sup>23</sup> therefore, we are not instructing CBP to collect cash deposits based upon the adjusted estimated weighted-average dumping margin for those export subsidies at this time.

Pursuant to section 735(c)(1)(B)(ii) of the Act and 19 CFR 351.210(d), we will instruct CBP to require a cash deposit for such entries of merchandise equal to the amount by which the normal value exceeds the U.S. price 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. These suspension of liquidation instructions will remain in effect until further notice.

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

In accordance with section 735(d) of the Act, we will notify the U.S. International Trade Commission (ITC) of our final affirmative determination of sales at LTFV. Because the final determination in this proceeding is affirmative, in accordance with section 735(b)(2) of the Act, the ITC will make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of paper bags from China no later than 45 days after this final determination. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated and all cash deposits will be refunded or canceled, and suspension of liquidation will be lifted. If the ITC

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<sup>23</sup> See *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*, 88 FR 76180 (November 6, 2023); see also section 703(d) of the Act, which states that the provisional measures may not be in effect for more than four months, which in the companion CVD case is 120 days after the publication of the preliminary determination, or October 24, 2023.

determines that such injury does exist, Commerce will issue an antidumping duty order directing CBP to assess, upon further instruction by Commerce, antidumping duties on all imports of the subject merchandise that are entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation, as discussed above in the “Continuation of Suspension of Liquidation” section.

#### Administrative Protective Order

This notice will serve as the final reminder to the parties subject to an administrative protective order (APO) of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

#### Notification to Interested Parties

This determination and this notice are issued and published in accordance with sections 735(d) and 777(i)(1) of the Act, and 19 CFR 351.210(c).

Dated: May 17, 2024.

**Ryan Majerus,**  
*Deputy Assistant Secretary  
for Policy and Negotiations,  
performing the non-exclusive functions and duties  
of the Assistance 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 fabric<sup>24</sup> 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.

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<sup>24</sup> 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 Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Application of Facts Available and Use of Adverse Inference
- IV. China-wide Rate
- V. Final Affirmative Determination of Critical Circumstances
- VI. Changes Since the *Preliminary Determination*
- VII. Discussion of the Issues
  - Comment 1: Whether to Adjust the China-Wide Rate
  - Comment 2: Whether to Adjust the Paper Surrogate Value (SV)
  - Comment 3: Whether to Conduct a Seasonality Analysis as Part of the Critical Circumstances Analysis
- VIII. Recommendation

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