



DEPARTMENT OF COMMERCE

International Trade Administration

[C-570-153]

Certain Paper Shopping Bags from the People's Republic of China: Final Affirmative Countervailing Duty Determination and Final Affirmative Determination of Critical Circumstances

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

SUMMARY: The U.S. Department of Commerce (Commerce) determines that countervailable
subsidies are being provided to producers/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.

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

On November 6, 2023, Commerce published its *Preliminary Determination* in the
Federal Register and invited interested parties to comment.¹ Subsequently, on December 7,

¹ 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) (*Preliminary Determination*), and accompanying Preliminary Decision Memorandum (PDM); see also *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; Correction*, 88 FR 80273 (November 17, 2023).

2024, Commerce released its Post-Preliminary Analysis.² For a complete discussion of the events that followed the *Preliminary Determination*, see the Issues and Decision Memorandum.³

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 interested 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.⁴ We received comments from interested parties on the Preliminary Scope Decision Memorandum, which we addressed in the Final Scope Decision Memorandum.⁵ We did not make any changes to the scope of the investigation from the scope published in the *Preliminary Determination*, as noted in Appendix I.

Verification

² See Memorandum, “Post-Preliminary Analysis Memorandum for the Countervailing Duty Investigation of Certain Paper Shopping Bags from the People’s Republic of China,” dated December 7, 2023 (Post-Preliminary Analysis).

³ See Memorandum, “Issues and Decision Memorandum for the Final Affirmative Determination in 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 (Issues and Decision Memorandum).

⁴ 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).

⁵ 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: Final Scope Decision Memorandum,” dated March 11, 2024 (Final Scope Decision Memorandum).

Commerce was unable to conduct on-site verification of the information relied on in making its final determination in this investigation. However, in December 2023 and January 2024, we took additional steps in lieu of on-site verifications to verify the information relied upon in making this final determination, in accordance with section 782(i) of the Act, by conducting virtual verifications of the mandatory respondents Fujian Nanwang Environment Protection Scienc-tech Co., Ltd. (Fujian Nanwang) and Dongzheng Paperbag (DaLian) Factory (Dongzheng).

Analysis of Subsidy Programs and Comments Received

The subsidy programs under investigation and the issues raised in the case and rebuttal briefs by the parties in this investigation are discussed in the Issues and Decision Memorandum. For a list of the issues raised by interested parties and addressed in the Issues and Decision Memorandum, *see* Appendix II.

Methodology

Commerce conducted this investigation in accordance with section 701 of the Tariff Act of 1930, as amended (the Act). For each of the subsidy programs found to be countervailable, Commerce 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.⁶ For a full description of the methodology underlying our final determination, *see* the Issues and Decision Memorandum.

In making this final determination, Commerce relied, in part, on facts otherwise available, including with an adverse inference, pursuant to sections 776(a) and (b) of the Act. For a full discussion of our application of adverse facts available (AFA), *see* the *Preliminary Determination* PDM⁷ and the Issues and Decision Memorandum at the section entitled “Uses of Facts Available and Application of Adverse Inferences.”

Final Affirmative Determination of Critical Circumstances

⁶ *See* sections 771(5)(B) and (D) of the Act regarding financial contribution; *see* also section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

⁷ *See Preliminary Determination* PDM at 7-28.

In the *Preliminary Determination*, Commerce preliminary determined, in accordance with sections 703(e)(1) and (b) of the Act, and 19 CFR 351.206, that critical circumstances exist with respect to imports of subject merchandise for Dongzheng, Fujian Nanwang, the non-responsive companies,⁸ and all other producers and/or exporters.⁹ For this final determination, in accordance with section 705(a)(2) of the Act as well as our analysis of comments received regarding our affirmative preliminary determination of critical circumstances,¹⁰ Commerce continues to find that critical circumstances exist with respect to imports of subject merchandise for Dongzheng, Fujian Nanwang, the non-responsive companies, and all other producers and/or exporters. For a full description of the methodology and results of our critical circumstances analysis, *see* the Issues and Decision Memorandum.

Changes Since the *Preliminary Determination* and Post-Preliminary Analysis

Based on our review and analysis of the information at verification and comments received from interested parties, we made changes to the subsidy rate calculations for Fujian Nanwang. For a discussion of these changes, *see* the Issues and Decision Memorandum.

All-Others Rate

Pursuant to section 705(c)(5)(A)(i) of the Act, Commerce will determine an all-others rate equal to the weighted-average countervailable subsidy rates established for exporters and/or producers individually investigation, excluding any zero and *de minimis* countervailable subsidy rates, and any rates determined entirely under section 776 of the Act. We continue to calculate individual estimated countervailable subsidy rates for Fujian Nanwang and Dongzheng that are not zero, *de minimis*, or based entirely on facts otherwise available. Therefore, we calculated the

⁸ 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) Qingdao 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.

⁹ *See Preliminary Determination* PDM at 47-49.

¹⁰ *See* Issues and Decision Memorandum at Comment 6.

all-others rate using a simple average of the individual estimated subsidy rates calculated for Fujian Nanwang and Dongzheng.¹¹

Final Determination

Commerce determines that the following estimated countervailable subsidy rate exist for the period January 1, 2022, through December 31, 2022:

Company	Subsidy Rate (percent <i>ad valorem</i>)
Bagitan Packaging	172.36
Changzhou Anjucheng	172.36
Courage Packaging	172.36
Dongzheng Paperbag (DaLian) Factory	40.76
Evertrust Packaging	172.36
Fujian Nanwang Environment Protection Scien-tech Co., Ltd. ¹²	42.36
Geotegrity EcoPack	172.36
GrandIntelligent	172.36
Li & Fung	172.36
Qingdao Chenyu Packaging Co., Ltd.	172.36
Shanghai Macolink Supply Chain Management Co., Ltd.	172.36
Shanghai Sanxi Paper Co., Ltd.	172.36
Xiamen C&D Pulp & Paper Co., Ltd	172.36
Xiamen Champion FMCG	172.36
Xiamen New Idea Packaging Co., Ltd.	172.36
Xiamen Wonderful Bag Import and Export Co., Ltd.	172.36
All Others	41.56

Disclosure

Commerce intends to disclose to interested parties the calculations and analysis performed in this final 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 accordance with 19 CFR 351.224(b).

¹¹ See Memorandum, “Calculation of the All Others Rate,” dated concurrently with this notice, at 1.

¹² As discussed in the *Preliminary Determination*, 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.

Continuation of Suspension of Liquidation

As a result of our *Preliminary Determination*, pursuant to sections 703(d)(1)(B) and (d)(2) of the Act, and because we preliminarily determined that critical circumstances existed with respect to Dongzheng, Fujian Nanwang, the non-responsive companies, and all other producers and/or exporters, we instructed U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise from China that were entered, or withdrawn from warehouse, for consumption, on or after August 8, 2023, which is 90 days prior to the date of the publication of the *Preliminary Determination* in the *Federal Register*.¹³ In accordance with section 703(d) of the Act, we instructed CBP to discontinue the suspension of liquidation of all entries of subject merchandise entered or withdrawn from warehouse, on or after March 5, 2024, but to continue the suspension of liquidation of all entries of subject merchandise on or before March 4, 2024.

If the U.S. International Trade Commission (ITC) issues a final affirmative injury determination, we will issue a countervailing duty (CVD) order, reinstate the suspension of liquidation under section 706(a) of the Act, and require a cash deposit of estimated countervailing duties for entries of subject merchandise in the amounts indicated above. If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated, and all estimated duties deposited or securities posted as a result of the suspension of liquidation will be refunded or cancelled.

ITC Notification

In accordance with section 705(d) of the Act, we will notify the ITC of our final affirmative determination that countervailable subsidies are being provided to producers and exporters of paper bags in China. Because the final determination is affirmative, in accordance with section 705(b) 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

¹³ See *Preliminary Determination*, 88 FR at 76180.

reason of imports of paper bags from China no later than 45 days after our final determination. In addition, we are making available to the ITC all non-privileged and nonproprietary information related to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order (APO), without the written consent of the Assistant Secretary for Enforcement and Compliance. If the ITC determines that material injury or threat of material injury does not exist, this proceeding will be terminated and all cash deposits will be refunded. If the ITC determines that such injury does exist, Commerce will issue a CVD order directing CBP to assess, upon further instruction by Commerce, CVDs on all imports of the subject merchandise that are entered, or withdrawn, 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

In the event that the ITC issues a final negative injury determination, this notice will serve as the only reminder to parties subject to an 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/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 is issued and published in accordance with sections 705(d) and 777(i) 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 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 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 Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Period of Investigation
- IV. Final Critical Circumstances Determination
- V. Subsidies Valuation Information
- VI. Interest Rates and Benchmarks
- VII. Use of Facts Available and Adverse Inferences
- VIII. Analysis of Programs
- IX. Discussion of the Issues
 - Comment 1: Whether Commerce Should Apply Adverse Facts Available (AFA) to the Export Buyer's Credit Program (EBCP)
 - Comment 2: Whether the Income Tax Reductions for High and New Technology Enterprises (HTNE) and Income Tax Deductions for Research and Development Expenses Under the Enterprise Income Tax (EIT) Law are Specific
 - Comment 3: Whether to Apply AFA to Find that the Provision of Kraft Paper for Less Than Adequate Remuneration (LTAR) is Specific And Provides a Financial Contribution From the GOC
 - Comment 4: Whether Commerce Should Apply AFA to Fujian Nanwang's Kraft Paper Purchases
 - Comment 5: Whether Commerce Should use Fujian Nanwang's Total Sales as the Denominator for the Provision of Kraft Paper for LTAR
 - Comment 6: Whether Commerce Should Reverse Its Preliminary Affirmative Critical Circumstances Finding
 - Comment 7: Whether to Use Fujian Nanwang's Corrected Sales and Electricity Usage Data
 - Comment 8: The Countervailability of the Provision of Electricity for LTAR
 - Comment 9: Whether Policy Loans to the Paper Bags Industry Constitute a Financial Contribution and are Specific
 - Comment 10: Whether to Apply AFA to the Provision of Land-Use Rights for LTAR in the Huidong Industrial Zone
 - Comment 11: Whether the Provision of Land-Use Rights Should be Treated as a Financial Contribution in the Form of Revenue Forgone
- X. Recommendation

Appendix I: Other Subsidies Determined to be Countervailable

Appendix II: Identification of Export-Specific Subsidies

Appendix III: AFA Rate Calculation

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