



DEPARTMENT OF COMMERCE

International Trade Administration

[A-533-917]

Certain Paper Shopping Bags from India: Final Affirmative Determination of Sales at Less Than Fair Value and Final Negative Determination of Critical Circumstances

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 India 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.

DATES: Applicable [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: Gorden Struck or Nathan Araya, 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 or (202) 482-3401, 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 India, in which we also postponed the final determination until May 17, 2024.¹ We invited interested parties to comment on the *Preliminary Determination*.²

¹ See *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*, 89 FR 336 (January 3, 2024) (*Preliminary Determination*), and accompanying Preliminary Decision Memorandum (PDM).

² *Id.*, 89 FR at 336.

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.³ The Issues and 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 Issues and Decision Memorandum can be accessed directly at <https://access.trade.gov/public/FRNoticesListLayout.aspx>.

Scope of the Investigation

The product covered by this investigation is certain paper shopping bags from India. For a complete description of the scope of this investigation, *see* Appendix I to this notice.

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 parties on the Preliminary Scope Decision Memorandum, which we address in the Final Scope Decision Memorandum.⁵ We made no changes to the scope of the investigation from the scope published in the *Preliminary Determination*, as noted in Appendix I to this notice.

Final Negative Determination of Critical Circumstances

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

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.

We continue to find that critical circumstances do not exist for imports of paper bags from India for the two mandatory respondents, Aeroplast Packing Solution Private Limited (APSL), Aero Plast Limited (APL), and Aero Business Solutions Private Limited (ABSL) (collectively Aeroplast) and Kuloday Plastomers Pvt Ltd. (KPPL), and for all other Indian producers and exporters pursuant to sections 735(a)(3)(A) and (B) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.206. For further discussion of this issue, *see* the Issues and Decision Memorandum.

Verification

As provided in section 782(i) of the Act, in January and March 2024, we verified the sales and cost information submitted by Aeroplast and KPPL for use in our final determination. We used standard verification procedures, including an examination of relevant sales and accounting records, and original source documents provided by Aeroplast and KPPL.⁶

Analysis of Comments Received

All issues raised in the case and rebuttal briefs submitted by interested parties in this investigation 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.

Changes Since the *Preliminary Determination*

We made certain changes to the margin calculation for Aeroplast and KPPL since the *Preliminary Determination*.⁷ In addition, Aeroplast requested that the name of one its affiliates

⁶ *See* Memoranda, “Verification of the Sales Response of Aeroplast Packaging Solution Private Limited (APSL) and affiliates, Aeroplast Limited (APL) and Aero Business Solutions Private Limited (ABSL) in the Antidumping Duty Investigation on Certain Paper Shopping Bags from India,” dated March 7, 2024; “Verification of the Sales Response of Kuloday Plastomers Pvt Ltd. in the Antidumping Duty Investigation of Certain Paper Shopping Bags from India,” dated March 7, 2024; “Verification of the Cost Response of Kuloday Plastomers Private Limited in the Antidumping Duty Investigation of Certain Paper Shopping Bags from India,” dated April 18, 2024; and “Verification of the Cost Response of Aeroplast Packaging Solutions Private Limited in the Less Than Fair Value Investigation of Certain Paper Shopping Bags from India,” dated April 24, 2024.

⁷ *See* Memoranda, “Allegation of Ministerial Error in the Preliminary Determination,” dated February 2, 2024; “Analysis for the Final Determination for Aero Business Solutions Private Limited; Aero Plast Limited; and Aeroplast Packaging Solution Private Limited,” dated concurrently with this notice; and “Analysis for the Final Determination for Kuloday Plastomers Pvt Ltd.,” dated concurrently with this notice.

be updated for the purpose of the final determination and final customs instructions.⁸ For a discussion of these changes, *see* the Issues and Decision Memorandum.

Use of Adverse Facts Available

As discussed in the *Preliminary Determination*, the following companies failed to respond to Commerce’s quantity and value questionnaire: Apex Paper and Plastic and Film (Apex); Asha Overseas (Asha); Godhani Exports (Godhani); and Pack Easy Paper Products (Pack Easy). Consequently, for the *Preliminary Determination*, we determined that it was appropriate to apply adverse facts available (AFA) pursuant to sections 776(a)(1), 776(a)(2)(A)-(C), and 776(b) of the Act, with respect to Apex, Asha, Godhani, and Pack Easy.⁹ Absent comments on the application of AFA, we continue to assign the estimated weighted-average dumping margin, *i.e.*, the highest transaction-specific margin calculated of 53.05 percent (because we are unable to corroborate the highest rate in the Petition of 96.15 percent¹⁰) for these companies on the basis of AFA, pursuant to sections 776(a)(1), 776(a)(2)(A)-(C), and 776(b) of Act.¹¹

All-Others Rate

Section 735(c)(5)(A) of the Act provides that the estimated weighted-average dumping margin for all other producers and exporters not individually investigated shall be equal to the weighted average of the estimated weighted-average dumping margins established for exporters or producers individually investigated excluding rates that are zero, *de minimis*, or determined entirely under section 776 of the Act. Pursuant to section 735(c)(5)(B) of the Act, if the estimated weighted-average dumping margins established for all exporters or producers

⁸ *See* Aeroplast’s Letter, “Case Brief of Packaging Solution Private Limited,” dated May 2, 2024 (citing Aeroplast’s Letters, “Request to Correct the Clerical Error,” dated February 2, 2024; “Section A Response,” dated September 14, 2023, at Exhibit A-13(b) and Exhibit A-13(d); and “Aero Plast Packaging Solutions Private Limited (APSL) 1st Supplemental Section ABC Response to Antidumping Duty Investigation Questionnaire,” dated November 28, 2023, at Exhibit S3-2).

⁹ *See Preliminary Determination PDM* at 5.

¹⁰ *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 41689, 41692 (June 27, 2023).

¹¹ *See Preliminary Determination PDM*.

individually examined are zero, *de minimis*, or determined based entirely on facts otherwise available, Commerce may use any reasonable method to establish the estimated weighted-average dumping margin for all other producers and exporters.

Here, Commerce calculated an estimated weighted-average dumping margin of zero percent for Aeroplast. 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 estimated weighted-average dumping margin for all other producers and exporters.

Final Determination

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

Exporter/Producer	Estimated Weighted-Average Dumping Margin (percent)	Cash Deposit Rate (Adjusted for Export Subsidy Offset) (percent)
Aeroplast Packaging Solution Private Limited; Aero Plast Limited; Aero Business Solutions Private Limited	0.00	Not Applicable
Kuloday Plastomers Pvt. Ltd.	4.59	1.20
Adeera Packaging Pvt. Ltd.	4.59	1.20
Amate Products Pvt. Ltd.	4.59	1.20
Apex Paper and Plastic and Film	53.05*	49.66
Archies Limited	4.59	1.20
Asha Overseas	53.05*	49.66
Carrywell Packaging Pvt. Ltd.	4.59	1.20
Colorbox	4.59	1.20
Dynaflex Private Limited	4.59	1.20
Godhani Exports	53.05*	49.66
Pack Easy Paper Products	53.05*	49.66
Pack Planet Pvt. Ltd.	4.59	1.20
Poonam	4.59	1.20
Shriniwas Enterprises	4.59	1.20
Tejaswi Plastic Pvt. Ltd.	4.59	1.20
The Velvin Group (DBA Velvin Packaging Solutions Pvt. Ltd. and Velvin Paper Products)	4.59	2.21
Vama Packaging	4.59	1.20
All Others	4.59	1.20

* Rate based on AFA.

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)(1)(B) of the Act, we will instruct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of all appropriate entries of subject merchandise, as described in Appendix I of this notice, 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* except for those entries of subject merchandise produced and exported by Aeroplast.

Pursuant to section 735(c)(1)(B)(ii) of the Act and 19 CFR 351.210(d), where appropriate, 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 companies listed above that exported the subject merchandise will be equal to the company-specific estimated weighted-average dumping margin determined in this final determination; (2) if the exporter is not a company 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 estimated weighted-average dumping margin for all other producers and exporters. These suspension of liquidation instructions will remain in effect until further notice.

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

liquidation of entries of subject merchandise produced and exported by Aeroplast. However, entries of subject merchandise from this company in any other producer/exporter combination (*i.e.*, where Aeroplast, is either the producer or the exporter, but not both), or by third parties that sourced subject merchandise from the excluded producer/exporter combination, will be subject to suspension of liquidation at the all-others rate.

Further, because the estimated weighted-average dumping margin is zero for subject merchandise produced and exported by Aeroplast, entries of such merchandise will be excluded from the potential antidumping duty order. Such an exclusion will not be applicable to merchandise exported to the United States by this respondent in any other producer/exporter combinations 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 has made a final 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 “Final Determination” section above.

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 India 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

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 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 return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the 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 pursuant to 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 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
- Shopping bags (i) with non-paper handles made wholly of woven ribbon or other similar woven fabric¹² 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

¹² 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. Final Negative Determination of Critical Circumstances

IV. Changes Since the *Preliminary Determination*

V. Discussion of the Issues

Comment 1: Shorter Cost Averaging Periods for KPPL

Comment 2: Correction of Aeroplast's Name in the Final Determination and
Final Customs Instructions

Comment 3: Adverse Inference For Shorter Cost Averaging Periods for
Aeroplast

VI. Recommendation

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