



DEPARTMENT OF COMMERCE

International Trade Administration

[C-533-918]

Certain Paper Shopping Bags from India: Final Affirmative Countervailing Duty

Determination and Final Affirmative Critical Circumstances Determination, in Part

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 and exporters of certain paper shopping bags (paper bags) from India. 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: Drew Jackson or Paul Kebker, AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-4406 or (202) 482-2254, respectively.

SUPPLEMENTARY INFORMATION:

Background

On November 6, 2023, Commerce published the *Preliminary Determination* in the *Federal Register*.¹ Commerce invited parties to comment on the *Preliminary Determination*.² For a complete description of the events that followed the *Preliminary Determination*, see the

¹ See *Certain Paper Shopping Bags from India: Preliminary Affirmative Determination of Countervailable Subsidies, Preliminary Affirmative Determination of Critical Circumstances in Part, and Alignment of Final Determination With the Final Antidumping Duty Determination*, 88 FR 76185 (November 6, 2023)(*Preliminary Determination*), and accompanying Preliminary Decision Memorandum (PDM).

² *Id.*

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 products covered by this investigation are paper bags from India. For a complete description of the scope of the 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.⁴ We received comments from interested parties on the Preliminary Scope Decision Memorandum, which we addressed in the Final Scope Decision Memorandum.⁵ As a result of these comments, we made certain changes to the scope of this investigation from that published in the *Preliminary Determination*. *See* Appendix I.

Analysis of Subsidy Programs and Comments Received

The subsidy programs under investigation, and the issues raised in the case and rebuttal briefs by parties in this investigation, are discussed in the Issues and Decision Memorandum.

³ *See* Memorandum, "Issues and Decision Memorandum for the Final Affirmative Determination of the Countervailing Duty Investigation of Certain 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 (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).

For a list of the issues raised by parties, and to which we responded 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.

Verification

Consistent with section 782(i) of the Act, in January 2024, Commerce verified all information reported by Aeroplast Packaging Solution Private Limited (Aeroplast Packaging),⁷ Velvin Paper Products (Velvin Paper), and the Government of India (GOI). We used standard verification procedures, including an examination of relevant account records and original source documents provided by the respondents.⁸

Final Affirmative Determination of Critical Circumstances, in Part

In accordance with sections 705(a)(2), and 776(a) and (b) of the Act, and 19 CFR 351.206, as well as our analysis of comments received regarding our affirmative preliminary determination of critical circumstances,⁹ Commerce continues to find that critical circumstances exist with respect to imports of paper bags from India for one of the mandatory respondents, Velvin Paper. In addition, we continue to find that critical circumstances do not exist with respect to imports of paper bags from Aeroplast Packaging Solution Private Limited (Aeroplast

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

⁷ In the *Preliminary Determination*, Commerce identified this respondent as “Aero Plast Packaging Solutions Private Limited.” Commerce has corrected the name of this respondent. *See* Issues and Decision Memorandum at Comment 5.

⁸ *See* Memoranda, “Verification of the Questionnaire Responses of the Government of India,” dated March 22, 2024; “Verification of the Questionnaire Responses of Aeroplast Packaging Solution Private Limited,” dated March 22, 2024; and “Verification of the Questionnaire Responses of Velvin Paper Products,” dated March 22, 2024.

⁹ *See Preliminary Determination PDM.*

Packaging) and all other companies not individually examined. For a full description of the methodology and results of Commerce's 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 received during verification and comments received from parties, for this final determination, we made certain changes to the countervailable subsidy rate calculations for Aeroplast Packaging, Velvin Paper, and for all other producers/exporters. For a discussion of these changes, *see* the Issues and Decision Memorandum.

All-Others Rate

In accordance with section 705(c)(1)(B)(i) of the Act, we calculated an individual estimated countervailable subsidy rate for the two mandatory respondents, Aeroplast Packaging and Velvin Paper. Section 705(c)(5)(A)(i) of the Act states that, for companies not individually investigated, Commerce will determine an all-others rate equal to the weighted-average countervailable subsidy rates established for exporters and/or producers individually investigated, 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 Aeroplast Packaging and Velvin Paper that are not zero, *de minimis*, or based entirely on facts otherwise available. We, therefore, continue to calculate the all-others rate using a weighted average of the individual estimated subsidy rates calculated for the examined respondents (Aeroplast Packaging and Velvin Paper) using each company's publicly-ranged sales value for their exports to the United States of subject merchandise,¹⁰ in accordance with section 705(c)(5)(A)(i) of the Act.

¹⁰ With two respondents under examination, Commerce normally calculates: (A) a weighted-average of the estimated subsidy rates calculated for the examined respondents; (B) a simple average of the estimated subsidy rates calculated for the examined respondents; and (C) a weighted-average of the estimated subsidy rates calculated for the examined respondents using each company's publicly-ranged U.S. sale quantities for the merchandise under consideration. Commerce then compares (B) and (C) to (A) and selects the rate closest to (A) as the most

Final Determination

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

Company	Subsidy Rate (percent <i>ad valorem</i>)
Aeroplast Packaging Solution Private Limited ¹¹	4.81
Velvin Paper Products ¹²	2.38
All Others	3.39

Disclosure

Commerce intends to disclose its calculations and analysis performed to interested parties in this final determination within five days of its public announcement or, if there is no public announcement, within five days of the date of the publication of this notice in the *Federal Register*, accordance with 19 CFR 351.244(b).

appropriate rate for all other producers and exporters. *See, e.g., Ball Bearings and Parts Thereof from France, Germany, Italy, Japan, and the United Kingdom: Final Results of Antidumping Administrative Reviews, Final Results of Changed-Circumstances Review, and Revocation of an Order in Part*, 75 FR 53661, 53663 (September 1, 2010); *see also Forged Steel Fluid End Blocks from Italy: Preliminary Affirmative Countervailing Duty Determination, and Alignment of Final Determination with Final Antidumping Duty Determination*, 85 FR 31460, 31461 (May 26, 2020), unchanged in *Forged Steel Fluid End Blocks from Italy: Final Affirmative Countervailing Duty Determination*, 85 FR 80022, 80023 (December 11, 2020).

¹¹ Aeroplast Packaging Solution Private Limited is cross-owned with Aero Business Solutions Private Limited and Aero Plast Limited.

¹² Velvin Paper Products is cross-owned with Velvin Packaging Solutions Private Limited.

Continuation of Suspension of Liquidation

As a result of our *Preliminary Determination*, and pursuant to sections 703(d)(1)(B) and (d)(2) of the Act, Commerce instructed U.S. Customs and Border Protection (CBP) to collect cash deposits and suspend liquidation of entries of subject merchandise as described in the scope of the investigation section entered, or withdrawn from warehouse, for consumption on or after November 6, 2023, the date of publication of the *Preliminary Determination* in the *Federal Register*. Because we preliminarily determined that critical circumstances existed with respect to Velvin Paper, we instructed CBP to suspend such entries 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, on March 4, 2024, 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 order, reinstate the suspension of liquidation under section 706(a) of the Act, and require a cash deposit of estimated countervailing duties for such 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.

¹³ See *Preliminary Determination*.

ITC Notification

In accordance with section 705(d) of the Act, Commerce will notify the ITC of its final affirmative determination that countervailable subsidies are being provided to producers and exporters of paper bags from India. As Commerce's final determination is affirmative, in accordance with section 705(b) of the Act, the ITC will determine, within 45 days, whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of import of certain paper shopping bags from India. In addition, we are making available to the ITC all non-privileged and non-proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under 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 countervailing duty order directing CBP to assess, upon further instruction by Commerce, countervailing duties 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 the 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 pursuant to 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 fabric¹⁴ 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.

¹⁴ 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. Scope of the Investigation
- IV. Determination of Critical Circumstances, In Part
- V. Subsidies Valuation
- VI. Changes Since the *Preliminary Determination*
- VII. Analysis of Programs
- VIII. Discussion of the Issues
 - Comment 1: Whether Commerce Correctly Calculated the Benefits Under Advance License Program (AAP)
 - Comment 2(a): Whether Remission of Duties and Taxes on Export Products (RODTEP) is Countervailable
 - Comment 2(b): Whether Commerce Incorrectly Calculated the Benefits Under the RODTEP Program
 - Comment 3: Whether Duty Drawback (DDB) is Countervailable
 - Comment 4: Whether Commerce has Incorrectly Calculated Benefits Under the Government of Haryana's Freight Assistance Scheme (FAS)
 - Comment 5: Whether Commerce Should Correct the Spelling of Aeroplast Packaging Solution Private Limited
- IX. Recommendation