



DEPARTMENT OF COMMERCE

International Trade Administration

[A-471-808]

Certain Paper Shopping Bags from Portugal: 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 Portugal are being, or are likely to be, sold in the United States at less than fair value (LTFV) for the period of investigation April 1, 2022, through March 31, 2023.

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

FOR FURTHER INFORMATION CONTACT: Colin Thrasher, 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) 482-3004.

SUPPLEMENTARY INFORMATION:

Background

On January 3, 2024, Commerce published in the *Federal Register* its preliminary determination in the LTFV investigation of paper bags from Portugal, 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 Portugal: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Preliminary Negative Determination of Critical Circumstances, and Postponement of Final Determination, and Extension of Provisional Measures*, 89 FR 341 (January 3, 2024) (*Preliminary Determination*), and accompanying Preliminary Decision Memorandum.

² See *Preliminary Determination*, 89 FR at 341.

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 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 <http://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 Portugal. 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.⁴ We received comments from parties on the Preliminary Scope Decision Memorandum, which we addressed 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

We continue to find that critical circumstances do not exist for imports of paper bags

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

from Portugal for the mandatory respondent (Finieco Indústria e Comércio de Embalagens, S.A. (Finieco)) and for all other 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, we conducted verifications of the sales and cost information submitted by Finieco 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 Finieco.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 have made certain changes to the margin calculations for Finieco since the *Preliminary Determination*. For a discussion of these changes, *see* the Issues and Decision Memorandum.

Use of Facts Available

For the purposes of this final determination, we find that pursuant to section 776(a)(1) of the Act, that the use of facts available is warranted in determining the calculation of commission expenses in the U.S. market because necessary information is missing from the record. For a further discussion of these issues, *see* the Issues and Decision Memorandum.

All Others Rate

⁶ *See* Memorandum, “Verification of the Sales Responses of Finieco Indústria e Comércio de Embalagens, SA in the Less-Than-Fair-Value Investigation of Certain Paper Shopping Bags from Portugal,” dated March 21, 2024; and Memorandum, “Verification of the Cost Responses of Finieco Indústria e Comércio de Embalagens, SA in the Antidumping Duty Investigation of Certain Paper Shopping Bags from Portugal,” dated April 22, 2024.

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 and 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 and producers 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 or exporters.

Commerce calculated an individual estimated weighted-average dumping margin for Finieco, the only individually examined exporter/producer in this investigation. Because the only individually calculated dumping margin is not zero, *de minimis*, or based entirely on facts otherwise available, the estimated weighted-average dumping margin calculated for Finieco is the margin assigned to all other producers and exporters, pursuant to section 735(c)(5)(A) of the Act.

Final Determination

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

Exporter/Producer	Weighted-Average Dumping Margin (percent)
Finieco Indústria e Comércio de Embalagens, S.A.	6.14
All Others	6.14

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 subject merchandise entries, as described in Appendix I of this notice, which are 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*.

Pursuant to section 735(c)(1)(B)(ii) of the Act and 19 CFR 351.210(d), Commerce will instruct CBP to require a cash deposit equal to the amount by which the normal value exceeds the U.S. price as follows: (1) the cash deposit rate for the exporter/producer combination listed in the table above will be the rate identified in the table; (2) for all combinations of Portuguese exporters/producers of subject merchandise that have not received their own cash deposit rate above, the cash deposit rate will be the all-others rate; and (3) for all non-Portuguese exporters of subject merchandise which have not received their own cash deposit rate above, the cash deposit rate will be the cash deposit rate applicable to the Portuguese exporter/producer combination that supplied that non-Portuguese 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 Portugal 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 the 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
- Paper sacks or bags (i) with non-paper handles made wholly of woven ribbon or other similar woven fabric⁷ 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.

⁷ 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. Final Negative Determination of Critical Circumstances
- IV. Changes Since the *Preliminary Determination*
- V. Discussion of the Issues
 - Comment 1: How to Treat Administrative Fees Paid in the U.S. Market
 - Comment 2: How to Classify “Fixed” Commissions
 - Comment 3: Minor Corrections to Finieco’s Data
 - Comment 4: General and Administrative and Financial Expense Rates Calculation
 - Comment 5: Unreconciled Cost Difference
- VI. Recommendation

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