



DEPARTMENT OF COMMERCE

International Trade Administration

[C-570-165]

Certain Paper Plates from the People's Republic of China: Final Affirmative Countervailing Duty Determination and Final Affirmative Determination of Critical Circumstances, 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 plates (paper plates) from the People's Republic of China (China). The period of investigation is January 1, 2023, through December 31, 2023.

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

FOR FURTHER INFORMATION CONTACT: Sun Cho, 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) 482-6458.

SUPPLEMENTARY INFORMATION:

Background

On July 1, 2024, Commerce published its *Preliminary Determination* in the *Federal Register* and invited interested parties to comment.¹ On July 22, 2024, Commerce tolled certain deadlines in this administrative proceeding by seven days.² The deadline for the final

¹ See *Certain Paper Plates from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination, Preliminary Affirmative Determination of Critical Circumstances, in Part, and Alignment of Final Determination With Final Antidumping Duty Determination*, 89 FR 54432 (July 1, 2024) (*Preliminary Determination*), and accompanying Preliminary Decision Memorandum (PDM).

² See Memorandum, "Tolling of Deadlines for Antidumping and Countervailing Duty Proceedings," dated July 22, 2024.

determination is now January 21, 2025.

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 <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 plates from China. For a complete description of the scope of this investigation, *see* Appendix I.

Scope Comments

We received no comments from interested parties on the scope of the investigation as it appeared in the *Preliminary Determination*. Therefore, we made no changes to the scope of the investigation.

Analysis of Subsidy Programs and Comments Received

The subsidy programs under investigation, and the issues raised in the case and rebuttal briefs that were submitted by 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.

³ *See* Memorandum, "Issues and Decision Memorandum for the Final Affirmative Determination in the Countervailing Duty Investigation of Certain Paper Plates from the People's Republic of China," dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

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.⁴ 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 (AFA), pursuant to sections 776(a) and (b) of the Act. For a full discussion of our application of AFA, *see* the *Preliminary Determination*,⁵ and the Issues and Decision Memorandum section entitled “Use of Facts Otherwise Available and Application of Adverse Inferences.”

Verification

As provided in section 782(i) of the Act, in August and September 2024, we conducted verification of information submitted by Fuzhou Hengli Paper Co., Ltd. (Fuzhou Hengli) and Jinhua P&P Product Co., Ltd. (Jinhua P&P) for use in our final determination. We used standard verification procedures, including an examination of relevant accounting records, and original source documents provided by Fuzhou Hengli and Jinhua P&P.⁶

Final Affirmative Determination of Critical Circumstances, in Part

Commerce preliminarily determined, in accordance with sections 703(e)(1)(A) and (B) of the Act, and 19 CFR 351.206, that critical circumstances existed with respect to imports of subject merchandise for Fuzhou Hengli, the “all-other” producers and/or exporters, and four companies who did not respond to our quantity and value questionnaire (hereinafter referred to

⁴ *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.

⁵ *See Preliminary Determination* PDM at 8-32.

⁶ *See* Memoranda, “Verification of Fuzhou Hengli Paper Co., Ltd. Questionnaire Responses,” dated October 9, 2024; “Verification of Jinhua P&P Product Co., Ltd. Questionnaire Responses,” dated October 9, 2024; and “Export Buyer’s Credit Program Questionnaire Response Verification (Customer A),” dated October 9, 2024.

as the “non-responsive companies”),⁷ and did not exist for Jinhua P&P.⁸ For this final determination, in accordance with section 705(a)(2) of the Act, Commerce continues to find that critical circumstances exist with respect to imports of subject merchandise for Fuzhou Hengli, all-other producers and/or exporters, and the non-responsive companies, and do not exist with respect to imports of subject merchandise for Jinhua P&P. 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

Based on our analysis of the comments received from interested parties and our verification findings, we made certain changes to the subsidy rate calculations for Fuzhou Hengli and Jinhua P&P. 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 examined, excluding any rates that are zero, *de minimis*, or rates based entirely under section 776 of the Act. In this investigation, Commerce calculated total net subsidy rates for Fuzhou Hengli and Jinhua P&P that are not zero, *de minimis*, or based entirely on the facts otherwise available. Because Commerce calculated individual estimated countervailable subsidy rates for Fuzhou Hengli and Jinhua P&P that are not zero, *de minimis*, or based entirely on the facts otherwise available, we have calculated the all-others rate using a weighted-average of the individual estimated subsidy rates calculated for the examined respondents using each company’s publicly-ranged sales values.

⁷ These companies are: (1) Ningbo Artcool Co., Ltd.; (2) Ningbo Fenghua Yongfa Printing Stationery Co., Ltd.; (3) Zhejiang Kingsun Eco-Pack Co., Ltd.; and (4) Zhejiang Lingrong Crafts Co., Ltd.

⁸ *See Preliminary Determination PDM* at 7.

Final Determination

Commerce determines that the following estimated countervailable subsidy rates exist:

| Company | Subsidy Rate (percent <i>ad valorem</i>) |
|---|---|
| Fuzhou Hengli Paper Co., Ltd. | 11.38 |
| Jinhua P&P Product Co., Ltd. | 4.47 |
| Ningbo Artcool Co., Ltd. | 295.08* |
| Ningbo Fenghua Yongfa Printing Stationery Co., Ltd. | 295.08* |
| Zhejiang Kingsun Eco-Pack Co., Ltd. | 295.08* |
| Zhejiang Lingrong Crafts Co., Ltd. | 295.08* |
| All Others | 10.61 |

* Rate based on AFA.

Disclosure

Commerce intends to disclose its calculations and analysis performed in connection with this final determination within five days of its 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).

Suspension of Liquidation

As a result of our *Preliminary Determination* and pursuant to sections 703(d)(1)(B) and (d)(2) of the Act, 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 July 1, 2024, the date of publication of the *Preliminary Determination* in the *Federal Register*.⁹ Because we preliminarily determined that critical circumstances existed with respect to Fuzhou Hengli, the non-responsive companies, and companies covered by the all-others rate, we instructed CBP to suspend such entries on or after April 2, 2024, which is 90 days prior to the date of the publication of the *Preliminary Determination* in the *Federal Register*. 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 October 29, 2024, but to continue the

⁹ See *Preliminary Determination*, 89 FR at 54433.

suspension of liquidation of all entries of subject merchandise that were subject to suspension of liquidation between April 2, 2024, and October 28, 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 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 canceled.

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 plates from 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 reason of imports of paper plates 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, countervailing 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 “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 pursuant to sections 705(d) and 777(i) of the Act, and 19 CFR 351.210(c).

Dated: January 21, 2025.

Abdelali Elouaradia,

Deputy Assistant Secretary

for Enforcement and Compliance.

Appendix I

Scope of the Investigation

The merchandise subject to this investigation is certain paper plates. Paper plates subject to this investigation may be cut from rolls, sheets, or other pieces of paper and/or paper board. Paper plates subject to this investigation have a depth up to and including two (2.0) inches, as measured vertically from the base to the top of the lip, or the edge if the plate has no lip. Paper plates subject to this investigation may be uncolored, white, colored, or printed. Printed paper plates subject to this investigation may have any type of surface finish, and may be printed by any means with images, text and/or colors on one or both surfaces. Colored paper plates subject to this investigation may be colored by any method, including but not limited to printing, beater-dyeing, and dip-dyeing. Paper plates subject to this investigation may be produced from paper of any type (including, but not limited to, bamboo, straws, bagasse, hemp, kenaf, jute, sisal, abaca, cotton inters and reeds, or from non-plant sources, such as synthetic resin (petroleum)-based resins), may have any caliper or basis weight, may have any shape or size, may have one or more than one section, may be embossed, may have foil or other substances adhered to their surface, and/or may be uncoated or coated with any type of coating.

The paper plates subject to this investigation remain covered by the scope of this investigation whether imported alone, or in any combination of subject and non-subject merchandise. When paper plates subject to this investigation are imported in combination with non-subject merchandise, only the paper plates subject to this investigation are subject merchandise.

The paper plates subject to this investigation include paper plates matching the above description that have been finished, packaged, or otherwise processed in a third country by performing finishing, packaging, or processing that would not otherwise remove the merchandise from the scope of the investigation if performed in the country of manufacture of the paper plates. Examples of finishing, packaging, or other processing in a third country that would not otherwise remove the merchandise from the scope of the investigation if performed in the country of manufacture of the paper plates include, but are not limited to, printing, application of other surface treatments such as coatings, repackaging, embossing, and application of foil surface treatments.

Excluded from the scope of this investigation are paper plates molded or pressed directly from paper pulp (including but not limited to unfelted pulp), which are currently classifiable under subheading 4823.70.0020 of the Harmonized Tariff Schedule of the United States (HTSUS).

Also excluded from the scope of this investigation are articles that otherwise would be covered but which exhibit the following two physical characteristics: (a) depth (measured vertically from the base to the top of the lip, or edge if no lip) equal to or greater than 1.25 inches but less than two (2.0) inches, and (b) a base not exceeding five (5.0) inches in diameter if round, or not exceeding 20 square inches in area if any other shape.

Also excluded from the scope of this investigation are paper bowls, paper buckets, and paper food containers with closeable lids.

Paper plates subject to this investigation are currently classifiable under HTSUS subheading 4823.69.0040. Paper plates subject to this investigation also may be classified under HTSUS subheading 4823.61.0040. If packaged with other articles, the paper plates subject to this investigation also may be classified under HTSUS subheadings 9505.90.4000 and 9505.90.6000.

While the HTSUS subheading(s) are provided for convenience and customs purposes, the written description of the subject merchandise is dispositive.

Appendix II

List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Final Determination of Critical Circumstances, in Part
- IV. Use of Facts Otherwise Available and Application of Adverse Inferences
- V. Subsidies Valuation Information
- VI. Analysis of Programs
- VII. Discussion of the Issues
 - Comment 1: Countervailability of Policy Loans to the Paper Plate Industry
 - Comment 2: Countervailability of the Enterprise Income Tax (EIT) Law Research and Development (R&D) Program
 - Comment 3: Countervailability of the Provision of Electricity for Less Than Adequate Remuneration (LTAR)
 - Comment 4: Appropriate Electricity Benchmark
 - Comment 5: Appropriate Denominator for Other Subsidy Programs
 - Comment 6: Countervailability of Other Subsidies
 - Comment 7: Whether Commerce Should Modify its Adverse Facts Available (AFA) Rate Selection Methodology
 - Comment 8: Whether Commerce Should Apply AFA Regarding the Export Buyer's Credits Program (EBCP)
 - Comment 9: Whether to Apply AFA to the Provision of Land-Use Rights for LTAR
- VIII. Recommendation

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