

Sayı: 33179930-TİM.OAİB.08.ARG3.2023/253-6591
Konu: ABD KAĞIT TORBALAR DAMPİNG SORUŞTURMASI

Ankara, 23/06/2023

İlgi: a)05/06/2023 tarihli ve 2023/209-5891 sayılı yazımız
b)13/06/2023 tarihli ve 2023/220-6135 sayılı yazımız

Sayın Üyemiz,

Amerika Birleşik Devletleri (ABD) yerli üreticileri tarafından Kamboçya, Çin, Kolombiya, Hindistan, Malezya, Portekiz, Tayvan, Vietnam'ın yanısıra ülkemiz menşeli kağıt alışveriş torbalarının ve çantalarının ithalatına yönelik dumping soruşturması, ilaveten aynı ürünlerin Çin ve Hindistan menşeli olanlarının ithalatında telafi edici vergi soruşturması açılması için ABD Ticaret Bakanlığı'na (DOC) ve ABD Uluslararası Ticaret Komisyonu'na (USITC) 31 Mayıs 2023 yapılan başvurunun ACCESS'te (ABD Ticaret Departmanı Online Belge Portalı) yayımlandığına ve söz konusu başvuruda yer alan firma bilgileri ile sürece dair bilgiler İlgi'de kayıtlı yazımızla üyelerimize iletilmişti.

Bu defa, şikâyet başvuruları sonrasında soruşturmanın açılıp açılmayacağı kararını 20 gün içerisinde veren DOC, soruşturma açılması kararını ACCESS'te (ABD Ticaret Departmanı Online Belge Portalı) yayımlamıştır. Söz konusu karar yazımız ekinde sunulmakta olup, Kararın incelenmesinden ITA ihracatçı firma sayısının fazla olması durumunda soruşturmaya taraf olacak firmaları seçme yoluna gidebileceğini belirtmiş olup, soru formlarına, soruşturma takvimine ve diğer hususlara <https://www.trade.gov/ec-adcvd-case-announcements> adresinden erişim sağlanabilmektedir.

Yine İlgi'de kayıtlı yazımızda USITC'nin soruşturmasına taraf olan ihracatçı firmalarımız için genel olarak soruşturma süreçlerine dair, Ticaret Bakanlığı tarafından bir bilgilendirme toplantısı yapılacağı üyelerimize iletilmişti. Ticaret Bakanlığı tarafından dikkatle takip edilen soruşturmalarda ihracatçılarımızla eşgüdüm ve uyum içerisinde sürecin yürütülmesinin önem arz ettiği belirtilmiştir. Bu çerçevede, USITC'nin soruşturmasına taraf olan ihracatçı firmalarımız için genel olarak soruşturma süreçlerine dair 7 Temmuz 2023 Cuma günü saat 14:30'da online bir bilgilendirme toplantısı yapılacak olup, toplantıya <https://zoom.us/j/92179307143?pwd=YmxmV1ZuTFFAwd25PS0RXWmN0THd1QT09> linkinden katılım sağlanabilecektir. Toplantı için kayıt yaptıran üyelerimizin demircank@oaib.org.tr adresine katılım durumlarını bildirmeleri önemle rica olunur.

Bilgilerini ve gereğini rica ederim.

Musa DEMİR
Genel Sekreter

Ayrıntılı bilgi için: Kerem Demircan - Uzman Yardımcısı

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DEPARTMENT OF COMMERCE

INTERNATIONAL TRADE ADMINISTRATION

A-555-002, A-570-152, A-301-805, A-533-917, A-557-825, A-471-808, A-583-872, A-489-849, A-552-836

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

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

DATES: Applicable June 20, 2023.

FOR FURTHER INFORMATION CONTACT: Charles Doss (Cambodia) at (202) 482-4474; Yang Jin Chun (the People's Republic of China (China)) at (202) 482-5760; Laurel LaCivita (Colombia) at (202) 482-4243; David Crespo (India) at (202) 482-3693; Dan Alexander (Malaysia) at (202) 482-4313; Whitley Herndon (Portugal) at (202) 482-6274; Brittany Bauer (Taiwan) at (202) 482-3860; Magd Zalok (the Republic of Turkey (Turkey)) at (202) 482-4162; and Myrna Lobo (the Socialist Republic of Vietnam (Vietnam)) at (202) 482-2371, AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION

The Petitions

On May 31, 2023, the U.S. Department of Commerce (Commerce) received antidumping duty (AD) petitions concerning imports of certain paper shopping bags (paper bags) from Cambodia, China, Colombia, India, Malaysia, Portugal, Taiwan, Turkey, and Vietnam filed in

proper form on behalf of the Coalition for Fair Trade in Shopping Bags (the petitioner).¹ These AD petitions were accompanied by countervailing duty (CVD) petitions concerning imports of paper bags from China and India.²

On June 2, 5, and 13, 2023, Commerce requested supplemental information pertaining to certain aspects of the Petitions in a separate supplemental questionnaires.³ The petitioner filed responses to the supplemental questionnaires on June 8, 9, 12, and 15, 2023.⁴

In accordance with section 732(b) of the Tariff Act of 1930, as amended (the Act), the petitioner alleges that imports of paper bags from Cambodia, China, Colombia, India, Malaysia, Portugal, Taiwan, Turkey, and Vietnam are being, or are likely to be, sold in the United States at less than fair value (LTFV) within the meaning of section 731 of the Act, and that imports of such products are materially injuring, or threatening material injury to, the paper bag industry in the United States. Consistent with section 732(b)(1) of the Act, the Petitions are accompanied by information reasonably available to the petitioner supporting its allegations.

¹ See Petitioner's Letter, "Petitions for The Imposition of Antidumping and Countervailing Duties on Certain Paper Shopping Bags from Cambodia, China, Colombia, India, Malaysia, Portugal, Taiwan, Turkey, and Vietnam," dated May 31, 2023 (the Petitions) at 2-3. The members of the Coalition for Fair Trade in Shopping Bags include Novolex Holdings, LLC (Novolex) and the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union (USW) (collectively, the petitioner).

² See Petitioner's Letter, "Petitions for The Imposition of Antidumping and Countervailing Duties on Certain Paper Shopping Bags from Cambodia, China, Colombia, India, Malaysia, Portugal, Taiwan, Turkey, and Vietnam," dated May 31, 2023.

³ See Commerce's Letters, "Petitions for the Imposition of Antidumping and Countervailing Duties on Imports 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," dated June 2, 2023 (General Issues Questionnaire); and Country-Specific Supplemental Questionnaires: Cambodia Supplemental, China Supplemental, Colombia Supplemental, India Supplemental, Malaysia Supplemental, Portugal Supplemental, Taiwan Supplemental, Turkey Supplemental, and Vietnam Supplemental, dated June 5, 2023; *see also* Memorandum, "Phone Call with Counsel to the Petitioner," dated June 13, 2023.

⁴ See Petitioner's Letters, "Certain Paper Shopping Bags from Cambodia, China, Colombia, India, Malaysia, Portugal, Taiwan, Turkey, and Vietnam: Response of Petitioner to Volume I Supplemental Questionnaire," dated June 8, 2023 (First General Issues Supplement); Country-Specific Supplemental Responses, dated June 9 and 12, 2023; "Certain Paper Shopping Bags from Cambodia, China, Colombia, India, Malaysia, Portugal, Taiwan, Turkey, and Vietnam: Response of Petitioner to Commerce's Second Supplemental Questions Concerning Volumes I, VI, IX, and X," dated June 15, 2023 (Second General Issues Supplement); and Second Vietnam Supplement, dated June 15, 2023.

Commerce finds that the petitioner filed the Petitions on behalf of the domestic industry, because the petitioner is an interested party, as defined in section 771(9)(F) of the Act.⁵

Commerce also finds that the petitioner demonstrated sufficient industry support for the initiation of the requested AD investigations.⁶

Periods of Investigation

Because the Petitions were filed on May 31, 2023, pursuant to 19 CFR 351.204(b)(1), the period of investigation (POI) for the Cambodia, Colombia, India, Malaysia, Portugal, Taiwan and Turkey AD investigations is April 1, 2022, through March 31, 2023. Because China and Vietnam are non-market economy (NME) countries, pursuant to 19 CFR 351.204(b)(1), the POI for the China and Vietnam AD investigations is October 1, 2022, through March 31, 2023.

Scope of the Investigations

The product covered by these investigations is paper bags from Cambodia, China, Colombia, India, Malaysia, Portugal, Taiwan, Turkey, and Vietnam. For a full description of the scope of these investigations, *see* the appendix to this notice.

Comments on the Scope of the Investigations

On June 2 and 13, 2023, Commerce requested information from the petitioner regarding the proposed scope to ensure that the scope language in the Petitions is an accurate reflection of the products for which the domestic industry is seeking relief.⁷ On June 8 and 15, 2023, the petitioner provided clarifications and revised the scope.⁸ The description of merchandise

⁵ See Petitions at Volume I (pages 2-3). The members of the Coalition for Fair Trade in Shopping Bags (Novolex and the USW) are interested parties, as defined in sections 771(9)(C) and (D) of the Act, respectively.

⁶ See, *infra*, section on “Determination of Industry Support for the Petitions.”

⁷ See General Issues Questionnaire; *see also* June 13, 2023, Memorandum.

⁸ See General Issues Supplement at 2-7 and Exhibit I-S5; *see also* Second General Issues Supplement at 1 and Exhibit I-2S1.

covered by these investigations, as described in the appendix to this notice, reflects these clarifications.

As discussed in the *Preamble* to Commerce's regulations, we are setting aside a period for parties to raise issues regarding product coverage (*i.e.*, scope).⁹ Commerce will consider all scope comments received and, if necessary, will consult with interested parties prior to the issuance of the preliminary determinations. If scope comments include factual information,¹⁰ all such factual information should be limited to public information. To facilitate preparation of its questionnaires, Commerce requests that scope comments be submitted by 5:00 p.m. Eastern Time (ET) on July 10, 2023, which is 20 calendar days from the signature date of this notice. Any rebuttal comments, which may include factual information, must be filed by 5:00 p.m. ET on July 20, 2023, which is ten calendar days from the initial comment deadline.

Commerce requests that any factual information that parties consider relevant to the scope of these investigations be submitted during that period. However, if a party subsequently finds that additional factual information pertaining to the scope of the investigations may be relevant, the party must contact Commerce and request permission to submit the additional information. All such submissions must be filed on the records of each of the concurrent AD and CVD investigations.

Filing Requirements

All submissions to Commerce must be filed electronically using Enforcement and Compliance's Antidumping Duty and Countervailing Duty Centralized Electronic Service

⁹ See *Antidumping Duties; Countervailing Duties, Final Rule*, 62 FR 27296, 27323 (May 19, 1997) (*Preamble*); see also 19 CFR 351.312.

¹⁰ See 19 CFR 351.102(b)(21) (defining "factual information").

System (ACCESS), unless an exception applies.¹¹ An electronically filed document must be received successfully in its entirety by the time and date it is due.

Comments on Product Characteristics

Commerce is providing interested parties an opportunity to comment on the appropriate physical characteristics of paper bags to be reported in response to Commerce's AD questionnaires. This information will be used to identify the key physical characteristics of the subject merchandise in order to report the relevant factors of production (FOP) or costs of production (COP) accurately, as well as to develop appropriate product comparison criteria.

Interested parties may provide any information or comments that they feel are relevant to the development of an accurate list of physical characteristics. Specifically, they may provide comments as to which characteristics are appropriate to use as: (1) general product characteristics; and (2) product comparison criteria. We note that it is not always appropriate to use all product characteristics as product comparison criteria. We base product comparison criteria on meaningful commercial differences among products. In other words, although there may be some physical product characteristics utilized by manufacturers to describe paper bags, it may be that only a select few product characteristics take into account commercially meaningful physical characteristics. In addition, interested parties may comment on the order in which the physical characteristics should be used in matching products. Generally, Commerce attempts to list the most important physical characteristics first and the least important characteristics last.

¹¹ See *Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures*, 76 FR 39263 (July 6, 2011); see also *Enforcement and Compliance: Change of Electronic Filing System Name*, 79 FR 69046 (November 20, 2014) for details of Commerce's electronic filing requirements, effective August 5, 2011. Information on help using ACCESS can be found at <https://access.trade.gov/help.aspx> and a handbook can be found at https://access.trade.gov/help/Handbook_on_Electronic_Filing_Procedures.pdf.

In order to consider the suggestions of interested parties in developing and issuing the AD questionnaires, all product characteristics comments must be filed by 5:00 p.m. ET on July 10, 2023, which is 20 calendar days from the signature date of this notice.¹² Any rebuttal comments must be filed by 5:00 p.m. ET on July 20, 2023, which is ten calendar days from the initial comment deadline. All comments and submissions to Commerce must be filed electronically using ACCESS, as explained above, on the record of each of the AD investigations.

Determination of Industry Support for the Petitions

Section 732(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 732(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) at least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 732(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, Commerce shall: (i) poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A); or (ii) determine industry support using a statistically valid sampling method to poll the “industry.”

Section 771(4)(A) of the Act defines the “industry” as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs Commerce to look to producers and workers who produce the domestic like

¹² See 19 CFR 351.303(b)(1).

product. The International Trade Commission (ITC), which is responsible for determining whether “the domestic industry” has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both Commerce and the ITC must apply the same statutory definition regarding the domestic like product,¹³ they do so for different purposes and pursuant to a separate and distinct authority. In addition, Commerce’s determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law.¹⁴

Section 771(10) of the Act defines the domestic like product as “a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title.” Thus, the reference point from which the domestic like product analysis begins is “the article subject to an investigation” (*i.e.*, the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition).

With regard to the domestic like product, the petitioner does not offer a definition of the domestic like product distinct from the scope of the investigations.¹⁵ Based on our analysis of the information submitted on the record, we have determined that paper bags, as defined in the scope, constitute a single domestic like product, and we have analyzed industry support in terms of that domestic like product.¹⁶

¹³ See section 771(10) of the Act.

¹⁴ See *USEC, Inc. v. United States*, 132 F. Supp. 2d 1, 8 (CIT 2001) (citing *Algoma Steel Corp., Ltd. v. United States*, 688 F. Supp. 639, 644 (CIT 1988), *aff’d* 865 F.2d 240 (Fed. Cir. 1989)).

¹⁵ See Petitions at Volume I (pages 10-15 and Exhibits I-10 through I-12); *see also* First General Issues Supplement at 10.

¹⁶ For a discussion of the domestic like product analysis as applied to these cases and information regarding industry support, *see* Antidumping Duty Investigation Initiation Checklists: 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, dated concurrently with this notice (Country-Specific AD Initiation Checklists) at Attachment II, Analysis of Industry Support for the Antidumping and Countervailing Duty Petitions Covering

In determining whether the petitioner has standing under section 732(c)(4)(A) of the Act, we considered the industry support data contained in the Petitions with reference to the domestic like product as defined in the “Scope of the Investigations,” in the appendix to this notice. To establish industry support, the petitioner provided the 2022 production of paper bags for the U.S. producers that support the Petitions and compared this to the estimated total 2022 production of paper bags by the U.S. industry.¹⁷ We relied on data provided by the petitioner for purposes of measuring industry support.¹⁸

Our review of the data provided in the Petitions, the First General Issues Supplement, the Industry Support Supplement, the Second General Issues Supplement, and other information readily available to Commerce indicates that the petitioner has established industry support for the Petitions.¹⁹ First, the Petitions established support from domestic producers (or workers) accounting for more than 50 percent of the total production of the domestic like product and, as such, Commerce is not required to take further action in order to evaluate industry support (*e.g.*, polling).²⁰ Second, the domestic producers (or workers) have met the statutory criteria for industry support under section 732(c)(4)(A)(i) of the Act because the domestic producers (or

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 (Attachment II). These Initiation Checklists are on file electronically via ACCESS.

¹⁷ See Petitions at Volume I (pages 4-5 and Exhibits I-2 through I-4); *see also* First General Issues Supplement at 7-9 and Exhibits I-S6 through I-S8; Petitioner’s Letter, “Petitions for the Imposition of Antidumping and Countervailing Duties on Imports of Certain Paper Shopping Bags from Cambodia, China, Colombia, India, Malaysia, Portugal, Taiwan, Turkey, and Vietnam – Industry Support Calculation Revision,” dated June 9, 2023 (Industry Support Supplement) at Attachments A and B; and Second General Issues Supplement at 2-3 and Exhibits I-2S2 through I-2S4.

¹⁸ See Petitions at Volume I (pages 2-5 and Exhibits I-2 through I-4); *see also* First General Issues Supplement at 7-9 and Exhibits I-S6 through I-S8; Industry Support Supplement at 1-2 and Attachments A and B; and Second General Issues Supplement at 2-3 and Exhibits I-2S2 through I-2S4. For further discussion, *see* Attachment II of the Country-Specific AD Initiation Checklists.

¹⁹ See Petitions at Volume I (pages 2-5 and Exhibits I-2 through I-4); *see also* First General Issues Supplement at 7-9 and Exhibits I-S6 through I-S8; Industry Support Supplement at 1-2 and Attachments A and B; and Second General Issues Supplement at 2-3 and Exhibits I-2S2 through I-2S4. For further discussion, *see* Attachment II of the Country-Specific AD Initiation Checklists.

²⁰ See Attachment II of the Country-Specific AD Initiation Checklists; *see also* section 732(c)(4)(D) of the Act.

workers) who support the Petitions account for at least 25 percent of the total production of the domestic like product.²¹ Finally, the domestic producers (or workers) have met the statutory criteria for industry support under section 732(c)(4)(A)(ii) of the Act because the domestic producers (or workers) who support the Petitions account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petitions.²² Accordingly, Commerce determines that the Petitions were filed on behalf of the domestic industry within the meaning of section 732(b)(1) of the Act.²³

Allegations and Evidence of Material Injury and Causation

The petitioner alleges that the U.S. industry producing the domestic like product is being materially injured, or is threatened with material injury, by reason of the imports of the subject merchandise sold at LTFV. In addition, with regard to China, India, Taiwan, and Vietnam, the petitioner alleges that subject imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act.²⁴ With regard to Cambodia, Colombia, Malaysia, Portugal, and Turkey, while the allegedly dumped imports from each of these countries do not individually exceed the statutory requirements for negligibility, the petitioner provided data demonstrating that the aggregate import share from these five countries is 10.19 percent, which exceeds the seven percent threshold established by the exception in section 771(24)(A)(ii) of the Act.²⁵

The petitioner contends that the industry's injured condition is illustrated by a significant volume of subject imports; reduced market share; underselling and price depression and/or

²¹ See Attachment II of the Country-Specific AD Initiation Checklists.

²² *Id.*

²³ *Id.*

²⁴ See Petitions at Volume I (pages 18-19 and Exhibit I-15).

²⁵ *Id.* at Volume I (page 19 and Exhibit I-15).

suppression; lost sales and revenues; decline in the domestic industry's production, capacity utilization, and U.S. commercial shipments; and adverse impact on the domestic industry's profitability and financial performance.²⁶ We assessed the allegations and supporting evidence regarding material injury, threat of material injury, causation, as well as negligibility, and we have determined that these allegations are properly supported by adequate evidence, and meet the statutory requirements for initiation.²⁷

Allegations of Sales at LTFV

The following is a description of the allegations of sales at LTFV upon which Commerce based its decision to initiate AD investigations of imports of paper bags from Cambodia, China, Colombia, India, Malaysia, Portugal, Taiwan, Turkey, and Vietnam. The sources of data for the deductions and adjustments relating to U.S. price and normal value (NV) are discussed in greater detail in the Country-Specific AD Initiation Checklists.

U.S. Price

For China, Colombia, India, Malaysia, Portugal, Taiwan, and Turkey, the petitioner based export price (EP) on pricing information for sales of, or offers for sale of, paper bags produced in and exported from each country. The petitioner made certain adjustments to U.S. price to calculate a net ex-factory U.S. price, where applicable.²⁸

²⁶ See Petitions at Volume I (pages 16-31 and Exhibits I-13 through I-18); *see also* First General Issues Supplement at 10-12 and Exhibit I-S9.

²⁷ See Country-Specific AD Initiation Checklists at Attachment III, "Analysis of Allegations and Evidence of Material Injury and Causation for the Antidumping and Countervailing Duty Petitions Covering 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."

²⁸ See Country-Specific AD Initiation Checklists.

Normal Value²⁹

For Cambodia, Colombia, India, Malaysia, Portugal, Taiwan, and Turkey, the petitioner stated that it was unable to obtain home-market or third-country prices for paper bags to use as a basis for NV.³⁰ Therefore, for these countries, the petitioner calculated NV based on CV.³¹ For further discussion of CV, *see* the section “Normal Value Based on Constructed Value.”

Commerce considers China and Vietnam to be NME countries.³² In accordance with section 771(18)(C)(i) of the Act, any determination that a foreign country is an NME country shall remain in effect until revoked by Commerce. Therefore, we continue to treat China and Vietnam as NME countries for purposes of the initiation of these investigations. Accordingly, we base NV on factors of production (FOPs) valued in a surrogate market economy country in accordance with section 773(c) of the Act.

The petitioner claims that Malaysia is an appropriate surrogate country for China because it is a market economy that is at a level of economic development comparable to that of China and is a significant producer of comparable merchandise.³³ The petitioner provided publicly available information from Malaysia to value all FOPs (except labor and overhead).³⁴ To value labor and overhead, the petitioner provided labor statistics and financial statements from another

²⁹ In accordance with section 773(b)(2) of the Act, for the Cambodia, Colombia, India, Malaysia, Portugal, Taiwan, and Turkey investigations, Commerce will request information necessary to calculate the constructed value (CV) and COP to determine whether there are reasonable grounds to believe or suspect that sales of the foreign like product have been made at prices that represent less than the COP of the product.

³⁰ *See* Country-Specific AD Initiation Checklists.

³¹ *Id.*

³² *See, e.g., Certain Freight Rail Couplers and Parts Thereof from the People's Republic of China: Preliminary Affirmative Determination of Sales at Less Than Fair Value and Preliminary Affirmative Determination of Critical Circumstances*, 88 FR 15372 (March 13, 2023), and accompanying Preliminary Decision Memorandum at 5, unchanged in *Certain Freight Rail Couplers and Parts Thereof from the People's Republic of China: Final Affirmative Determination of Sales at Less-Than-Fair Value and Final Affirmative Determination of Critical Circumstances*, 88 FR 34485 (May 30, 2023); *see also Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Final Results, and Final Results of No Shipments of the Antidumping Duty Administrative Review; 2016-2017*, 84 FR 18007 (April 29, 2019).

³³ *See* China AD Initiation Checklist.

³⁴ *Id.*

surrogate country, Turkey.³⁵ Based on the information provided by the petitioner, we believe it is appropriate to use Malaysia as a surrogate country to value all FOPs (except labor and overhead) and Turkey to value labor and overhead for initiation purposes.

The petitioner claims that Indonesia is an appropriate surrogate country for Vietnam because it is a market economy that is at a level of economic development comparable to that of Vietnam and is a significant producer of comparable merchandise.³⁶ The petitioner provided publicly available information from Indonesia to value all FOPs.³⁷ Based on the information provided by the petitioner, we believe it is appropriate to use Indonesia as a surrogate country for initiation purposes.

Interested parties will have the opportunity to submit comments regarding surrogate country selection and, pursuant to 19 CFR 351.301(c)(3)(i), will be provided an opportunity to submit publicly available information to value FOPs within 30 days before the scheduled date of the preliminary determinations.

Factors of Production

Because information regarding the volume of inputs consumed by Chinese and Vietnamese producers/exporters was not reasonably available, the petitioner used product-specific consumption rates from a U.S. producer of paper bags as a surrogate to value Chinese and Vietnamese manufacturers' FOPs.³⁸ Additionally, the petitioner calculated factory overhead; selling, general and administrative (SG&A) expenses; and profit based on the

³⁵ See China AD Initiation Checklist.

³⁶ See Vietnam AD Initiation Checklist.

³⁷ *Id.*

³⁸ See China AD Initiation Checklist and Vietnam AD Initiation Checklist.

experience of a Malaysian and Indonesian producer of identical merchandise for China and Vietnam, respectively.³⁹

Normal Value Based on Constructed Value

As noted above for Cambodia, Colombia, India, Malaysia, Portugal, Taiwan, and Turkey, the petitioner stated it was unable to obtain home-market or third-country prices for paper bags to use as a basis for NV. Therefore, for these countries, the petitioner calculated NV based on CV.⁴⁰

Pursuant to section 773(e) of the Act, the petitioner calculated CV as the sum of the cost of manufacturing, SG&A expenses, financial expenses, and profit.⁴¹ For each of these countries, in calculating the cost of manufacturing, the petitioner relied on the production experience and input consumption rates of a U.S. producer of paper bags, valued using publicly available information applicable to the respective countries.⁴² In calculating SG&A expenses, financial expenses, and profit ratios (where applicable), the petitioner relied on the most recently available fiscal year financial statements of a producer of identical or comparable merchandise domiciled in the subject country or a third country, where applicable.⁴³

Fair Value Comparisons

Based on the data provided by the petitioner, there is reason to believe that imports of paper bags from Cambodia, China, Colombia, India, Malaysia, Portugal, Taiwan, Turkey, and Vietnam, are being, or are likely to be, sold in the United States at LTFV. Based on comparisons of EP to NV in accordance with sections 772 and 773 of the Act, the estimated dumping margins

³⁹ See China AD Initiation Checklist and Vietnam AD Initiation Checklist. As noted above, the petitioner calculated labor and overhead using information specific to Turkey. See China AD Initiation Checklist.

⁴⁰ See Country-Specific AD Initiation Checklists.

⁴¹ *Id.*.

⁴² *Id.*

⁴³ *Id.*

for paper bags for each of the countries covered by this initiation are as follows: (1) Cambodia – 18.21 to 248.81 percent; China – 93.10 to 237.02 percent; Colombia – 56.14 percent; India – 26.45 to 96.15 percent; Malaysia – 148.19 percent; Portugal – 31.12 to 188.78 percent; Taiwan – 60.26 to 65.81 percent; Turkey – 13.65 to 47.56 percent; and Vietnam – 27.64 to 92.34 percent.⁴⁴

Initiation of LTFV Investigations

Based upon the examination of the Petitions and supplemental responses, we find that they meet the requirements of section 732 of the Act. Therefore, we are initiating AD investigations to determine whether imports of paper bags from Cambodia, China, Colombia, India, Malaysia, Portugal, Taiwan, Turkey, and Vietnam are being, or are likely to be, sold in the United States at LTFV. In accordance with section 733(b)(1)(A) of the Act and 19 CFR 351.205(b)(1), unless postponed, we will make our preliminary determinations no later than 140 days after the date of these initiations.

Respondent Selection

Cambodia, Colombia, India, Malaysia, Portugal, Taiwan, and Turkey

In the Petitions, the petitioner identified three companies in Cambodia, three companies in Colombia, 18 companies in India, three companies in Malaysia, one company in Portugal, three companies in Taiwan, and 21 companies in Turkey as producers/exporters of paper bags.⁴⁵ For Cambodia, Colombia, India, Malaysia, Taiwan and Turkey, in the event Commerce determines that the number of companies is large, and it cannot individually examine each company based upon Commerce's resources, where appropriate, Commerce intends to select mandatory respondents based on quantity and value (Q&V) questionnaires issued to potential

⁴⁴ *Id.*

⁴⁵ See First General Issues Supplement at 1-2 and Exhibit I-S2.

respondents. Following standard practice in AD investigations involving market economy countries, Commerce would normally select respondents based on U.S. Customs and Border Protection (CBP) entry data for imports under the appropriate Harmonized Tariff Schedule of the United States (HTSUS) subheadings listed in the scope of the investigations. However, for these investigations, the main HTSUS subheadings under which the subject merchandise would enter (4819.30.0040 and 4819.40.0040) are basket categories under which non-subject merchandise may also enter. Therefore, we cannot rely on CBP entry data in selecting respondents. We, instead, intend to issue Q&V questionnaires to each potential respondent for which the petitioner has provided a complete address for Cambodia, Colombia, India, Malaysia, Taiwan and Turkey. For Portugal, the petitioner identified only one company as an exporter or producer of paper bags. Therefore, unless we receive voluntary responses to the Q&V questionnaire from companies not identified, as described below, we intend to examine this one exporter or producer of paper bags from Portugal.

Exporters/producers of paper bags from Cambodia, Colombia, India, Malaysia, Portugal, Taiwan, and Turkey that do not receive Q&V questionnaires by mail may still submit a response to the Q&V questionnaire and can obtain a copy of the Q&V questionnaire from Enforcement and Compliance's website, at <https://www.trade.gov/ec-adcvd-case-announcements>. Responses to the Q&V questionnaire must be submitted by the relevant exporters/producers no later than 5:00 p.m. ET on July 5, 2023, which is the next business day after two weeks from the signature date of this notice.⁴⁶ All Q&V responses must be filed electronically via ACCESS. An electronically

⁴⁶ See 19 CFR 351.303(b)(1) ("For both electronically filed and manually filed documents, if the applicable due date falls on a non-business day, the Secretary will accept documents that are filed on the next business day."). Two weeks from the initiation of these investigation is July 4, 2023, which is a federal holiday.

filed document must be received successfully, in its entirety, by ACCESS no later than 5:00 p.m. ET on the deadline noted above.

Interested parties must submit applications for disclosure under administrative protective order (APO) in accordance with 19 CFR 351.305(b). Instructions for filing such applications may be found on Commerce's website at <https://www.trade.gov/administrative-protective-orders>. Commerce intends to make its decisions regarding respondent selection for Cambodia, Colombia, India, Malaysia, Portugal, Taiwan, and Turkey within 20 days of publication of this notice.

China and Vietnam

In the Petitions, the petitioner named 26 companies in China and 14 companies in Vietnam as producers and/or exporters of paper bags.⁴⁷ In accordance with our standard practice for respondent selection in AD investigations involving NME countries, Commerce selects respondents based on Q&V questionnaires in cases where it has determined that the number of companies is large and it cannot individually examine each company based upon its resources. Therefore, considering the number of producers and/or exporters identified in the Petition, Commerce will solicit Q&V information that can serve as a basis for selecting exporters for individual examination in the event that Commerce decides to limit the number of respondents individually examined pursuant to section 777A(c)(2) of the Act. Because there are 26 Chinese and 14 Vietnamese producers and/or exporters identified in the Petitions, Commerce has determined that it will issue Q&V questionnaires to each potential respondent for which the petitioner has provided a complete address.

⁴⁷ See First General Issues Supplement at 1-2 and Exhibit I-S2.

In addition, Commerce will post the Q&V questionnaires along with filing instructions on Commerce's website at <https://www.trade.gov/ec-adcvd-case-announcements>.

Producers/exporters of paper bags from China and Vietnam that do not receive Q&V questionnaires may still submit a response to the Q&V questionnaire and can obtain a copy of the Q&V questionnaire from Commerce's website. In accordance with the standard practice for respondent selection in AD cases involving NME countries, in the event Commerce decides to limit the number of respondents individually investigated, Commerce intends to base respondent selection on the responses to the Q&V questionnaire that it receives.

Responses to the Q&V questionnaire must be submitted by the relevant Chinese and Vietnamese producers/exporters no later than 5:00 p.m. ET on July 5, 2023, which is the next business day after two weeks from the signature date of this notice.⁴⁸ All Q&V questionnaire responses must be filed electronically via ACCESS. An electronically filed document must be received successfully, in its entirety, by ACCESS no later than 5:00 p.m. ET on the deadline noted above.

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305(b). As stated above, instructions for filing such applications may be found on Commerce's website at <https://www.trade.gov/administrative-protective-orders>. Commerce intends to make its decisions regarding respondent selection for China and Vietnam within 20 days of publication of this notice.

⁴⁸ See 19 CFR 351.303(b)(1) ("For both electronically filed and manually filed documents, if the applicable due date falls on a non-business day, the Secretary will accept documents that are filed on the next business day."). Two weeks from the initiation of these investigation is July 4, 2023, which is a federal holiday.

Separate Rates

In order to obtain separate rate status in an NME investigation, exporters and producers must submit a separate rate application. The specific requirements for submitting a separate rate application in an NME investigation are outlined in detail in the application itself, which is available on Commerce's website at <https://access.trade.gov/Resources/nme/nme-sep-rate.html>. The separate rate application will be due 30 days after publication of this initiation notice. Exporters and producers who submit a separate rate application and have been selected as mandatory respondents will be eligible for consideration for separate rate status only if they respond to all parts of Commerce's AD questionnaire as mandatory respondents. Commerce requires that companies from China and Vietnam submit a response both to the Q&V questionnaire and to the separate rate application by the respective deadlines in order to receive consideration for separate rate status. Companies not filing a timely Q&V questionnaire response will not receive separate rate consideration.

Use of Combination Rates

Commerce will calculate combination rates for certain respondents that are eligible for a separate rate in an NME investigation. The Separate Rates and Combination Rates Bulletin states:

{w}hile continuing the practice of assigning separate rates only to exporters, all separate rates that {Commerce} will now assign in its NME Investigation will be specific to those producers that supplied the exporter during the period of investigation. Note, however, that one rate is calculated for the exporter and all of the producers which supplied subject merchandise to it during the period of investigation. This practice applies both to mandatory respondents receiving an individually calculated separate rate as well as the pool of non-investigated firms receiving the {weighted average} of the individually calculated rates. This practice is referred to as the application of "combination rates" because such rates apply to specific combinations of exporters and one or more producers. The cash-deposit rate assigned to an exporter will apply only to merchandise

both exported by the firm in question *and* produced by a firm that supplied the exporter during the period of investigation.⁴⁹

Distribution of Copies of the AD Petitions

In accordance with section 732(b)(3)(A) of the Act and 19 CFR 351.202(f), copies of the public version of the AD Petitions have been provided to the governments of Cambodia, China, Colombia, India, Malaysia, Portugal, Taiwan, Turkey, and Vietnam via ACCESS. To the extent practicable, we will attempt to provide a copy of the public version of the AD Petitions to each exporter named in the AD Petitions, as provided under 19 CFR 351.203(c)(2).

ITC Notification

Commerce will notify the ITC of our initiation, as required by section 732(d) of the Act.

Preliminary Determinations by the ITC

The ITC will preliminarily determine, within 45 days after the date on which the AD Petitions were filed, whether there is a reasonable indication that imports of paper bags from Cambodia, China, Colombia, India, Malaysia, Portugal, Taiwan, Turkey, and/or Vietnam are materially injuring, or threatening material injury to, a U.S. industry.⁵⁰ A negative ITC determination for any country will result in the investigation being terminated with respect to that country.⁵¹ Otherwise, these AD investigations will proceed according to statutory and regulatory time limits.

Submission of Factual Information

Factual information is defined in 19 CFR 351.102(b)(21) as: (i) evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly

⁴⁹ See Enforcement and Compliance's Policy Bulletin 05.1, regarding, "Separate-Rates Practice and Application of Combination Rates in Antidumping Investigation involving NME Countries," (April 5, 2005) at 6 (emphasis added), available on Commerce's website at <https://access.trade.gov/Resources/policy/bull05-1.pdf>.

⁵⁰ See section 733(a) of the Act.

⁵¹ *Id.*

available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by Commerce; and (v) evidence other than factual information described in (i)-(iv). Section 351.301(b) of Commerce's regulations requires any party, when submitting factual information, to specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted⁵² and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct.⁵³ Time limits for the submission of factual information are addressed in 19 CFR 351.301, which provides specific time limits based on the type of factual information being submitted. Interested parties should review the regulations prior to submitting factual information in these investigations.

Particular Market Situation Allegation

Section 773(e) of the Act addresses the concept of particular market situation (PMS) for purposes of CV, stating that "if a particular market situation exists such that the cost of materials and fabrication or other processing of any kind does not accurately reflect the cost of production in the ordinary course of trade, the administering authority may use another calculation methodology under this subtitle or any other calculation methodology." When an interested party submits a PMS allegation pursuant to section 773(e) of the Act, Commerce will respond to such a submission consistent with 19 CFR 351.301(c)(2)(v). If Commerce finds that a PMS exists under section 773(e) of the Act, then it will modify its dumping calculations appropriately.

Neither section 773(e) of the Act, nor 19 CFR 351.301(c)(2)(v), set a deadline for the submission of PMS allegations and supporting factual information. However, in order to

⁵² See 19 CFR 351.301(b).

⁵³ See 19 CFR 351.301(b)(2).

administer section 773(e) of the Act, Commerce must receive PMS allegations and supporting factual information with enough time to consider the submission. Thus, should an interested party wish to submit a PMS allegation and supporting new factual information pursuant to section 773(e) of the Act, it must do so no later than 20 days after submission of a respondent's initial section D questionnaire response.

Extensions of Time Limits

Parties may request an extension of time limits before the expiration of a time limit established under 19 CFR 351.301, or as otherwise specified by Commerce. In general, an extension request will be considered untimely if it is filed after the expiration of the time limit established under 19 CFR 351.301.⁵⁴ For submissions that are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. ET on the due date. Under certain circumstances, we may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, we will inform parties in a letter or memorandum of the deadline (including a specified time) by which extension requests must be filed to be considered timely. An extension request must be made in a separate, stand-alone submission; under limited circumstances we will grant untimely filed requests for the extension of time limits, where we determine, based on 19 CFR 351.302, that extraordinary circumstances exist. Parties should review Commerce's regulations concerning the extension of time limits and the *Time Limits Final Rule* prior to submitting factual information in these investigations.⁵⁵

⁵⁴ See 19 CFR 351.301; see also *Extension of Time Limits; Final Rule*, 78 FR 57790 (September 20, 2013) (*Time Limits Final Rule*), available at <https://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm>.

⁵⁵ See 19 CFR 351.302; see also, e.g., *Time Limits Final Rule*.

Certification Requirements

Any party submitting factual information in an AD or CVD proceeding must certify to the accuracy and completeness of that information.⁵⁶ Parties must use the certification formats provided in 19 CFR 351.303(g).⁵⁷ Commerce intends to reject factual submissions if the submitting party does not comply with the applicable certification requirements. Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information, until further notice.⁵⁸

Notification to Interested Parties

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305. Parties wishing to participate in these investigations should ensure that they meet the requirements of 19 CFR 351.103(d) (e.g., by filing the required letter of appearance). Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information, until further notice.⁵⁹

This notice is issued and published pursuant to sections 732(c)(2) and 777(i) of the Act, and 19 CFR 351.203(c).

Dated: June 20, 2023

/S/ James Maeder

James Maeder
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

⁵⁶ See section 782(b) of the Act.

⁵⁷ See *Certification of Factual Information to Import Administration During Antidumping and Countervailing Duty Proceedings*, 78 FR 42678 (July 17, 2013) (Final Rule). Additional information regarding the Final Rule is available at <https://access.trade.gov/Resources/filing/index.html>.

⁵⁸ See *Temporary Rule Modifying AD/CVD Service Requirements Due to COVID-19; Extension of Effective Period*, 85 FR 41363 (July 10, 2020).

⁵⁹ See *Temporary Rule Modifying AD/CVD Service Requirements Due to COVID-19; Extension of Effective Period*, 85 FR 41363 (July 10, 2020)

Appendix

Scope of the Investigations

The products within the scope of these investigations 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 fabric 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.