

merchandise that can reasonably be examined.

In the chart below, please provide the total quantity and total value of all your

sales of merchandise covered by the scope of this investigation (see "Scope of Investigation" section of this notice), produced in the PRC, and exported/

shipped to the United States during the period October 1, 2007, through March 31, 2007.

Market	Total quantity in metric tons	Terms of sale	Total value
United States			
1. Export Price Sales			
2. a. Exporter Name			
b. Address			
c. Contact			
d. Phone No.			
e. Fax No.			
3. Constructed Export Price Sales			
4. Further Manufactured Total Sales			

#### Total Quantity:

- Please report quantity on a metric ton basis. If any conversions were used, please provide the conversion formula and source.

#### Terms of Sales:

- Please report all sales on the same terms (e.g., free on board at port of export).

#### Total Value:

- All sales values should be reported in U.S. dollars. Please indicate any exchange rates used and their respective dates and sources.

#### Export Price Sales:

- Generally, a U.S. sale is classified as an export price sale when the first sale to an unaffiliated customer occurs before importation into the United States.

- Please include any sales exported by your company directly to the United States.

- Please include any sales exported by your company to a third-country market economy reseller where you had knowledge that the merchandise was destined to be resold to the United States.

- If you are a producer of subject merchandise, please include any sales manufactured by your company that were subsequently exported by an affiliated exporter to the United States.

- Please do not include any sales of subject merchandise manufactured in Hong Kong in your figures.

#### Constructed Export Price Sales:

- Generally, a U.S. sale is classified as a constructed export price sale when the first sale to an unaffiliated customer occurs after importation. However, if the first sale to the unaffiliated customer is made by a person in the United States affiliated with the foreign exporter, constructed export price applies even if the sale occurs prior to importation.

- Please include any sales exported by your company directly to the United States;

- Please include any sales exported by your company to a third-country market economy reseller where you had knowledge that the merchandise was destined to be resold to the United States.

- If you are a producer of subject merchandise, please include any sales manufactured by your company that were subsequently exported by an affiliated exporter to the United States.

- Please do not include any sales of subject merchandise manufactured in Hong Kong in your figures.

#### Further Manufactured:

- Sales of further manufactured or assembled (including re-packaged) merchandise is merchandise that undergoes further manufacture or assembly in the United States before being sold to the first unaffiliated customer.

- Further manufacture or assembly costs include amounts incurred for direct materials, labor and overhead, plus amounts for general and administrative expense, interest expense, and additional packing expense incurred in the country of further manufacture, as well as all costs involved in moving the product from the U.S. port of entry to the further manufacturer.

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**BILLING CODE 3510-DS-P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-428-840]

#### Lightweight Thermal Paper from Germany: Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**SUMMARY:** The U.S. Department of Commerce (the Department) preliminarily determines that lightweight thermal paper (LWTP) from Germany is being, or is likely to be, sold in the United States at less than fair value (LTFV), as provided in section 733(b) of the Tariff Act of 1930, as amended (the Act). The estimated margins of sales at LTFV are listed in the "Suspension of Liquidation" section of this notice. Interested parties are invited to comment on this preliminary determination. Pursuant to requests from interested parties, we are postponing for 60 days the final determination and extending the provisional measures from a four-month period to not more than six months. Accordingly, we will make our final determination not later than 135 days after publication of the preliminary determination.

**EFFECTIVE DATE:** May 13, 2008.

**FOR FURTHER INFORMATION CONTACT:** Cindy Robinson or George McMahon, AD/CVD Operations, Office 3, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482-3797 or (202) 482-1167, respectively.

**SUPPLEMENTARY INFORMATION:**

## Background

On October 29, 2007, the Department initiated the antidumping duty investigations of LWTP from Germany, the Republic of Korea, and the People's Republic of China (PRC). See *Notice of Initiation of Antidumping Duty Investigations: Lightweight Thermal Paper from Germany, the Republic of Korea, and the People's Republic of China*, 72 FR 62430 (November 5, 2007) (*Initiation Notice*). The petitioner in this investigation is Appleton Papers, Inc.

The Department set aside a period of time for parties to raise issues regarding product coverage and encouraged all parties to submit comments within 20 calendar days of publication of the *Initiation Notice*. See *Initiation Notice*, 72 FR at 62431; see also *Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27323 (May 19, 1997). On November 19, 2007, the petitioner submitted scope comments in which it requested that the Department add several additional categories from the Harmonized Tariff Schedule of the United States (HTSUS) to the scope of the investigations. In response, on December 18, 2007, the Department requested comments from interested parties regarding the petitioner's proposed scope modification. However, no reply comments were received in any of the aforementioned respective cases. See *Scope Comments* section, below.

On November 14, 2007, the petitioner submitted comments on the proposed model-matching criteria. The Department requested comments on model-matching criteria in its letter to the interested parties, dated November 16, 2007. In response, the Department received several comments on model-matching criteria from certain interested parties. See *Model Match* section, below.

Section 777A(c)(1) of the Act directs the Department to calculate individual dumping margins for each known exporter and producer of the subject merchandise. The Department identified a large number of producers and exporters of LWTP in Germany and determined that it was not practicable to examine each known exporter/producer of the subject merchandise, as provided in section 777A(c)(1) of the Act. Thus, we selected for examination Papierfabrik August Koehler AG and Koehler America, Inc. (collectively, Koehler). This particular exporter/producer accounts for the largest volume of subject merchandise exported to the United States from Germany during the period of investigation (POI). See section 777A(c)(2)(B) of the Act; See Memorandum from Melissa Skinner,

Director, Office 3, to Deputy Assistant Secretary Stephen J. Claeys, entitled "Selection of Respondent(s) for Individual Review," dated December 4, 2007, on file in the Central Records Unit (CRU), Room 1117 of the main Department building. We subsequently issued the antidumping duty questionnaire<sup>1</sup> to Koehler on December 7, 2007.

On November 16, 2007, the United States International Trade Commission (ITC) preliminarily determined that there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of imports of certain lightweight thermal paper from Germany and the PRC that are alleged to be sold in the United States at LTFV. The ITC also determined that imports of LTWP from the Republic of Korea were negligible, and therefore, terminated the investigation with regard to the Republic of Korea. See *Certain Lightweight Thermal Paper from China, Germany, and Korea, Investigation Nos. 701-TA-451 and 731-TA-1126-1128 (Preliminary)*, 72 FR 70343 (December 11, 2007). The ITC notified the Department of these findings.

In the petition filed on September 19, 2007, the petitioner provided information demonstrating reasonable grounds to believe or suspect that sales of LWTP in the home market were made at prices below the fully absorbed COP, within the meaning of section 773(b) of the Act, and requested that the Department conduct a sales-below-cost investigation. See September 19, 2007, Petition, Volume III: Germany Dumping Allegation, at page 8. We found that the petitioner provided a reasonable basis to believe or suspect that German producers were selling LWTP in Germany at prices below the COP. See section 773(b)(2)(A)(i) of the Act.

Accordingly, the Department initiated a country-wide sales-below-cost investigation and requested that Koehler respond to section D of the Department's questionnaire. See *Initiation Notice*; see also, the Department's questionnaire issued to Koehler on December 7, 2007.

<sup>1</sup> Section A of the questionnaire requests general information concerning a company's corporate structure and business practices, the merchandise under investigation that it sells, and the manner in which it sells that merchandise in all of its markets. Section B requests a complete listing of all home market sales or, if the home market is not viable, of sales in the most appropriate third-country market. Section C requests a complete listing of U.S. sales. Section D requests information on the cost of production of the foreign like product and the constructed value of the merchandise under investigation. Section E requests information on further manufacturing.

On January 14, 2008, the Department received the Section A questionnaire response from Koehler. On January 30, 2008, the Department received the Sections B, C and D responses from Koehler. On February 11, 2008, the Department received comments from the petitioner on the Sections A through D responses for Koehler. After reviewing the Sections A through D responses from Koehler, the Department issued supplemental questionnaires to Koehler. On March 27, 2008, the petitioner submitted additional comments on Koehler's questionnaire and supplemental questionnaire responses. The Department issued additional supplemental questions, after reviewing Koehler's supplemental questionnaire response.

On February 6, 2008, the petitioner requested that the Department postpone the preliminary determination by 50 days and requested that the Department extend the deadline for filing a targeted dumping allegation for Germany. On February 25, 2008, the Department advised the petitioner that the deadline to file a targeted dumping allegation would be 30 days from any revised deadline for the preliminary determination. See Memorandum from George McMahon to the File, entitled "Extension of the Deadline to File a Targeted Dumping Allegation in the Antidumping Duty Investigations on Lightweight Thermal Paper from Germany and the People's Republic of China," dated February 25, 2008. On February 25, 2008, the Department postponed the preliminary determination by 50 days. See *Lightweight Thermal Paper from Germany and the People's Republic of China: Postponement of Preliminary Determinations of Antidumping Duty Investigations*, 73 FR 9997 (February 25, 2008).

## Targeted Dumping Allegation

The petitioner submitted an allegation of targeted dumping with respect to Koehler on March 27, 2008. See section 777A(d)(1)(B) of the Act. In its allegation, the petitioner asserts that there are patterns of export prices (EPs), or constructed export prices (CEPs) for comparable merchandise that differ significantly among purchasers, regions, and time periods. Specifically, the petitioner based its allegation on four targeted purchasers, the west region as defined by the Census Bureau, and the last four months of the POI. The Department requested more information from the petitioner with respect to its targeted dumping allegation. See Letter from James Terpstra to the petitioner, dated April 8, 2008. On April 14, 2008,

the petitioner provided its response to the Department's request for additional information regarding its targeted dumping allegation.

On April 16, 2008, the Department received comments from Koehler objecting to the targeted dumping allegation on the basis that it does not meet the statutory standard for targeted dumping. Specifically, Koehler argues that the petitioner failed to: 1) explain any statistical tests that should be applied, 2) demonstrate a pattern exists within the context of market conditions, 3) explain why a two-percent threshold is significant for all three types of alleged targeting, 4) explain why differences cannot be taken into account using the average-to-average analysis, 5) explain why the Department should ignore the statutory application of the term "or" (instead filing allegations based on purchasers, regions, and time periods), and 6) justify the counterintuitive conclusion that, when all three targeting allegations are considered together, over half of Koehler's sales are allegedly targeted. On April 23, 2008, the Department also received comments from Mitsubishi HiTec Paper Flensburg GmbH and Mitsubishi HiTec Paper Bielefeld GmbH, and Mitsubishi International Corporation (collectively, Mitsubishi) objecting to the targeted dumping allegation. First, Mitsubishi objects to the use of zeroing to calculate dumping margins in any situation. Second, Mitsubishi asserts that the threshold requirements advocated by the petitioner are unworkable. Finally, Mitsubishi argues that, should the Department find that Koehler targeted sales of LWTP during the POI, the Department may not apply any weighted-average margins calculated for sales within the targeted subset to Mitsubishi.

#### **New Targeted Dumping Test applied in Steel Nails**

The statute allows the Department to employ the average-to-transaction methodology in its margin calculations if: 1) there is a pattern of EPs that differ significantly among purchasers, regions, or periods of time; and 2) the Department explains why such differences cannot be taken into account using the average-to-average or transaction-to-transaction methodology. See section 777A(d)(1)(B) of the Act. The Department has developed a new test to determine whether targeted dumping has occurred. This new test is a two-stage test: the first test to address the pattern requirement and the second test to address the significant difference requirement. For additional detail, see

the memorandum entitled "Antidumping Duty Investigations of Certain Steel Nails from the Peoples Republic of China (PRC) and the United Arab Emirates (UAE): Post-Preliminary Determinations on Targeted Dumping (Steel Nails Targeted Dumping Determination), dated April 21, 2008, and placed on the record of this investigation on April 30, 2008.

#### **Results of the Application of the New Targeted Dumping Test**

For purposes of this preliminary determination on targeted dumping, we have applied the above test to the U.S. sales data reported by the respondent, Koehler. In applying the Steel Nails test, we clarified various aspects of the test, applied the Steel Nails methodology to multiple allegations in this investigation (customer, region, and time period), and made certain corrections to the underlying programming applied in Steel Nails. We clarified the price gap test described in Steel Nails as involving only average prices to non-targets that are *above* the average price charged to the alleged target. That is, the price gap test only "looks up" when calculating price gaps for non-targets. We also made corrections to the SAS code underlying the price gap test. Our observations and results are discussed in more detail in a separate memorandum placed on the record of this investigation. See "Calculation Memorandum for the Preliminary Determination – Koehler," dated May 6, 2008, on file in the CRU.

As outlined in the separate memorandum, we did not find a pattern of EPs for comparable merchandise that differ significantly among customers, regions or by time period. As a result, we applied the average-to-average methodology to the EPs of all of Koehler's sales to the United States during the POI.

#### **Comments by Interested Parties**

Although the Department has not yet established explicit criteria or standards for defining "region" in the targeted dumping context, we have accepted the petitioner's use of U.S. Census-based regions for purposes of our targeted dumping analysis for the preliminary determination in this investigation. As we did in the investigations covering Steel Nails, the Department invites comments on standards and criteria for definitions of "region" that are reflective of the industry and commercial market in the United States. See Steel Nails Targeted Dumping Determination at 9.

Parties may also comment on the Department's overall preliminary

determination application of the new targeted dumping test in this proceeding. Consistent with 19 CFR 351.309(c)(2), all comments should be filed in the context of the case and rebuttal briefs. See the "Public Comment" section below for details regarding the briefing schedule for this investigation.

#### **Period of Investigation**

The POI is July 1, 2006, to June 30, 2007. This period corresponds to the four most recent fiscal quarters prior to the month of the filing of the petition.

#### **Scope of the Investigation**

The merchandise covered by this investigation includes certain lightweight thermal paper, which is thermal paper with a basis weight of 70 grams per square meter (g/m<sup>2</sup>) (with a tolerance of  $\pm 4.0$  g/m<sup>2</sup>) or less; irrespective of dimensions;<sup>2</sup> with or without a base coat<sup>3</sup> on one or both sides; with thermal active coating(s)<sup>4</sup> on one or both sides that is a mixture of the dye and the developer that react and form an image when heat is applied; with or without a top coat;<sup>5</sup> and without an adhesive backing. Certain lightweight thermal paper is typically (but not exclusively) used in point-of-sale applications such as ATM receipts, credit card receipts, gas pump receipts, and retail store receipts. The merchandise subject to this investigation may be classified in the HTSUS under subheadings 4811.90.8040 and 4811.90.9090.<sup>6</sup> As discussed below, we added to the scope of the investigation the following HTSUS subheadings: 3703.10.60, 4811.59.20, 4820.10.20, and 4823.40.00.

<sup>2</sup> LWTP is typically produced in jumbo rolls that are slit to the specifications of the converting equipment and then converted into finished slit rolls. Both jumbo rolls and converted rolls (as well as LWTP in any other forms, presentations, or dimensions) are covered by the scope of these investigations.

<sup>3</sup> A base coat, when applied, is typically made of clay and/or latex and like materials and is intended to cover the rough surface of the paper substrate and to provide insulating value.

<sup>4</sup> A thermal active coating is typically made of sensitizer, dye, and co-reactant.

<sup>5</sup> A top coat, when applied, is typically made of polyvinyl acetone, polyvinyl alcohol, and/or like materials and is intended to provide environmental protection, an improved surface for press printing, and/or wear protection for the thermal print head.

<sup>6</sup> HTSUS subheading 4811.90.8000 was a classification used for LWTP until January 1, 2007. Effective that date, subheading 4811.90.8000 was replaced with 4811.90.8020 (for gift wrap, a non-subject product) and 4811.90.8040 (for "other," including LWTP). HTSUS subheading 4811.90.9000 was a classification for LWTP until July 1, 2005. Effective that date, subheading 4811.90.9000 was replaced with 4811.90.9010 (for tissue paper, a non-subject product) and 4811.90.9090 (for "other," including LWTP).

Although HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the investigation is dispositive.

### Scope Comments

In our *Initiation Notice*, we set aside a period of time for parties to raise issues regarding product coverage, and encouraged all parties to submit comments within 20 calendar days of publication of the *Initiation Notice*.

On November 19, 2007, the petitioner submitted scope comments in which it requested that the Department add the following additional HTSUS subheadings to the scope of the investigations: HTSUS subheading 3703.10.60, 4811.59, 4820.10, and 4823.40 based on the claim that subject merchandise may also enter under these HTSUS subheadings. On December 18, 2007, the Department requested comments from interested parties regarding the petitioner's proposed scope modification. However, no reply comments were received in this, or any of the aforementioned simultaneous investigations. On April 11, 2008, and April 16, 2008, the Department received letters from the National Import Specialists at U.S. Customs and Border Protection (CBP) requesting that HTSUS subheadings 3703.10.60, 4811.59.20, 4820.10.20, and 4823.40.00 be added to the scope of the antidumping duty investigations of LWTP from Germany and the PRC, and the countervailing duty investigation of LWTP from the PRC on the basis that entries of subject merchandise could be classified therein. See Memorandum to the File from the Team to the File through James Terpstra, entitled "Request from Customs and Border Protection to update AD /CVD Module," dated April 17, 2008. The Department has added these additional subheadings to the scope of this investigation.

### Model Match

In accordance with section 771(16) of the Act, all products produced by the respondent covered by the description in the *Scope of the Investigation* section, above, and sold in Germany during the POI are considered to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales. We have relied on 12 criteria to match U.S. sales of subject merchandise to comparison market sales of the foreign like product: 1) form, 2) thermal active coating, 3) top coating, 4) basis weight, 5) maximum optical density units, 6) static sensitivity, 7) dynamic sensitivity, 8) coating color, 9) printing, 10) width, 11) length, and 12) core material. Where there were no sales

of identical merchandise in the home market made in the ordinary course of trade to compare to U.S. sales, we compared U.S. sales to the next most similar foreign like product on the basis of the characteristics listed above.

On November 14, 2007, and November 21, 2007, the petitioner filed proposed model-matching criteria to use in the Department's questionnaire. On November 23, 2007, and November 28, 2007, Koehler submitted comments on the proposed model-matching criteria. On November 26, 2007, and November 28, 2007, Mitsubishi also submitted comments on the proposed model-matching criteria. On December 3, 2007, the petitioner filed comments in response to the model-matching criteria comments submitted by Koehler and Mitsubishi. On December 4, 2007, Koehler submitted additional comments challenging the petitioner's proposed ranges of the dynamic sensitivity model-match criterion as overly broad. On December 7, 2007, the Department issued the questionnaire containing the criteria identified above. See the Department's antidumping duty questionnaire issued to Koehler on December 7, 2007, at pages B-8 through B-14.

### Date of Sale

Section 351.401(i) of the Department's regulations states that the Department normally will use the date of invoice, as recorded in the producer's or exporter's records kept in the ordinary course of business, as the date of sale. The regulations further provide that the Department may use a date other than the date of invoice if the Secretary is satisfied that a different date better reflects the date on which the material terms of sale are established. The Department has a long-standing practice of finding that, where shipment date precedes invoice date, shipment date better reflects the date on which the material terms of sale are established. See 19 CFR 351.401(i); see also *Notice of Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances: Certain Frozen and Canned Warmwater Shrimp from Thailand*, 69 FR 76918 (December 23, 2004), and accompanying Issues and Decision Memorandum at Comment 10; and *Notice of Final Determination of Sales at Less Than Fair Value: Structural Steel Beams from Germany*, 67 FR 35497 (May 20, 2002), and accompanying Issues and Decision Memorandum at Comment 2. Therefore, we used the earlier of shipment date or invoice date as the date of sale in accordance with our practice.

### Fair Value Comparisons

To determine whether sales of LWTP from Germany were made in the United States at less than normal value (NV), we compared the EP or CEP to the NV, as described in the *Export Price and Constructed Export Price and Normal Value* sections below. In accordance with section 777A(d)(1) of the Act, we calculated the weighted-average prices for NV and compared these to the weighted average of EP (and CEP).

### Export Price and Constructed Export Price

For the price to the United States, we used, as appropriate, EP or CEP, in accordance with sections 772(a) and (b) of the Act. Pursuant to section 772(a) of the Act, we used the EP methodology when the merchandise was first sold by the producer or exporter outside the United States directly to the unaffiliated purchaser in the United States prior to importation and when CEP was not otherwise warranted based on the facts on the record. We calculated CEP for those sales where a person in the United States, affiliated with the foreign exporter or acting for the account of the exporter, made the first sale to the unaffiliated purchaser in the United States of the subject merchandise. See section 772(b) of the Act. We based EP and CEP on the packed prices charged to the first unaffiliated customer in the United States and the applicable terms of sale. When appropriate, we adjusted prices to reflect billing adjustments, rebates, and early payment discounts, and commissions.

In accordance with section 772(c)(2) of the Act, we made deductions, where appropriate, for movement expenses including U.S. warehouse expense, inland freight, inland insurance, brokerage & handling, international freight, marine insurance, and U.S. customs duties.

For CEP, in accordance with section 772(d)(1) of the Act, when appropriate, we deducted from the starting price those selling expenses that were incurred in selling the subject merchandise in the United States, including direct selling expenses (cost of credit, warranty, and other direct selling expenses). These expenses include certain indirect selling expenses incurred by affiliated U.S. distributors. See "Calculation Memorandum for the Preliminary Determination - Koehler." We also deducted from CEP an amount for profit in accordance with sections 772(d)(3) and (f) of the Act. We made additions, where appropriate, for freight rebate revenue and other transportation revenue.

## Normal Value

### A. Home Market Viability and Comparison Market Selection

To determine whether there was a sufficient volume of sales in the home market to serve as a viable basis for calculating NV, we compared the respondents' volume of home market sales of the foreign like product to the volume of its U.S. sales of the subject merchandise. Pursuant to section 773(a)(1)(B)(i) of the Act, because Koehler had an aggregate volume of home market sales of the foreign like product that was greater than five percent of its aggregate volume of U.S. sales of the subject merchandise, we determined that the home market was viable.

### B. Arm's-Length Test

Koehler reported that its sales of the foreign like product were made to unaffiliated customers. Therefore, the arm's-length test is not applicable to Koehler's sales of the foreign like product.

### C. Cost of Production Analysis

Based on our analysis of the petitioner's allegation stated in the petition, we initiated a sales-below-cost investigation to determine whether Koehler had sales that were made at prices below their COP pursuant to section 773(b) of the Act. *See* Petition at page 8. *See also*; *Initiation Notice* at page 62432.

#### 1. Calculation of Cost of Production

In accordance with section 773(b)(3) of the Act, we calculated Koehler's COP based on the sum of its costs of materials and conversion for the foreign like product, plus amounts for general and administrative (G&A) expenses and interest expenses (*see the Test of Comparison Market Sales Prices* section below for the treatment of home market selling expenses).

The Department relied on the COP data submitted by Koehler and its supplemental section D questionnaire responses for the COP calculation, except for the following instances where the information was not appropriately quantified or valued:

- a. We adjusted the denominator of Koehler's reported G&A expense ratio to reflect Koehler's 2006 cost of goods sold.
- b. We adjusted Koehler's reported financial expense ratio to include the total foreign exchange gains and losses reported in Koehler Holding's 2006 consolidated financial statements. We adjusted the denominator of the financial

expense ratio to reflect Koehler Holding's 2006 consolidated cost of goods sold.

Our revisions to Koehler's COP data are discussed in the Memorandum from Robert Greger, Senior Accountant, to Neal Halper, Director, Office of Accounting, entitled "Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Determination - Koehler," dated May 6, 2008.

#### 2. Test of Comparison Market Sales Prices

On a product-specific basis, we compared the adjusted weighted-average COP to the home market sales of the foreign like product, as required under section 773(b) of the Act, in order to determine whether the sales prices were below the COP. For purposes of this comparison, we used the COP exclusive of selling and packing expenses. The prices were exclusive of any applicable movement charges, direct and indirect selling expenses, and packing expenses. In addition, we included an amount for freight rebate revenue and other transportation revenue.

#### 3. Results of the COP Test

Pursuant to section 773(b)(2)(C)(i) of the Act, where less than 20 percent of the respondent's sales of a given product were at prices less than the COP, we did not disregard any below-cost sales of that product because we determined that the below-cost sales were not made in "substantial quantities." Where 20 percent or more of the respondent's sales of a given product during the POI were at prices less than COP, we determined that such sales have been made in "substantial quantities." *See* section 773(b)(2)(C) of the Act. Further, the sales were made within an extended period of time, in accordance with section 773(b)(2)(B) of the Act, because we examined below-cost sales occurring during the entire POI. In such cases, because we compared prices to POI-average costs, we also determined that such sales were not made at prices which would permit recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Act.

Our preliminary findings show that we did not find that more than 20 percent of Koehler's sales were at prices less than the COP. The Department excluded certain sales transactions reported as samples by Koehler. However, we did not exclude any additional sales as a result of the COP test. Therefore, we used all of Koehler's

home market sales as the basis for determining NV.

### D. Calculation of Normal Value Based on Comparison Market Prices

We based home market prices on packed prices to unaffiliated purchasers in Germany. We adjusted the starting price for billing adjustments, early payment discounts, rebates, warehouse expense, and inland freight where appropriate, pursuant to section 773(a)(6)(B)(ii) of the Act. In addition, for comparisons made to EP sales, we made adjustments for differences in circumstances of sale (COS) pursuant to section 773(a)(6)(C)(iii) of the Act. We made COS adjustments by deducting direct selling expenses incurred for home market sales (credit expense, warranty directly linked to sales transactions, and other direct selling expenses) and adding U.S. direct selling expenses (credit, commissions, warranty directly linked to sales transactions, and other direct selling expenses), where appropriate. *See* 19 CFR 351.410.

When comparing U.S. sales with comparison market sales of similar, but not identical, merchandise, we also made adjustments for physical differences in the merchandise in accordance with section 773(a)(6)(C)(ii) of the Act and 19 CFR 351.411. We based this adjustment on the difference in the variable cost of manufacturing for the foreign like product and subject merchandise. *See* 19 CFR 351.411(b).

### E. Level of Trade/Constructed Export Price Offset

In accordance with section 773(a)(1)(B)(i) of the Act, to the extent practicable, we determine NV based on sales in the comparison market at the same level of trade (LOT) as the EP or CEP transaction. In identifying LOTs for EP and comparison market sales (*i.e.*, NV based on home market), we consider the starting prices before any adjustments. For CEP sales, we consider only the selling activities reflected in the price after the deduction of expenses and profit under section 772(d) of the Act. *See Micron Technology, Inc. v. United States*, 243 F.3d 1301, 1314 (Fed. Cir. 2001).

To determine whether NV sales are at a different LOT than EP or CEP transactions, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer. If the comparison market sales are at a different LOT and the difference affects price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and comparison

market sales at the LOT of the export transaction, we make an LOT adjustment under section 773(a)(7)(A) of the Act. For CEP sales, if the NV level is more remote from the factory than the CEP level and there is no basis for determining whether the difference in the levels between NV and CEP affects price comparability, we adjust NV under section 773(a)(7)(B) of the Act (the CEP–offset provision).

Koehler reported its sales in the home market and the U.S. market at the same single LOT. In the home market, Koehler reported that its sales were made through two channels of distribution: (1) direct sales and (2) consignment sales. In the U.S. market, Koehler reported that its sales were made through four channels of distribution: (1) direct sales through its U.S. affiliate (*i.e.*, CEP sales) (2) consignment sales, (3) warehouse sales, and (4) direct sales from Koehler AG (*i.e.*, EP sales). Based on our analysis, we found that Koehler's sales to the U.S. and home market were made at the same LOT, and as a result, no LOT adjustment was warranted. Furthermore, our analysis shows that Koehler's home market sales were not made at a more advanced LOT than Koehler's U.S. sales. Accordingly, we have not made a CEP offset to NV. *See* 773(a)(7)(B) of the Act.

For a detailed description of our LOT methodology and a summary of company-specific LOT findings for these preliminary results, see our analysis contained in the "Calculation Memorandum for the Preliminary Determination – Koehler."

#### Currency Conversion

We made currency conversions into U.S. dollars in accordance with section 773A(a) of the Act based on exchange rates in effect on the dates of the U.S. sales, as certified by the Federal Reserve Bank.

#### All-Others Rate

Pursuant to section 735(c)(5)(A) of the Act, the all–others rate is equal to the weighted average of the estimated weighted–average dumping margins of all respondents investigated, excluding zero or *de minimis* margins or margins determined entirely using facts available. Koehler is the only respondent in this investigation for which the Department has calculated a company-specific rate and it is not zero, *de minimis* or based entirely upon facts available. Therefore, for purposes of determining the all–others rate and pursuant to section 735(c)(5)(A) of the Act, we are using the weighted–average dumping margin calculated for Koehler

for the all–others rate, as referenced in the *Suspension of Liquidation* section, below.

#### Verification

As provided in section 782(i) of the Act, we intend to verify all information upon which we will rely in making our final determination.

#### Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, we are directing CBP to suspend liquidation of all entries of LWTP from Germany that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. We are also instructing CBP to require a cash deposit or the posting of a bond equal to the weighted–average dumping margin, as indicated in the chart below. These suspension–of–liquidation instructions will remain in effect until further notice.

The weighted–average dumping margins are as follows:

Manufacturer/Exporter	Weighted–Average Margin (percent)
Papierfabrik August Koehler AG and Koehler America, Inc. ....	6.49
All Others .....	6.49

#### Disclosure

We will disclose the calculations used in our analysis to parties in this proceeding in accordance with 19 CFR 351.224(b).

#### ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of the Department's preliminary affirmative determination. If the Department's final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after our final determination whether imports of LWTP from Germany are materially injuring, or threaten material injury to, a U.S. industry. Because we have postponed the deadline for our final determination to 135 days from the date of the publication of this preliminary determination, the ITC will make its final determination within 45 days of our final determination.

#### Public Comment

Interested parties are invited to comment on the preliminary determination. Interested parties may submit case briefs to the Department no later than seven days after the date of the issuance of the final verification

report in this proceeding. *See* 19 CFR 351.309(c)(1)(i). Rebuttal briefs, the content of which is limited to the issues raised in the case briefs, must be filed within five days from the deadline date for the submission of case briefs. *See* 19 CFR 351.309(d)(1) and (2). A list of authorities used, a table of contents, and an executive summary of issues should accompany any briefs submitted to the Department. Executive summaries should be limited to five pages total, including footnotes. Further, we request that parties submitting briefs and rebuttal briefs provide the Department with a copy of the public version of such briefs on diskette. In accordance with section 774 of the Act, the Department will hold a public hearing, if requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs, provided that such a hearing is requested by an interested party. If a request for a hearing is made in this investigation, the hearing will tentatively be held two days after the rebuttal brief deadline date at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, at a time and in a room to be determined. Parties should confirm by telephone, the date, time, and location of the hearing 48 hours before the scheduled date.

Interested parties who wish to request a hearing, or to participate in a hearing if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, within 30 days of the publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. *See* 19 CFR 351.310(c). At the hearing, oral presentations will be limited to issues raised in the briefs.

#### Postponement of Final Determination and Extension of Provisional Measures

Pursuant to section 735(a)(2) of the Act, on February 19, 2008, Koehler, which accounts for a significant proportion of exports of LWTP from Germany, requested that in the event of an affirmative preliminary determination in this investigation, the Department fully extend the final determination (*i.e.*, postpone its final determination by 60 days). In its February 19, 2008, letter, Koehler also requested, pursuant to section 733(d) of the Act, that in the event of an affirmative preliminary determination in this investigation, the Department extend the maximum duration of provisional measures from four months

to six months from the date of implementation. *See* section 735(a)(2) of the Act and 19 CFR 351.210(e)(2). In accordance with section 733(d) of the Act and 19 CFR 351.210(b)(2)(ii), because (1) our preliminary determination is affirmative, (2) the requesting exporter accounts for a significant proportion of exports of the subject merchandise, and (3) no compelling reasons for denial exist, we are granting its request and are postponing the final determination until no later than 135 days after the publication of this notice in the **Federal Register**. Suspension of liquidation will be extended accordingly.

This determination is issued and published pursuant to sections 733(f) and 777(i)(1) of the Act.

Dated: May 6, 2008.

**David M. Spooner,**  
Assistant Secretary for Import  
Administration.

[FR Doc. E8-10659 Filed 5-12-08; 8:45 am]

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-570-920]

#### Lightweight Thermal Paper From the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce

**DATES:** *Effective Date:* May 13, 2008.

**SUMMARY:** We preliminarily determine that lightweight thermal paper ("LWTP") from the People's Republic of China ("PRC") is being, or is likely to be, sold in the United States at less than fair value ("LTFV"), as provided in section 733 of the Tariff Act of 1930, as amended ("the Act"). The estimated margins of sales at LTFV are shown in the "Preliminary Determination" section of this notice. Pursuant to requests from interested parties, we are postponing the final determination and extending the provisional measures from a four-month period to not more than six months. Accordingly, we will make our final determination not later than 135 days after publication of the preliminary determination. *See* the "Postponement of the Final Determination" section below.

**FOR FURTHER INFORMATION CONTACT:** Frances Veith or Marin Weaver, AD/CVD Operations, Office 8, Import Administration, International Trade

Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-4295 or (202) 482-2336, respectively.

#### SUPPLEMENTARY INFORMATION:

##### Initiation

On September 19, 2007, Appleton Papers, Inc. ("petitioner" or "Appleton"), filed an antidumping petition in proper form on behalf of the domestic industry and workers producing LWTP, concerning imports of LWTP from Germany, the Republic of Korea ("Korea"), and the PRC, in addition to a countervailing duty petition on LWTP from the PRC. *See* Antidumping Duty Petition on Lightweight Thermal Paper from Germany, the Republic of Korea, and the People's Republic of China and Countervailing Duty Petition on Lightweight Thermal Paper from the People's Republic of China, dated September 19, 2007 (the "*Petition*").

On October 16, 2007, the Department of Commerce ("the Department"), pursuant to section 732(c)(1)(B) of the Act, extended the deadline for the initiation determination in order to determine the adequacy of the petition.<sup>1</sup>

The Department initiated this investigation on October 29, 2007.<sup>2</sup> In the *Initiation Notice*, the Department notified parties of the application process by which exporters and producers may obtain separate-rate status in non-market economy ("NME") investigations. The process requires exporters and producers to submit a separate-rate status application ("SRA").<sup>3</sup> However, the standard for eligibility for a separate rate (which is whether a firm can demonstrate an absence of both *de jure* and *de facto* government control over its export activities) has not changed. The SRA for this investigation was posted on the Department's Web site <http://ia.ita.doc.gov/ia-highlights-and-news.html> on November 5, 2007. The

<sup>1</sup> *See Notice of Extension of the Deadline for Determining the Adequacy of the Antidumping Duty Petitions: Lightweight Thermal Paper from Germany, the Republic of Korea, and the People's Republic of China; and the Countervailing Duty Petition: Lightweight Thermal Paper from the People's Republic of China*, 72 FR 58639 (October 16, 2007).

<sup>2</sup> *See Notice of Initiation of Antidumping Duty Investigations: Lightweight Thermal Paper from Germany, the Republic of Korea, and the People's Republic of China*, 72 FR 62430 (November 5, 2007) ("Initiation Notice").

<sup>3</sup> *See* Policy Bulletin 05.1: Separate-Rates Practice and Application of Combination Rates in Antidumping Investigations Involving Non-Market Economy Countries (April 5, 2005) ("Policy Bulletin 05.1"), available at <http://ia.ita.doc.gov/policy/bulletin05-1.pdf>.

due date for filing an SRA was December 28, 2007. No party filed an SRA in this investigation.

On December 5, 2007, the International Trade Commission ("ITC") determined that there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of imports of LWTP from the PRC.<sup>4</sup>

##### Period of Investigation

The period of investigation ("POI") is January 1, 2007, through June 30, 2007. This period corresponds to the two most recent fiscal quarters prior to the month of the filing of the petition, which was September 2007. *See* 19 CFR 351.204(b)(1).

##### Postponement of Preliminary Determination

On February 6, 2008, petitioner made a timely request pursuant to section 733(c)(1)(A) of the Act and 19 CFR 351.205(b)(2) and (e) for a 50-day postponement of the preliminary determination. On February 25, 2008, the Department published a postponement of the preliminary antidumping duty determination on LWTP from the PRC.<sup>5</sup>

##### Postponement of Final Determination

On April 14, 2008, and May 2, 2008, Hanhong International Limited, Shanghai Hanhong Paper Co., Ltd., and Hong Kong Hanhong Ltd. (collectively ("Hanhong")) and Guangdong Guanhao High-Tech Co., Ltd. ("Guanhao"), respectively, made a timely request pursuant to section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii) that the Department extend the final determination by the full amount of time allowed by law. On May 6, 2008, Hanhong and Guanhao supplemented their requests to extend the final determination to include requests to extend provisional measures pursuant to section 735(a)(2)(A) of the Act and 19 CFR 351.210(e)(2).

##### Scope of the Investigation

The merchandise covered by this investigation includes certain lightweight thermal paper, which is thermal paper with a basis weight of 70 grams per square meter (g/m<sup>2</sup>) (with a tolerance of  $\pm 4.0$  g/m<sup>2</sup>) or less;

<sup>4</sup> *See Investigation Nos. 701-TA-451 and 731-TA-1126-1128 (Preliminary): Certain Lightweight Thermal Paper from China, Germany, and Korea*, 72 FR 70343 (December 11, 2007).

<sup>5</sup> *See Lightweight Thermal Paper From Germany and the People's Republic of China: Postponement of Preliminary Determinations of Antidumping Duty Investigations*, 73 FR 9997 (February 25, 2008).