

dumping margin for the Elque Group. Commerce determined that the Elque Group: (1) Withheld requested information; (2) failed to provide information in the form or manner requested by Commerce; and (3) significantly impeded the proceeding.<sup>2</sup> For these reasons, in determining the Elque Group's dumping margin, Commerce applied adverse facts available (AFA), pursuant to section 776(b) of the Tariff Act of 1930, as amended (the Act).<sup>3</sup>

On February 3, 2021, the Court remanded aspects of the *Final Results* to Commerce for further consideration. Specifically, the Court held that Commerce's application of AFA to the Elque Group was unlawful because Commerce did not provide the Elque Group adequate assistance or consider its difficulties as a small company, as required by section 782(c) of the Act. In its decision, the Court remanded the *Final Results* to Commerce to recalculate the Elque Group's dumping margin, by either: (1) Reopening the record and procuring additional information; or (2) applying neutral facts available. In the Remand Redetermination, Commerce applied neutral facts available to the Elque Group's reported data to calculate a dumping margin.<sup>4</sup> On September 20, 2021, the CIT sustained Commerce's Remand Redetermination.<sup>5</sup>

#### Timken Notice

In its decision in *Timken*,<sup>6</sup> as clarified by *Diamond Sawblades*,<sup>7</sup> the Court of Appeals for the Federal Circuit held that, pursuant to section 516A(c) and (e) of the Act, Commerce must publish a notice of court decision that is not "in harmony" with a Commerce determination and suspend liquidation of entries pending a "conclusive" court decision. The CIT's September 20, 2021 judgment constitutes a final decision of

the CIT that is not in harmony with Commerce's *Final Results*. Thus, this notice is published in fulfillment of the publication requirements of *Timken*.

#### Amended Final Results

Because there is now a final court judgment, Commerce is amending its *Final Results* with respect to the Elque Group and the non-examined companies subject to the review as follows:

Producer/exporter	Weighted-average dumping margin (percent)
Calcutta Seafoods Pvt. Ltd./Bay Seafood Pvt. Ltd./Elque & Co	27.66
<b>Review-Specific Average Rate Applicable to the Following Companies<sup>8</sup></b>	
Blue-Fin Frozen Foods Pvt. Ltd.	6.13
Crystal Sea Foods Private Limited	6.13
Forstar Frozen Foods Pvt. Ltd.	6.13
Milsha Agro Exports Pvt. Ltd.	6.13

#### Cash Deposit Requirements

Because Calcutta Seafoods Pvt. Ltd./ Bay Seafood Pvt. Ltd./Elque & Co., Blue-Fin Frozen Foods Pvt. Ltd., Crystal Sea Foods Private Limited, and Forstar Frozen Foods Pvt. Ltd. have a superseding cash deposit rate, *i.e.*, there have been final results published in a subsequent administrative review, we will not issue revised cash deposit instructions to U.S. Customs and Border Protection (CBP). This notice will not affect the current cash deposit rate with respect to these companies.

With respect to Milsha Agro Exports Pvt. Ltd., Commerce will issue revised cash deposit instructions to CBP.

#### Liquidation of Suspended Entries

At this time, Commerce remains enjoined by CIT order from liquidating entries that were produced and/or exported by Calcutta Seafoods Pvt. Ltd., Bay Seafood Pvt. Ltd., and Elque & Co. and were entered, or withdrawn from warehouse, for consumption during the period February 1, 2017, through January 31, 2018. These entries will remain enjoined pursuant to the terms

<sup>8</sup> This rate is based on the rates for the respondents that were selected for individual review, excluding rates that are zero, *de minimis*, or based entirely on facts available. See section 735(c)(5)(A) of the Act. See also Memorandum, "Remand Redetermination of the Antidumping Duty Administrative Review of Certain Frozen Warmwater Shrimp from India: Calculation of the Cash Deposit Rate for Non-Reviewed Companies," dated April 21, 2021; and *Final Results*, 84 FR at 57847.

of the injunction during the pendency of any appeals process.

In the event that the CIT's ruling is not appealed, or, if appealed, upheld by a final and conclusive court decision, Commerce intends to instruct CBP to assess antidumping duties on unliquidated entries of subject merchandise produced and/or exported by Calcutta Seafoods Pvt. Ltd., Bay Seafood Pvt. Ltd., and Elque & Co. in accordance with 19 CFR 351.212(b). We will instruct CBP to assess antidumping duties on all appropriate entries covered by this review when the importer-specific *ad valorem* assessment rate is not zero or *de minimis*. Where an importer-specific *ad valorem* assessment rate is zero or *de minimis*,<sup>9</sup> we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties.

#### Notification to Interested Parties

This notice is issued and published in accordance with sections 516A(c) and (e) and 777(i)(1) of the Act.

Dated: September 24, 2021.

**Christian Marsh,**

*Acting Assistant Secretary for Enforcement and Compliance.*

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**BILLING CODE 3510-DS-P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-588-880]

#### Thermal Paper From Japan: Final Affirmative Determination of Sales at Less Than Fair Value

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

**SUMMARY:** The Department of Commerce (Commerce) determines that thermal paper from Japan is being, or is likely to be, sold in the United States at less than fair value (LTFV) for the period of investigation, October 1, 2019, through September 30, 2020.

**DATES:** Applicable September 30, 2021.

**FOR FURTHER INFORMATION CONTACT:** Alex Wood or Paul Litwin, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-1959 or (202) 482-6002, respectively.

#### SUPPLEMENTARY INFORMATION:

<sup>9</sup> See 19 CFR 351.106(c)(2).

<sup>2</sup> See *Certain Frozen Warmwater Shrimp from India: Preliminary Results of Antidumping Duty Administrative Review; 2017-2018*, 84 FR 16843 (April 23, 2019) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum (PDM) at 11, unchanged in the *Final Results*.

<sup>3</sup> See *Preliminary Results* PDM at 13, unchanged in the *Final Results*.

<sup>4</sup> See Final Results of Redetermination on Remand Pursuant to *Calcutta Seafoods Pvt. Ltd., Bay Seafood Pvt. Ltd., and Elque & Co. v. United States*, Court No. 19-00201, Slip. Op. 21-11 (CIT February 3, 2021), dated May 4, 2021 (Remand Redetermination).

<sup>5</sup> See *Calcutta Seafoods Pvt. Ltd., Bay Seafood Pvt. Ltd., and Elque & Co. v. United States*, Court No. 19-00201, Slip Op. 21-123 (CIT September 20, 2021).

<sup>6</sup> See *Timken Co. v. United States*, 893 F.2d 337 (Fed. Cir. 1990) (*Timken*).

<sup>7</sup> See *Diamond Sawblades Manufacturers Coalition v. United States*, 626 F.3d 1374 (Fed. Cir. 2010) (*Diamond Sawblades*).

## Background

On May 12, 2021, Commerce published in the **Federal Register** the preliminary affirmative determination in the LTFV investigation of thermal paper from Japan, in which we also postponed the final determination until September 24, 2021.<sup>1</sup> Commerce invited interested parties to comment on the *Preliminary Determination*. A summary of the events that occurred since Commerce published the *Preliminary Determination* may be found in the Issues and Decision Memorandum.<sup>2</sup>

## Scope of the Investigation

The product covered by this investigation is thermal paper from Japan. For a complete description of the scope of this investigation, see Appendix I.

## Scope Comments

On May 5, 2021, Commerce issued the Preliminary Scope Decision Memorandum.<sup>3</sup> We received comments from interested parties with regard to the Preliminary Scope Decision Memorandum, which we addressed in the Final General Scope Decision Memorandum, and Final Japan Scope Decision Memorandum.<sup>4</sup> Commerce has made no changes to the scope of this investigation since the *Preliminary Determination*.

## Analysis of Comments Received

On June 24, 2021, the petitioners<sup>5</sup> filed a case brief. No other interested party submitted a case or rebuttal brief. All issues raised in the petitioners' case brief are addressed in the Issues and Decision Memorandum. A list of the issues addressed in the Issues and Decision Memorandum is attached to

this notice as Appendix II. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn>.

## Methodology—Adverse Facts Available

Prior to verification, Nippon Paper Industries, Co., Ltd. (NPI), the sole mandatory respondent in this investigation, informed Commerce that it was withdrawing its participation from this investigation.<sup>6</sup> Thus, we determine that NPI's data cannot serve as a reliable basis for our *Final Determination* because NPI's data could not be verified. We further determine that NPI significantly impeded the investigation and did not act to the best of its ability to comply with our requests for information. Therefore, we find it appropriate to apply a dumping margin based on adverse facts available (AFA) to NPI, in accordance with sections 776(a) and (b) of the Act. For further discussion, see the Issues and Decision Memorandum.

## Verification

As noted above, NPI withdrew its participation from this investigation prior to verification. Accordingly, Commerce was unable to conduct verification pursuant to section 782(i)(1) of the Act.

## All-Others Rate

Section 735(c)(5)(A) of the Act provides that the estimated weighted-average dumping margin for all other producers and exporters not individually investigated shall be equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated excluding rates that are zero, *de minimis*, or determined entirely under section 776 of the Act. Pursuant to section 735(c)(5)(B) of the Act, if the estimated weighted-average dumping margins established for all exporters and producers individually examined are zero, *de minimis*, or determined based entirely on facts otherwise available, Commerce may use any reasonable method to establish the estimated weighted-average dumping margin for all other producers or exporters.

Commerce has determined the estimated weighted-average dumping margin for the sole individually-examined respondent entirely under section 776 of the Act. Pursuant to section 735(c)(5)(B) of the Act, Commerce's practice under these circumstances has been to assign, as the all-others rate, a simple average of the petition rates.<sup>7</sup> In the Petition, the petitioners provided two dumping margins, 140.25 percent and 129.86 percent, which were each based on a price-to-constructed-value comparison.<sup>8</sup> Therefore, in the absence of any estimated weighted-average dumping margin on the record of this investigation that is not zero, *de minimis*, or determined entirely under section 776 of the Act, we are assigning the simple average of the two dumping margins in the Initiation Checklist, *i.e.*, 135.06 percent, as the all-others rate.

## Final Determination

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

Exporter/producer	Estimated weighted-average dumping margin (percent)
Nippon Paper Industries Co., Ltd./ Nippon Paper Papyrus Co., Ltd. <sup>9</sup> .....	140.25
All Others .....	135.06

## Disclosure

Normally, Commerce discloses to interested parties the calculations performed in connection with a final determination within five days of any public announcement or, if there is no public announcement, within five days of the date of publication of the notice of final determination in the **Federal Register**, in accordance with 19 CFR 351.224(b). However, because Commerce applied AFA to the mandatory respondent in this investigation, NPI, in accordance with section 776 of the Act, and the AFA dumping margin is based solely on the petition, there are no calculations to disclose.

<sup>7</sup> See, e.g., *Notice of Final Determination of Sales at Less Than Fair Value: Sodium Nitrite from the Federal Republic of Germany*, 73 FR 38986, 38987 (July 8, 2008), and accompanying Issues and Decision Memorandum at Comment 2.

<sup>8</sup> See *Thermal Paper from Germany, Japan, the Republic of Korea, and Spain: Initiation of Less-Than-Fair-Value Investigations*, 85 FR 69580 (November 3, 2020); and Checklist, "Thermal Paper from Japan," dated October 27, 2020 (Initiation Checklist) at 6–7.

<sup>9</sup> Commerce preliminarily determined that Nippon Paper Industries Co., Ltd., and Nippon Paper Papyrus Co., Ltd. are a single entity. See *Preliminary Determination PDM* at 2.

<sup>1</sup> See *Thermal Paper from the Republic of Japan: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Extension of Provisional Measures*, 86 FR 26011 (May 12, 2021) (*Preliminary Determination*), and accompanying Preliminary Decision Memorandum (PDM).

<sup>2</sup> See Memorandum, "Decision Memorandum for the Final Affirmative Determination in the Less-Than-Fair-Value Investigation of Thermal Paper from Japan," dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

<sup>3</sup> See Memorandum, "Thermal Paper from Germany, Japan, the Republic of Korea, and Spain: Preliminary Scope Decision," dated May 5, 2021 (Preliminary Scope Decision Memorandum).

<sup>4</sup> See Memorandum, "Thermal Paper from Germany, Japan, the Republic of Korea, and Spain: Final Decision on General Scope Issues," dated concurrently with, and hereby adopted by, this notice (Final General Scope Decision Memorandum); and Memorandum, "Thermal Paper from Japan: Final Scope Decision," dated concurrently with, and hereby adopted by, this notice (Final Japan Scope Decision Memorandum).

<sup>5</sup> The petitioners are Appvion Operations, Inc., and Domtar Corporation.

<sup>6</sup> See NPI's Letter, "NPI's Withdrawal as Mandatory Respondent," dated June 17, 2021.

## Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, Commerce will instruct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of all appropriate entries of thermal paper from Japan, as described in Appendix I of this notice, that were entered, or withdrawn from warehouse, for consumption on or after May 12, 2021, the date of publication in the **Federal Register** of the affirmative *Preliminary Determination*.

Pursuant to section 735(c)(1)(B)(ii) of the Act and 19 CFR 351.210(d), we will instruct CBP to require a cash deposit equal to the estimated weighted-average dumping margin or the estimated all-others rate, as follows: (1) The cash deposit rate for the respondent listed above will be equal to the company-specific estimated weighted-average dumping margin determined in this final determination; (2) if the exporter is not a respondent identified above, but the producer is, then the cash deposit rate will be equal to the company-specific estimated weighted-average dumping margin established for that producer of the subject merchandise; and (3) the cash deposit rate for all other producers and exporters will be equal to the all-others estimated weighted-average dumping margin.

These suspension of liquidation instructions will remain in effect until further notice.

## International Trade Commission Notification

In accordance with section 735(d) of the Act, we will notify the International Trade Commission (ITC) of this final affirmative determination of sales at LTFV. Because Commerce's final determination is affirmative, in accordance with section 735(b)(2) of the Act, the ITC will make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports or sales (or the likelihood of sales) for importation of thermal paper from Japan no later than 45 days after this final determination. If the ITC determines that such injury does not exist, this proceeding will be terminated, all cash deposits posted will be refunded, and suspension of liquidation will be lifted. If the ITC determines that such injury does exist, Commerce will issue an antidumping duty order directing CBP to assess, upon further instruction by Commerce, antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse,

for consumption on or after the effective date of the suspension of liquidation, as discussed above in the "Continuation of Suspension of Liquidation" section.

## Notification Regarding Administrative Protective Order

This notice will serve as a final reminder to the parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

## Notification to Interested Parties

This determination and this notice are issued and published in accordance with sections 735(d) and 777(i)(1) of the Act, and 19 CFR 351.210(c).

Dated: September 24, 2021.

**Christian Marsh,**

*Acting Assistant Secretary for Enforcement and Compliance.*

## Appendix I

### Scope of the Investigation

The scope of this investigation covers thermal paper in the form of "jumbo rolls" and certain "converted rolls." The scope covers jumbo rolls and converted rolls of thermal paper with or without a base coat (typically made of clay, latex, and/or plastic pigments, and/or like materials) on one or both sides; with thermal active coating(s) (typically made of sensitizer, dye, and co-reactant, and/or like materials) on one or both sides; with or without a top coat (typically made of pigments, polyvinyl alcohol, and/or like materials), and without an adhesive backing. Jumbo rolls are defined as rolls with an actual width of 4.5 inches or more, an actual weight of 65 pounds or more, and an actual diameter of 20 inches or more (jumbo rolls). All jumbo rolls are included in the scope regardless of the basis weight of the paper. Also included in the scope are "converted rolls" with an actual width of less than 4.5 inches, and with an actual basis weight of 70 grams per square meter (gsm) or less.

The scope of this investigation covers thermal paper that is converted into rolls with an actual width of less than 4.5 inches and with an actual basis weight of 70 gsm or less in third countries from jumbo rolls produced in the subject countries.

The merchandise subject to this investigation may be classified in the Harmonized Tariff Schedule of the United States (HTSUS) under subheadings 4811.90.8030 and 4811.90.9030. Although HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.

## Appendix II

### List of Sections Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Application of Facts Available and Use of Adverse Inference
- IV. Scope of the Investigation
- V. Discussion of the Issues
  - Comment 1: Whether AFA is Appropriate for NPI
  - Comment 2: Whether the Highest Petition Rate is Applicable as the AFA Rate
- VI. Recommendation

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## DEPARTMENT OF COMMERCE

### International Trade Administration

### Notice of Amendment for Certain Fall 2021 Scheduled Trade Missions

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

**ACTION:** Notice.

**SUMMARY:** The United States Department of Commerce, International Trade Administration, is announcing amended dates and deadlines for submitting applications for several upcoming trade missions that were previously announced and published in the **Federal Register**:

- Cybersecurity Business Development Mission to Peru, Chile, and Uruguay, with an optional stop in Argentina, scheduled for March 1–5, and 8, 2021, postponed to March 30–April 8, 2022.
- Cybersecurity Business Development Mission to India, scheduled for November 8–12, 2021, postponed to May 2–5, 2022.
- Digital Transformation Business Development Mission to the Gulf Cooperation Council (GCC) region, scheduled from October 24–28, 2021, postponed to January 23–27, 2022. The optional UAE stop was also removed from the mission schedule.
- Trade Mission to the Caribbean Region in conjunction with the Trade Americas—Business Opportunities in the Caribbean Region Conference, scheduled from October 24–28, 2021, postponed to October 23–28, 2022.

### SUPPLEMENTARY INFORMATION:

Amendments to Revise Trade Mission Dates, and Deadline for Submitting Applications for Certain Fall 2021 Trade Missions.