DEPARTMENT OF COMMERCE

INTERNATIONAL TRADE ADMINISTRATION

(A–428–840)

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

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

SUMMARY: The Department of Commerce (the Department) has determined that imports of lightweight thermal paper (LWTP) from Germany are being, or are likely to be, sold in the United States at less than fair value (LTFV), as provided in section 735 of the Tariff Act of 1930, as amended (the Act). The final estimated margins of sales at LTFV are listed below in the section entitled “Final Determination Margins.”

EFFECTIVE DATE: October 2, 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:

Case History

Based on the Department’s findings at verification, as well as the minor corrections presented by Koehler at the start of its verifications, we requested during verification that respondent submit revised sales databases. As requested, Koehler submitted its revised sales databases at verification on June 26, 2008.

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/m²) (with a tolerance of ± 4.0 g/m²) or less; irrespective of dimensions, with or without a base coat6 on one or both sides; with thermal active coating(s)7 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;8 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 Harmonized Tariff Schedule of the United States (HTSUS) under subheadings 4811.90.8020 and 4811.90.9090.9 As discussed below, we added to the scope of the investigation the following HTSUS subheadings:

- 4811.90.8020
- 4811.90.9090

5 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 this investigation.
6 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.
7 A thermal active coating is typically made of sensitizer, dye, and co-reactant.
8 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.
9 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 tissue wrap, a non-subject product) and 4811.90.9090 (for other, including LWTP).
this notice as an appendix. Parties can find a complete discussion of all issues raised in this investigation and the corresponding recommendations in the Decision Memorandum which is on file in the CRU. In addition, a complete version of the Decision Memorandum can be accessed directly on the Web at http://ia.ita.doc.gov/frn/index.html. The paper copy and electronic version of the Decision Memorandum are identical in content.

Targeted Dumping

In the Preliminary Determination, with respect to targeted dumping, we followed the methodology outlined in the post–preliminary targeted dumping analysis in the investigations of steel nails from the People’s Republic of China and the United Arab Emirates. See Memorandum to David M. Spooner, Assistant Secretary for Import Administration, from Stephen J. Claeyts, Deputy Assistant Secretary for Import Administration, RE: Antidumping Duty Investigation of Certain Steel Nails from the People’s Republic of China (PRC) and the United Arab Emirates (UAE), Subject: Post–Preliminary Determinations on Targeted Dumping, dated April 21, 2008 (Nails Targeted Dumping Memorandum). Based on the targeted dumping test that we applied in the Preliminary Determination, 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 and calculated a margin of 6.49 percent for Koehler.

In the Preliminary Determination, the Department applied the targeted dumping test based on the methodology outlined in the Nail Targeted Dumping Memorandum and found that all three allegations of targeted dumping (customer, region, and time period) failed the test. We have analyzed the case and rebuttal briefs with respect to targeted dumping issues submitted for the record in this investigation and considered the changes made to the targeted dumping test applied in the final determinations of Nails and PRC Tires. As a result of our analysis, we utilized the Nails targeted dumping test from the Preliminary Determination and applied certain modifications from Nails and PRC Tires for purposes of the final determination.15

As in the Preliminary Determination, we did not find a pattern of EPs for comparable merchandise that differ significantly among customers, regions or by time period. For further discussion, see Comments 2 through 4 of the Decision Memorandum. See also: “Final Analysis Memorandum for Sales Koehler,” dated September 25, 2008 (Final Sales Memorandum) and Memorandum to Neal M. Halper, Director, Office of Accounting, entitled “Cost of Production and Constructed Value Calculation Adjustments for the Final Determination Koehler,” dated September 25, 2008 (Final Cost Memorandum).

Verification

As provided in section 782(i) of the Act, we verified the sales and cost information submitted by Koehler for use in our final determination. We used standard verification procedures including an examination of relevant accounting and production records, and original source documents provided by Koehler. See “Koehler Sales Verification Report” and “Koehler Cost Verification Report.”

Changes Since the Preliminary Determination

Based on our analysis of the comments received and our findings at verification, we have made certain changes to the margin calculation for Koehler. For a discussion of these changes, see the Final Sales Memorandum and Final Cost Memorandum.

Final Determination Margins

We determine that the following weighted–average dumping margin exists for the period July 1, 2006, to June 30, 2007:

<table>
<thead>
<tr>
<th>Manufacturer/Exporter</th>
<th>Weighted–Average Margin (percent)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Papierfabrik August Koehler AG and Koehler America, Inc.</td>
<td>6.50</td>
</tr>
<tr>
<td>All Others</td>
<td>6.50</td>
</tr>
</tbody>
</table>

Disclosure

We will disclose the calculations performed within five days of the date of publication of this notice to parties in the proceeding in accordance with 19 CFR 351.224(b).

Continuation of Suspension of Liquidation

Pursuant to section 735(c)(1)(B) of the Act, we will instruct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of all entries of subject merchandise from Germany, entered, or withdrawn from warehouse, for consumption on or after May 13, 2008, the date of publication of the Preliminary Determination. We will instruct CBP to require a cash deposit or the posting of a bond equal to the weighted–average dumping margins, as indicated in the chart above. 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 have notified the International Trade Commission (ITC) of our final determination. As our final determination is affirmative and in accordance with section 735(b)(2) of the Act, the ITC will determine, within 45 days, 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 the subject merchandise. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing CBP to assess 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.

Notification Regarding APO

This notice also serves as a reminder to 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. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations

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10 See Preliminary Determination at 27509.
11 Id.
12 Id. at 27503.
13 See the petitioner’s case brief, dated July 31, 2008; see also Koehler and Mitsubishi HiTec Papers and MJC’s rebuttal briefs, dated August 5, 2008.
14 See Certain Steel Nails from the United Arab Emirates: Notice of Final Determination of Sales at Not Less Than Fair Value, 73 FR 33985 (June 16, 2008), and accompanying Issues and Decision Memorandum [Steel Nails from the UAE] at Comment 5; see also Certain Steel Nails from the People’s Republic of China: Final Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances, 73 FR 33977 (June 16, 2008), and accompanying Issues and Decision Memorandum (Steel Nails from the PRC) at Comments 3, 5, and 9 (collectively, Nails); see also Certain New Pneumatic Off-The-Road Tires from the People’s Republic of China: Final Affirmative Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances, 73 FR 40480 (July 15, 2008), and accompanying Issues and Decision Memorandum (PRC Tires) at Comments 23, B and 23.G.
15 Id.
and the terms of an APO is a sanctionable violation.

This determination is issued and published pursuant to sections 735(d) and 777(i)(1) of the Act.


Stephen J. Claeys,
Acting Assistant Secretary for Import Administration.

Appendix -- Issues in Decision Memorandum

I. GENERAL ISSUES

Comment 1: Ministerial Error Correction

II. TARGETED DUMPING ISSUES

Comment 2: Whether the Department’s Targeted Dumping Test is Flawed and Should be Replaced with the “preponderance at two percent test” (P/2 Test)

Comment 3: Whether the Department Should Apply any Margins Calculated for Koehler Pursuant to its Targeted Dumping Test to Mitsubishi HiTec Paper and the Non-Selected Respondents

Comment 4: Whether Margins Should be Calculated Without Applying Offsets for Non-Dumped Sales

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