

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, DC 20436

Investigation No. 731-TA-1127 (Final) (Remand)

CERTAIN LIGHTWEIGHT THERMAL PAPER FROM GERMANY

Remand proceedings

AGENCY: United States International Trade Commission.

ACTION: Notice

SUMMARY: The U.S. International Trade Commission (“Commission”) hereby gives notice of the court-ordered remand of its final determination in Investigation No. 731-TA-1127 concerning certain lightweight thermal paper (“LWTP”) from Germany. For further information concerning the conduct of this proceeding and rules of general application, consult the Commission’s Rules of Practice and Procedure, part 201, subparts A through E (19 C.F.R. part 201), and part 207, subpart A (19 C.F.R. part 207).

EFFECTIVE DATE: July 1, 2011

FOR FURTHER INFORMATION CONTACT: Christopher Cassise, Office of Investigations, telephone 202-708-5408, or Marc A. Bernstein, Office of General Counsel, telephone 202-205-3087, U.S. International Trade Commission, 500 E Street S.W., Washington, D.C. 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission’s TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000. General information concerning the Commission may also be obtained by accessing its internet server (<http://www.usitc.gov>). The public record of Investigation No. 731-TA-1127 may be viewed on the Commission’s electronic docket (“EDIS”) at <http://edis.usitc.gov>.

SUPPLEMENTARY INFORMATION:

Background. – In November 2008, the Commission determined that a domestic industry was threatened with material injury by reason of imports of certain lightweight thermal paper from Germany that the Department of Commerce found were sold at less than fair value (LTFV). Papierfabrik August Koehler AG and Koehler America, Inc. (collectively “Koehler”), respectively an exporter and importer of LWTP from Germany, contested the Commission’s determination before the Court of International Trade (CIT). The CIT affirmed the Commission’s determination. *Papierfabrik August Koehler AG v. United States*, 675 F. Supp.2d 1172 (Ct. Int’l Trade 2009). On appeal, the United States Court of Appeals for the Federal Circuit vacated the judgment of the CIT. The Federal Circuit held that the Commission improperly failed to consider certain materials Koehler introduced, consisting of a worksheet prepared in the Commerce dumping investigation containing intermediate dumping margin calculations concerning certain types of LWTP, including LWTP having basis weight of 48 grams per square meter (“48 gram LWTP”). *Papierfabrik August Koehler AG v. United States*, App. No. 2010-1147 (Fed. Cir. January 11, 2011) (non-precedential opinion). The Federal Circuit subsequently denied the Commission’s petition for rehearing and rehearing *en banc*. *Papierfabrik August Koehler AG v. United States*, App. No. 2010-1147 (Fed. Cir. May 18, 2011). On June 15, 2011, the CIT remanded this matter to the Commission. It ordered the Commission to take “action consistent with the [Federal Circuit] decision” and “to revise its final determination with respect to the threat of material injury from subject merchandise from Germany,

in accordance with the decision [of the Federal Circuit]. The Commission shall specifically explain how its decision to deny Koehler's request to exclude a subset of subject merchandise from the Commission's threat of material injury determination complies with the Court of Appeals' interpretation of 19 U.S.C. § 1673d(c)(1)(A) and the decision in *Algoma Steel Corp. v. United States*, 865 F.2d 240 (Fed. Cir. 1989)." *Papierfabrik August Koehler AG v. United States*, Slip. Op. 11-67 (Ct. Int'l Trade June 15, 2011).

Participation in the proceeding. – Only those persons who were interested parties to the original investigation (i.e., persons listed on the Commission Secretary's service list) and participated in the appeal proceedings before the Federal Circuit may participate in the remand proceeding. Such persons need not re-file their appearance notices or protective order applications to participate in the remand proceeding. Business proprietary information ("BPI") referred to during the remand proceeding will be governed, as appropriate, by the administrative protective order issued in the original investigation.

Written submissions. – The Commission is reopening the record to obtain additional information pertinent to the issue on which the CIT has directed a remand. In addition, the Commission will permit the parties to file comments pertaining to any new factual information and the following issues:

1. The nature of the action the opinion of the Federal Circuit and the remand instructions of the CIT require the Commission to take on remand.
2. What factual findings and legal conclusions the Commission should make in light of the information in the remand record from Department of Commerce proceedings concerning dumping of imports of 48 gram LWTP from Germany

Comments should be limited to no more than twenty (20) double-spaced and single-sided pages of textual material. The parties may not submit any new factual information in their comments and may not address any issue other than those listed above. Any such comments must be filed with the Commission no later than August 5, 2011.

All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 Fed. Reg. 68036 (Nov. 8, 2002).

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Parties are also advised to consult with the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 C.F.R. part 201), and part 207, subpart A (19 C.F.R. part 207) for provisions of general applicability concerning written submissions to the Commission.

By order of the Commission.

/s/
James R. Holbein
Secretary to the Commission

Issued: July 12, 2011