

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 (LFTV), 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**

On May 13, 2008, the Department published in the **Federal Register** its preliminary determination in the antidumping duty investigation of LWTP from Germany. See *Lightweight Thermal Paper from Germany: Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 73 FR 27498

(May 13, 2008) (*Preliminary Determination*).

In the *Preliminary Determination*, based on our examination of the petitioner's targeted dumping allegation filed on March 27, 2008, we conducted an analysis to determine whether targeted dumping occurred. We preliminarily determined that there is not a pattern of export prices (EPs) for comparable merchandise that differ significantly among customers, regions or by time period.¹

In the *Preliminary Determination*, the Department invited comments on the overall application of the targeted dumping test applied in this proceeding and on the *Preliminary Determination* as a whole.² We received comments within the case briefs submitted by the petitioner³ and the respondent, Papierfabrik August Koehler AG and Koehler America, Inc. (collectively, Koehler) on July 31, 2008. Koehler and Mitsubishi HiTec Paper Flensburg GmbH and Mitsubishi HiTec Paper Bielefeld GmbH (collectively, Mitsubishi HiTec Paper) and Mitsubishi International Corporation (MIC)⁴ submitted rebuttal comments on August 5, 2008.

We conducted sales and cost verifications of the questionnaire responses submitted by Koehler. See Memorandum to the File from George McMahon and Cindy Robinson, Case Analysts, through James Terpstra, Program Manager, Office 3, entitled "Verification of the Sales Response of Papierfabrik August Koehler AG and Koehler America, Inc. (collectively, Koehler) in the Antidumping Duty Investigation of Lightweight Thermal Paper (LWTP) from Germany," dated July 24, 2008 (Koehler Sales Verification Report); see also Memorandum to the File through Neal M. Halper, from Robert B. Greger, entitled "Verification of the Cost Response of Papierfabrik August Koehler AG in the Antidumping Investigation of Lightweight Thermal Paper from Germany," dated June 18, 2008 (Koehler Cost Verification Report). All verification reports are on file and available in the Central Records Unit (CRU), Room 1117, of the main Department of Commerce building.

¹ See *Preliminary Determination* at 27500.

² *Id.* at 27498, 27500, and 27503.

³ The petitioner in this investigation is Appleton Papers, Inc.

⁴ Mitsubishi HiTec Paper and MIC were also identified by the petitioner as potential respondents in the petition submitted in this investigation. However, the Department selected Koehler as the only mandatory respondent due to the Department's resource constraints. See "Respondent Selection Memorandum" dated December 4, 2007, for further details. Therefore, Mitsubishi HiTec Paper and MIC are not mandatory respondents in this investigation.

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;⁵ 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 4811.90.8040 and 4811.90.9090.⁹ As discussed below, we added to the scope of the investigation the following HTSUS subheadings:

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 \geq other, \geq 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 \geq other, \geq including LWTP).

3703.10.60, 4811.59.20, 4820.10.20, and 4823.40.00. Although HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the investigation is dispositive.

Scope Comments

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 investigation: 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 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 investigation of LWTP from Germany and simultaneous antidumping duty and countervailing duty investigations of LWTP from the People's Republic of China (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. Since the *Preliminary Determination*, no party to this proceeding has commented on this issue and we have found no additional information that would compel us to reverse our preliminary decision to add the aforementioned HTSUS subheadings to the scope of the investigation. Thus, for purposes of the final determination, we have added these additional subheadings to the scope of this investigation.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this antidumping investigation are addressed in the "Issues and Decision Memorandum for the Final Determination of the Antidumping Duty Investigation of Lightweight Thermal Paper from Germany" (Decision Memorandum) from Stephen J. Claeys, Deputy Assistant Secretary for Import Administration, to David M. Spooner, Assistant Secretary for Import Administration, dated September 25, 2008, which is hereby adopted by this notice. A list of the issues which parties have raised and to which we have responded, all of which are in the Decision Memorandum, is attached to

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. Claeys, 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).¹⁰ 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.¹¹ 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.¹²

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 briefs¹³ 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*.¹⁴ 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:

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.

Manufacturer/Exporter	Weighted-Average Margin (percent)
Papierfabrik August Koehler AG and Koehler America, Inc.	6.50
All Others	6.50

Disclosure

We will disclose the calculations performed within five days of the date of publication of this notice to parties in this 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

¹⁰ See *Preliminary Determination* at 27500.

¹¹ Id.

¹² Id. at 27503.

¹³ See the petitioner's case brief, dated July 31, 2008; see also Koehler and Mitsubishi HiTec Paper and MIC'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

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.

Dated: September 25, 2008.

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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