

Pulp Based On Monthly Weighted-Average Prices

Comment 13: If the Department Continues to Calculate Monthly Weighted-Average Prices for Donghae Pulp, Certain Methodological Corrections Are Required

Comment 14: Hansol's Arguments that Donghae Pulp is Owned or Controlled by the GOK

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XIII. RECOMMENDATION

[FR Doc. E7-21036 Filed 10-24-07; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

C-560-821

Coated Free Sheet Paper from Indonesia: Final Affirmative Countervailing Duty Determination

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

SUMMARY: The Department of Commerce (the Department) has reached a final

determination that countervailable subsidies are being provided to producers and exporters of coated free sheet paper (CFS) from Indonesia. For information on the countervailable subsidy rates, please see the "Final Determination" section of this notice.

EFFECTIVE DATE: October 25, 2007.

FOR FURTHER INFORMATION CONTACT:

Sean Carey, Nicholas Czajkowski, or Gene Calvert, AD/CVD Operations, Office 6, Import Administration, International Trade Administration, U.S. Department of Commerce, Room 7866, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-3964, (202) 482-1395, or (202) 482-3586, respectively.

SUPPLEMENTARY INFORMATION:

Case History

On April 9, 2007, the Department published *Coated Free Sheet Paper from Indonesia: Notice of Preliminary Affirmative Countervailing Duty Determination*, 72 FR 17498 (April 9, 2007) (*Preliminary Determination*). Since the issuance of the *Preliminary Determination*, the following events have occurred. On April 10 and May 18, 2007, the Department issued supplemental questionnaires to the Government of Indonesia (GOI) and to PT. Pabrik Kertas Tjiwi Kimia Tbk. (TK) and Pindo Deli Pulp and Paper Mills (PD) (the respondent companies). On April 20 and May 24, 2007, the Department issued initial and supplemental questionnaires to the GOI and to the respondent companies regarding the petitioner's December 15, 2007 additional allegations concerning debt forgiveness. Both parties submitted timely responses to all of the Department's questionnaires and supplemental questionnaires.

On May 2, 2007, the Department aligned the final determination in this countervailing duty investigation with the final determination in the companion antidumping duty investigation. See *Coated Free Sheet Paper from Indonesia, the People's Republic of China, and the Republic of Korea: Alignment of Final Countervailing Duty Determinations with Final Antidumping Duty Determinations*, 72 FR 24277 (May 2, 2007). On May 10, 2007, NewPage Corporation (the petitioner) requested a hearing pursuant to 19 CFR 351.310(c) and the Department's *Preliminary Determination*.

On June 18 and June 19, 2007, the petitioner and the respondent companies submitted new factual information concerning the Department's investigation of the "GOI

Provision of Standing Timber for Less than Adequate Remuneration," or "stumpage." On June 28, 2007, the petitioner submitted rebuttal comments regarding the respondent companies' new factual information submission.

From June 25 through July 13, 2007, the Department conducted verification of the questionnaire responses provided by the GOI and the respondent companies. On July 13, 2007, the petitioner filed an upstream subsidy allegation, claiming, in accordance with section 771A(a) of the Tariff Act of 1930, as amended, (the Act), that (1) a subsidy, other than an export subsidy, has been paid or bestowed on an input product that is used in the manufacture or production of merchandise subject to a countervailing duty proceeding; (2) the subsidy bestows a competitive benefit on the merchandise; and (3) the subsidy has a significant effect on the cost of manufacturing or producing the merchandise. On July 23, 2007, the respondent companies filed rebuttal comments, and on August 10, 2007, the petitioner filed surrebuttal comments on this allegation.

The Department issued verification reports on August 24, 2007: see Memoranda to the File, *Countervailing Duty Investigation of Coated Free Sheet (CFS) Paper from Indonesia: Verification of the Questionnaire Responses Submitted by Ministry of Forestry and the Ministry of Finance; Countervailing Duty Investigation of Coated Free Sheet Paper from Indonesia: Verification of Cross-Ownership and Debt Restructuring for the Asia Pulp and Paper/Sinar Mas Group; Countervailing Duty Investigation of Coated Free Sheet Paper from Indonesia: Verification of PT Pindo Deli Pulp & Paper Mills and PT. Pabrik Kertas Tjiwi Kimia (Paper Producers/Exports) and PT Cakrawala Mega Indah (trading company); Countervailing Duty Investigation of Coated Free Sheet (CFS) Paper from Indonesia: Verification of the Questionnaire Responses Submitted by Pulp Producers PT. Lontar Papyrus Pulp and Paper and Indah Kiat Pulp and Paper Tbk.; and, Countervailing Duty Investigation of Coated Free Sheet (CFS) Paper from Indonesia: Verification of the Questionnaire Responses Submitted by Forestry Companies PT. Arara Abadi, PT. Wirakarya Sakti, PT. Finnantara Intiga, and PT. Riau Abadi Lestari.*

On September 5 and September 6, 2007, the petitioner, the GOI, the respondent companies, and the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL-CIO, CLC

(USW), a domestic interested party to this proceeding, timely filed case briefs regarding our *Preliminary Determination*. On September 11, 2007, the petitioner, the GOI, the respondent companies, and the USW each filed rebuttal comments regarding our *Preliminary Determination*. At the Department's request, the petitioner, the GOI, and the respondent companies removed what the Department determined to be new factual information from their comments and rebuttal comments regarding the Department's *Preliminary Determination*, and resubmitted those comments to the Department on September 18 and September 19, 2007.

On September 7, 2007, the Department issued the interim analysis of two additional subsidy allegations. We explained in the *Preliminary Determination* that because we had only recently initiated investigations of these two programs, there was not sufficient time to gather information and analyze the countervailability of the programs for the purposes of the *Preliminary Determination*. See the Memorandum to David M. Spooner, Assistant Secretary for Import Administration from Barbara E. Tillman, Director, Office 6, AD/CVD Operations, *Countervailing Duty Investigation: Coated Free Sheet Paper from Indonesia; Post-Preliminary Analysis of Two New Subsidy Allegations (Post-Preliminary Analysis)*. The Department set a separate briefing schedule for parties to file comments and rebuttal comments on our *Post-Preliminary Analysis*. On September 18, 2007, such comments were filed by the GOI and the respondent companies. The petitioner filed rebuttal comments regarding the Department's *Post-Preliminary Analysis* on September 25, 2007. The petitioner withdrew its request for a hearing on September 10, 2007.

Period of Investigation

The period of investigation (POI) for which we are measuring subsidies is January 1, 2005 through December 31, 2005, which corresponds to the most recently completed fiscal year for the respondent companies. See 19 CFR 351.204(b)(2).

Scope of the Investigation

The merchandise covered by this investigation includes coated free sheet paper and paperboard of a kind used for writing, printing or other graphic purposes. Coated free sheet paper is produced from not-more-than 10 percent by weight mechanical or combined chemical/mechanical fibers. Coated free sheet paper is coated with

kaolin (China clay) or other inorganic substances, with or without a binder, and with no other coating. Coated free sheet paper may be surface-colored, surface-decorated, printed (except as described below), embossed, or perforated. The subject merchandise includes single- and double-side-coated free sheet paper; coated free sheet paper in both sheet or roll form; and is inclusive of all weights, brightness levels, and finishes. The terms "wood free" or "art" paper may also be used to describe the imported product.

Excluded from the scope are: (1) Coated free sheet paper that is imported printed with final content printed text or graphics; (2) base paper to be sensitized for use in photography; and, (3) paper containing by weight 25 percent or more cotton fiber.

Coated free sheet paper is classifiable under subheadings 4810.13.1900, 4810.13.2010, 4810.13.2090, 4810.13.5000, 4810.13.7040, 4810.14.1900, 4810.14.2010, 4810.14.2090, 4810.14.5000, 4810.14.7040, 4810.19.1900, 4810.19.2010, and 4810.19.2090 of the Harmonized Tariff Schedule of the United States (HTSUS). While HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this investigation is dispositive.

Scope Comments

On January 12, 2007, the respondent companies filed a request to exclude cast-coated free sheet paper from the scope of the investigations of CFS from Indonesia, Korea, and the People's Republic of China. The petitioner submitted comments on the respondent companies' request on January 19, 2007. The Department analyzed both parties' comments and denied the respondent companies' request to exclude cast-coated free sheet paper from the scope of these investigations. See the Memorandum to Stephen J. Claeys, Deputy Assistant Secretary for Import Administration, *Request to Exclude Cast-Coated Free Sheet Paper from the Antidumping Duty and Countervailing Duty Investigations on Coated Free Sheet Paper*, dated March 22, 2007, which is on file in the Central Records Unit (CRU), Room B099 of the main Commerce building.

On August 20, August 28, and September 10, 2007, the petitioner requested that the Department clarify the scope of the antidumping and countervailing duty investigations of CFS paper from Indonesia, Korea and the People's Republic of China (PRC). Specifically, the petitioner asked the Department to "clarify that the scope of

the investigation includes coated free sheet paper containing hardwood BCTMP."

Because this was a general issue pertaining to all six investigations, the Department set up a general issues file to handle this scope request. A hearing on the scope request was held on September 26, 2007. The hearing comprised a public session, a closed session for the antidumping investigation from Korea, and a closed session for the countervailing duty investigation from the PRC. After considering the comments submitted by the parties to these investigations, we have determined not to adopt the scope clarification sought by the petitioner. See Memorandum to Stephen J. Claeys, Deputy Assistant Secretary for Import Administration, entitled "Scope Clarification Request: NewPage Corporation" dated concurrently with this notice, which is appended to "Issues and Decision Memorandum for the Final Determination in the Countervailing Duty Investigation of Coated Free Sheet Paper from the People's Republic of China."

Initiation and Deferral of Upstream Subsidy Investigation

On July 13, 2007, the petitioner filed an upstream subsidy allegation, claiming, in accordance with section 771A(a) of the Act, that (1) a subsidy, other than an export subsidy, has been paid or bestowed on an input product, *i.e.*, pulpwood, that is used in the manufacture or production of merchandise subject to a countervailing duty proceeding, *i.e.*, CFS paper; (2) the subsidy bestows a competitive benefit on the merchandise; and (3) the subsidy has a significant effect on the cost of manufacturing or producing the merchandise. See 19 CFR 351.523. The respondent companies filed rebuttal arguments on July 23, 2007, and the petitioner filed additional comments and clarifications of its allegation on August 13, 2007.

After fully considering all of these submissions, we have determined that the threshold requirements set forth in the Act and the Department's regulations for initiation of an upstream subsidy investigation have been met. However, we have simultaneously decided to defer the conduct of the upstream subsidy investigation until the first administrative review, if a countervailing duty order is issued and such a review is requested. See section 703(g)(2)(B)(i) of the Act. A complete discussion of our decisions to both initiate an upstream investigation and defer the conduct of such investigation can be found in the "Issues and

Decision Memorandum" from Stephen J. Claeys, Deputy Assistant Secretary for Import Administration, to David M. Spooner, Assistant Secretary for Import Administration, dated concurrently with this notice (*Decision Memorandum*) and hereby adopted by this notice.

Analysis of Subsidy Programs and Comments Received

The subsidy programs under investigation and the issues raised by interested parties in their case briefs and rebuttal briefs on the *Preliminary Determination* and the *Post-Preliminary Analysis*, are discussed in the *Decision Memorandum*. A list of the subsidy programs and of the issues which parties have raised is attached to this notice as Appendix I. Parties can find a complete discussion of all of the subsidy programs, and issues raised in this investigation and the corresponding recommendations in this public memorandum, which is on file in the CRU. A complete version of the *Decision Memorandum* is available at <http://www.trade.gov/ia> under the heading "Federal Register Notices." The paper copy and the electronic version of the *Decision Memorandum* are identical in content.

Final Determination

In accordance with section 705(c)(1)(B)(i) of the Act, we have determined a single subsidy rate for the two cross-owned producers/exporters of the subject merchandise. We determine the total countervailable subsidy rate to be:

Producer/Exporter	Rate
PT. Pabrik Kertas Tjiwi Kimia Tbk./PT. Pindo Deli Pulp and Paper Mills	22.48%
All Others	22.48%

In accordance with sections 703(d) and 705(c)(5)(A) of the Act, we have set the all-others rate as the rate for TK/PD because it was the only producer/exporter under investigation.

Suspension of Liquidation

In accordance with our affirmative *Preliminary Determination*, we instructed U.S. Customs and Border Protection (CBP) to suspend liquidation of all entries of CFS from Indonesia, which were entered or withdrawn from warehouse, for consumption on or after April 9, 2007, the date of the publication of our *Preliminary Determination* in the **Federal Register**.

In accordance with section 703(d) of the Act, we instructed CBP to discontinue

the suspension of liquidation for merchandise entered on or after August 7, 2007, but to continue the suspension of liquidation of entries made on or after April 9, 2007 and before August 7, 2007.

If the International Trade Commission (ITC) issues a final affirmative injury determination, we will issue a countervailing duty order, reinstate suspension of liquidation under section 706(a) of the Act for all entries, and require a cash deposit of estimated countervailing duties for such entries of merchandise at the rates indicated above. If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated and all estimated duties deposited or securities posted as a result of the suspension of liquidation will be refunded or canceled.

ITC Notification

In accordance with section 705(d) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non-privileged and non-proprietary information related to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms it will not disclose such information, either publicly or under an administrative protective order (APO), without the written consent of the Assistant Secretary for Import Administration.

Return or Destruction of Proprietary Information

In the event that the ITC issues a final negative injury determination, this notice will serve as the only reminder to parties subject to APO of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with section 351.305(a)(3) of the Department's regulations. Failure to comply is a violation of the APO.

This determination is issued and published pursuant to sections 705(d) and 777(i) of the Act.

Dated: October 17, 2007.

David M. Spooner,
Assistant Secretary for Import
Administration.

Appendix I: Issues and Decision Memorandum

I. Summary

II. Background

III. Initiation and Deferral of Upstream Subsidy Investigation

IV. Subsidies Valuation Information

A. Cross-Ownership

- B. Attribution of Subsidies Provided to Cross-Owned Input Suppliers
- C. Allocation Period
- D. Loan Benchmark and Discount Rate
- E. Creditworthiness

V. Application of Facts Available and Use of an Adverse Inference

VI. Analysis of Programs

A. Programs Determined to Be Countervailable

1. GOI Provision of Standing Timber for Less Than Adequate Remuneration
2. GOI's Log Export Ban
3. Subsidized Funding for Reforestation (Hutan Tanaman Industri or HTI Program): "Zero Interest" Rate Loans
4. Debt Forgiveness Through the GOI's Acceptance of Instruments that Had No Market Value
5. Debt Forgiveness through SMG/APP's the Buyback of Its Own Debt from the GOI

B. Program Determined to Be Not Countervailable

Subsidized Funding for Reforestation (Hutan Tanaman Industri or HTI Program): Government Capital Infusions into Joint Venture Forest Plantation

C. Program Determined To Be Not Used Subsidized Funding for Reforestation (Hutan Tanaman Industri or HTI Program): Commercial Rate Loans

VII. Analysis of Comments

Comment 1: Whether the Department Should Find that SMG/APP Received Upstream Subsidies on Purchases of Timber from Non-Cross Owned Entities and Consider the Legality Under which This Timber was Harvested

Comment 2: Whether the Department's Cross-Ownership Regulations Provide for the Attribution of Upstream Subsidies to Cross-Owned Companies

Comment 3: Cross-Ownership of AA and WKS with IK, Lontar, TK and PD

Comment 4: Widjaja Family Interest In Purinusa and Cross-Ownership

Comment 5: Cross-Ownership Between AA and WKS

Comment 6: Cross-Ownership Between WKS and Purinusa

Comment 7: Cross-Ownership Between AA and Purinusa

Comment 8: Cross-Ownership of Certain Additional Companies That Were Preliminarily Found to be Cross-Owned with Companies in the APP/SMG CFS Group

Comment 9: Whether the Provision of Standing Acacia is the Provision of a Good by the GOI to the SMG/APP Forestry Companies

Comment 10: Specificity of the GOI's Provision of Standing Timber for Less Than Adequate Remuneration

Comment 11: Use of Malaysian Export Statistics as the Starting Point for Deriving Stumpage Benchmarks
Comment 12: The Stumpage Rate Calculation Provided by Respondents in their Expert's Report
Comment 13: Calculation of Species-Specific Benchmarks
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Comment 17: Profit Adjustment to the Benchmark
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Comment 23: Indications of Illegal Logging Practices in Subsidizing Indonesia's CFS Paper Industry
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Comment 25: The Legality of the WTO's Findings on Export Restraints
Comment 26: Whether Respondent Companies Cured Any Deficiency with Respect to Settling Debt with COEs
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Comment 28: The Effect of IBRA's Outright Debt Forgiveness on the Specificity of the Acceptance of COEs for SMG/APP Debt
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Comment 30: Whether an Adverse Inference Can be Applied in Determining that Orleans was Affiliated with SMG/APP
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Comment 32: Whether the Information the Department Relied Upon Was Speculative and Circumstantial
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Comment 34: Effect of the Lack of Reduction in Debt on the Countervailability of the Sale of SMG/APP's Debt to Orleans
Comment 35: The Appropriateness of the Department's Reliance on Facts Available with an Adverse Inference

Comment 36: Whether A Government Can Provide a Financial Contribution When the Act is Illegal

VIII. Recommendation

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DEPARTMENT OF COMMERCE

International Trade Administration

[C-570-907]

Coated Free Sheet Paper from the People's Republic of China: Final Affirmative Countervailing Duty Determination

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

SUMMARY: The Department of Commerce (Department) has made a final determination that countervailable subsidies are being provided to producers and exporters of coated free sheet (CFS) paper from the People's Republic of China. For information on the estimated countervailing duty rates, please see the "Suspension of Liquidation" section, below.

EFFECTIVE DATE: October 25, 2007.

FOR FURTHER INFORMATION CONTACT:

David Layton or David Neubacher, AD/CVD Operations, Office 1, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-0371 or (202) 482-5823, respectively.

SUPPLEMENTARY INFORMATION:

Petitioner

The petitioner in this investigation is the NewPage Corporation (petitioner).

Period of Investigation

The period for which we are measuring subsidies, or period of investigation, is January 1, 2005, through December 31, 2005.

Case History

The following events have occurred since the announcement of the preliminary determination on March 30, 2007, and subsequent publication in the **Federal Register** on April 9, 2007. See *Coated Free Sheet Paper from the People's Republic of China: Amended Affirmative Preliminary Countervailing Duty Determination*, 72 FR 17484 (April 9, 2007) (*Preliminary Determination*).

On April 9, 2007, Gold East Paper (Jiangsu) Co., Ltd. (GE) and the petitioner submitted ministerial error allegations relating to the *Preliminary*

Determination. We addressed these ministerial error allegations in a May 11, 2007, memorandum to Stephen J. Claeys, Deputy Assistant Secretary for Import Administration, entitled *Ministerial Error Allegations*, which is on file in the Central Records Unit (CRU), Room B-099 of the main Department building.

On April 12, 2007, the Department requested that GE amend the bracketing and resubmit its March 9, 2007, supplemental questionnaire response, which GE did on April 17, 2007.

We issued a supplemental questionnaire to the Government of the People's Republic of China (GOC) on April 23, 2007, and to GE and Shandong Chenming Paper Holdings Ltd. (Shandong Chenming) on April 20, 2007. We received the GOC's supplemental questionnaire response on May 13, 2007, Shandong Chenming's supplemental questionnaire response on May 18, 2007, and GE's supplemental response on May 25, 2007. On May 25, 2007, we issued a supplemental questionnaire to Shandong Chenming, but did not receive a response. The GOC, GE, the petitioner, and interested parties also submitted factual information, comments, and arguments at numerous instances prior to the final determination based on various deadlines for submissions of factual information and/or arguments established by the Department subsequent to the *Preliminary Determination*.

On May 2, 2007, the Department published notification of alignment of the final determinations in the antidumping and countervailing duty investigations of CFS paper from the People's Republic of China (PRC). See *Coated Free Sheet Paper from Indonesia, the People's Republic of China, and the Republic of Korea: Alignment of Final Countervailing Duty Determinations with Final Antidumping Duty Determinations*, 72 FR 24277 (May 2, 2007). The Department subsequently postponed the final determinations for the antidumping and countervailing investigations of CFS paper from the PRC. See *Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Coated Free Sheet Paper from the People's Republic of China*, 72 FR 30758 (June 4, 2007).

On June 13, 2007, we received a letter from Shandong Chenming withdrawing its participation in the investigation and requesting that all of its business proprietary information be removed from the record and destroyed. On June 27, 2007, the Department notified Shandong Chenming that it had