

certain coated paper suitable for high-quality print graphics using sheet-fed presses (coated paper) from Indonesia. For information on the estimated countervailing duty rates, please see the "Suspension of Liquidation" section, below.

EFFECTIVE DATE: September 27, 2010.

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

SUPPLEMENTARY INFORMATION:

Case History

The following events have occurred since the announcement of the preliminary determination, which was published in the **Federal Register** on March 9, 2010. *See Certain Coated Paper from Indonesia: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Countervailing Duty Determination with Final Antidumping Duty Determination*, 75 FR 10761 (March 9, 2010) (*Preliminary Determination*).

The Department issued additional supplemental questionnaires to the Government of Indonesia (GOI), and to cross-owned company respondents PT Pabrik Kertas Tjiwi Kimia Tbk., PT Indah Kiat Pulp and Paper Tbk., and PT Pindo Deli Pulp and Paper Mills (collectively, APP/SMG) regarding the programs under investigation. Parties submitted timely responses to these supplemental questionnaires on May 11 and May 26 (the GOI and APP/SMG) and June 25 (the GOI only). On April 7 and April 8, APP/SMG and Appleton Coated LLC, NewPage Corporation, S.D. Warren Company d/b/a Sappi Fine Paper North America, and the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union (collectively, Petitioners), respectively, submitted timely requests for a hearing pursuant to 19 CFR 351.310(c), which they both subsequently withdrew on August 6, 2010.

The Department conducted verification of the questionnaire responses submitted by the GOI and APP/SMG from June 28, 2010 through July 8, 2010. The Department issued the final business-proprietary version of the verification reports on August 6, 2010. We received case briefs from the GOI and APP/SMG, jointly, and from Petitioners on August 16. We received

DEPARTMENT OF COMMERCE

International Trade Administration

[C-560-824]

Certain Coated Paper Suitable for High-Quality Print Graphics Using Sheet-Fed Presses from Indonesia: Final Affirmative Countervailing Duty Determination

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

SUMMARY: The Department of Commerce (the Department) has determined that countervailable subsidies are being provided to producers and exporters of

⁸ See *Timken*, 893 F.2d at 341.

⁹ See NSR Final Results.

rebuttal briefs from these parties on August 23.

Scope of the Investigation

The merchandise under investigation includes certain coated paper and paperboard¹ in sheets suitable for high quality print graphics using sheet-fed presses; coated on one or both sides with kaolin (China or other clay), calcium carbonate, titanium dioxide, and/or other inorganic substances; with or without a binder; having a GE brightness level of 80 or higher;² weighing not more than 340 grams per square meter; whether gloss grade, satin grade, matte grade, dull grade, or any other grade of finish; whether or not surface-colored, surface-decorated, printed (except as described below), embossed, or perforated; and irrespective of dimensions (Certain Coated Paper).

Certain Coated Paper includes (a) coated free sheet paper and paperboard that meets this scope definition; (b) coated groundwood paper and paperboard produced from bleached chemi-thermo-mechanical pulp (BCTMP) that meets this scope definition; and (c) any other coated paper and paperboard that meets this scope definition.

Certain Coated Paper is typically (but not exclusively) used for printing multi-colored graphics for catalogues, books, magazines, envelopes, labels and wraps, greeting cards, and other commercial printing applications requiring high quality print graphics.

Specifically excluded from the scope are imports of paper and paperboard printed with final content printed text or graphics.

As of 2009, imports of the subject merchandise are provided for under the following categories of the Harmonized Tariff Schedule of the United States (HTSUS): 4810.14.11, 4810.14.1900, 4810.14.2010, 4810.14.2090, 4810.14.5000, 4810.14.6000, 4810.14.70, 4810.19.1100, 4810.19.1900, 4810.19.2010, 4810.19.2090, 4810.22.1000, 4810.22.50, 4810.22.6000, 4810.22.70, 4810.29.1000, 4810.29.5000, 4810.29.6000, 4810.29.70, 4810.32,

4810.39 and 4810.92. While HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the investigation is dispositive.

Scope Comments

Following the *Preliminary Determination*, on August 3, 2010, the Department issued a decision memorandum addressing three scope issues in this and the concurrent antidumping and countervailing duty investigations on certain coated paper from Indonesia and the People's Republic of China: (1) whether to clarify the scope of these investigations to exclude multi-ply coated paper and paperboard; (2) whether to modify the scope language by striking the phrase "suitable for high-quality print graphics;" and (3) whether to add three HTSUS numbers which may include in-scope merchandise (*i.e.*, HTSUS 4810.32, 4810.39 and 4810.92). *See* August 3, 2010, Memorandum to Ronald K. Lorentzen, Deputy Assistant Secretary for Import Administration, from Susan Kuhbach, Director, Office 1, entitled "Scope" (August 3, 2010 Scope Memorandum). For the reasons explained in the August 3, 2010, Scope Memorandum, the Department determined that: (1) multi-ply products that otherwise meet the description of the scope of the investigations are not excluded from the scope; (2) the "suitable for high-quality print graphics" language should not be deleted from the scope; and (3) the three HTSUS numbers at issue should be added to the scope.

The Department subsequently provided the interested parties an opportunity to comment on its post-preliminary scope determination. In response, the respondents in these investigations filed a case brief on August 20, 2010, and the petitioners filed a rebuttal brief on August 24, 2010. Based on the Department's analysis of these comments and the factual records of these investigations, the Department continues to find that multi-ply coated paper and paperboard are not excluded from the scope of the investigations, that the "suitable for high-quality print graphics" language should be maintained, and that the three HTSUS numbers listed above should be added to the scope. For a complete discussion of the parties' comments and the Department's position, *see* "Issues and Decision Memorandum for the Final Determination in the Countervailing Duty Investigation of Certain Coated Paper Suitable for High-Quality Print Graphics Using Sheet-Fed Presses from the People's Republic of China," dated

concurrently with this notice and incorporated herein by reference.

Injury Test

Because Indonesia is a "Subsidies Agreement Country" within the meaning of section 701(b) of the Tariff Act of 1930, as amended (the Act), the International Trade Commission (ITC) is required to determine pursuant to section 701(a)(2) of the Act whether imports of the subject merchandise from Indonesia materially injure, or threaten material injury to, a United States industry. On November 23, 2009, the ITC published its preliminary determination that there is a reasonable indication that an industry in the United States is materially injured by reason of allegedly subsidized imports from Indonesia of subject merchandise. *See Certain Coated Paper Suitable for High-Quality Print Graphics Using Sheet-Fed Presses from China and Indonesia*, 74 FR 61174 (November 23, 2009); and *Certain Coated Paper Suitable for High-Quality Print Graphics Using Sheet-Fed Presses from China and Indonesia (Preliminary)*, USITC Pub. 4108, Inv. Nos. 701-TA-470-471 and 731-TA-1169-1170 (November 2009).

Period of Investigation

The period for which we are measuring subsidies, *i.e.*, the period of investigation (POI), is January 1, 2008 through December 31, 2008.

Analysis of Comments Received

All non-scope issues raised in the case and rebuttal briefs submitted by the GOI, APP/SMG, and Petitioners are addressed in the Memorandum to Ronald K. Lorentzen, Deputy Assistant Secretary for Import Administration, "Issues and Decision Memorandum for Certain Coated Paper Suitable for High-Quality Print Graphics Using Sheet-Fed Presses from Indonesia: Final Affirmative Countervailing Duty Determination" (September 20, 2010) (hereafter referred to as the "Decision Memorandum"), which is hereby adopted by this notice. Attached to this notice as an Appendix is a list of the issues that parties have raised and to which we have responded in the Decision Memorandum. Parties can find this public memorandum in the Department's Central Records Unit, located in Room 7046 in the main Commerce building. In addition, a complete version of the Decision Memorandum can be accessed directly on the Internet at <http://ia.ita.doc.gov/ia-highlights-and-news.html> or <http://ia.ita.doc.gov/frn/>. The paper copy and

¹ "Paperboard" refers to Certain Coated Paper that is heavier, thicker and more rigid than coated paper which otherwise meets the product description. In the context of Certain Coated Paper, paperboard typically is referred to as 'cover,' to distinguish it from 'text.'

² One of the key measurements of any grade of paper is brightness. Generally speaking, the brighter the paper the better the contrast between the paper and the ink. Brightness is measured using a GE Reflectance Scale, which measures the reflection of light off of a grade of paper. One is the lowest reflection, or what would be given to a totally black grade, and 100 is the brightest measured grade.

electronic version of the Decision Memorandum are identical in content.

Application of Adverse Facts Available

For purposes of this final determination, we relied, in part, on adverse facts available (AFA), as provided for in sections 776(a) and (b) of the Act, to determine the countervailable subsidy rate for one program under investigation. A full discussion of our decision to apply AFA is presented in the Decision Memorandum in the section "Application of Facts Otherwise Available."

Suspension of Liquidation

In accordance with section 705(c)(1)(B)(i)(I) of the Act, we have calculated an individual rate for APP/SMG. Section 705(c)(5)(A)(i) of the Act states that for companies not investigated, we will determine an all others rate equal to the weighted average countervailable subsidy rates established for exporters and producers individually investigated, excluding any zero and *de minimis* countervailable subsidy rates, and any rates based entirely on AFA under section 776 of the Act.

Producer/Exporter	Net Subsidy Rate
PT Pabrik Kertas Tjiwi Kimia, Tbk..	
PT Pindo Deli Pulp and Paper Mills.	
PT Indah Kiat Pulp and Paper, Tbk..	
(i.e., APP/SMG)	17.94%
All Others	17.94%

Although suspension of liquidation was required on the date of publication of the *Preliminary Determination*, we subsequently instructed U.S. Customs and Border Protection, pursuant to section 703(d) of the Act, to discontinue the suspension of liquidation for countervailing duty purposes for subject merchandise entered on or after July 7, 2010, but to continue the suspension of liquidation of entries made on or after March 9, 2010 (the publication date of the *Preliminary Determination*) through July 6, 2010.

If the ITC issues a final affirmative injury determination, we will issue a countervailing duty order and continue with the suspension of liquidation under section 706(a) of the Act. We will then require a cash deposit of estimated countervailing duties for entries of subject merchandise in the amounts 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 that 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 an APO of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

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

Dated: September 20, 2010.

Ronald K. Lorentzen,

Deputy Assistant Secretary for Import Administration.

APPENDIX

Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Subsidies Valuation
 - A. Period of Investigation
 - B. Allocation Period
 - C. Discount Rates and Uncreditworthiness
 - D. Cross-Ownership
 - E. Attribution of Subsidies Sales Denominator
- IV. Application of Facts Otherwise Available
 - A. APP/SMG Purchased Its Own Debt from the GOI
 - B. Corroboration
- V. Analysis of Programs
 - A. Programs Determined To Be Countervailable
 1. Provision of Standing Timber for

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2. Government Prohibition of Log Exports

3. Debt Forgiveness Through the Indonesian Government's Acceptance of Financial Instruments with No Market Value
4. Debt Forgiveness Through APP/SMG's Buyback of Its Own Debt from the Indonesian Government
- B. Programs Determined To Have Been Not Used During the Period of Investigation
 1. Government Provision of Interest Free Reforestation Loans
 2. Government Forgiveness of Stumpage Obligations
 3. Tax Incentives for Investment in Priority Business Lines and Designated Regions
 - a. Corporate Income Tax Deduction
 - b. Accelerated Depreciation and Amortization
 - c. Extension of Loss Carryforward
 - d. Reduced Withholding Tax on Dividends

VI. Analysis of Comments

PROVISION OF STANDING TIMBER/LOG EXPORT BAN

Comment 1: Whether the Department Should Account for any Volumes of Timber Determined to have been Harvested Contrary to Indonesian Law in its Benefit Calculations
Comment 2: Whether the Department Should Adjust APP/SMG's Reported Harvest Based on its Verification Findings

Comment 3: Whether the Department Should Use the GOI Conversion Factor Study for Conversion Ratios
Comment 4: Whether the Department has Assumed the Existence of Distortive Effects Due to the Log Export Ban Log Benchmarks

Comment 5: Whether Export Prices to Indonesia Should be Used as the Basis for Benchmark Calculations

Comment 6: Whether Specific Export Transactions Provided by Respondents are an Appropriate Starting Point for Calculating a Benchmark

Comment 7: Whether the Sabah Export Data Provides an Appropriate Starting Point for Calculating a Benchmark

Comment 8: Whether Other Data on the Record Provides an Appropriate Starting Point for Calculating a Benchmark

Comment 9: Whether the AUV from the WTA Should be Used Only as a Fallback when More Specific Information is not Available

Comment 10: Whether the Department Should Make an Adjustment to Reported Export Quantities from Malaysia in the WTA Data

Comment 11: Whether Certain HTS numbers Should Be Excluded from WTA Statistics

Comment 12: The Department Should Ensure that its Benchmark for the Log Export Ban Program Captures the Full Price an Indonesian Firm Would Pay for Imported Pulp Logs

Comment 13: Whether the Department Should Use Monthly Malaysian Exchange Rates to Convert the Monthly Malaysian Export Statistics used as Benchmarks

Comment 14: Whether the Department Should Round the Malaysian Export Statistics

Comment 15: Whether the Department Should Use the GOI Study of Operating Costs in Indonesia to Adjust the Benchmark for the Provision of Standing Timber Debt Forgiveness

Comment 16: Whether the Department Should Apply AFA Regarding Debt Forgiveness through APP/SMG's Buyback of its Own Debt

Comment 17: Whether Commerce's Decision to Cancel the Verification of the IBRA Debt Sale Was Improper

Comment 18: Whether the Department Should Apply the Highest Rate Calculated for any Other Program as AFA Regarding the APP/SMG Debt Buyback Allegation

Comment 19: Whether the Department Should Adjust the Benefit Calculation Regarding the APP/SMG Debt Buyback Program

Comment 20: Whether the Department Should Revise the Interest Rate Used to Calculate the Discount Rate Used for Calculating APP/SMG's Allocable Subsidies

Other

Comment 21: Whether the Department Should Countervail SPA's Outstanding DR Fees as an Interest-Free Loan

VII. Recommendation

[FR Doc. 2010-24182 Filed 9-24-10; 8:45 am]

BILLING CODE 3510-DS-S
