

Department will issue a notice of final results of this sunset review, which will include the results of its analysis of issues raised in any such briefs, no later than March 29, 2007.

This five-year ("sunset") review and notice are in accordance with sections 751(c), 752, and 777(i)(1) of the Act.

Dated: November 20, 2006.

David M. Spooner,

Assistant Secretary for Import Administration.

[FR Doc. E6-20012 Filed 11-24-06; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[C-570-907, C-560-821, C-580-857]

Notice of Initiation of Countervailing Duty Investigations: Coated Free Sheet Paper From the People's Republic of China, Indonesia, and the Republic of Korea

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

DATES: *Effective Date:* November 27, 2006.

FOR FURTHER INFORMATION CONTACT:

David Layton or David Neubacher (the PRC), Dana Mermelstein or Sean Carey (Indonesia), and Eric Greynolds or Darla Brown (Korea), AD/CVD Operations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-0371 and (202) 482-5823, (202) 482-1391 and (202) 482-3964, and (202) 482-6071 and (202) 482-2849, respectively.

Initiation of Investigations:

SUPPLEMENTARY INFORMATION:

The Petitions

On October 31, 2006, the Department of Commerce (the Department) received petitions filed in proper form by NewPage Corporation (petitioner). The Department received from petitioner information supplementing the petitions throughout the 20-day initiation period.

In accordance with section 702(b)(1) of the Tariff Act of 1930, as amended ("the Act"), petitioner alleges that manufacturers, producers, or exporters of coated free sheet paper (CFS) in the People's Republic of China (the PRC), Indonesia, and the Republic of Korea (Korea) received countervailable subsidies within the meaning of section 701 of the Act and that such imports are materially injuring, or threatening

material injury to, an industry in the United States.

The Department finds that petitioner filed these petitions on behalf of the domestic industry because it is an interested party as defined in sections 771(9)(C) of the Act and petitioner has demonstrated sufficient industry support with respect to each of the countervailing duty investigations that it is requesting the Department to initiate (*see* "Determination of Industry Support for the Petitions" section below).

Scope of Investigations

The merchandise covered by each of these investigations 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 these investigations is dispositive.

Comments on Scope of Investigations

During our review of the petitions, we discussed the scope with petitioner to ensure that it is an accurate reflection of the products for which the domestic industry is seeking relief. Moreover, as discussed in the preamble to the regulations (*Antidumping Duties;*

Countervailing Duties; Final Rule, 62 FR 27296, 27323 (May 19, 1997)), we are setting aside a period for interested parties to raise issues regarding product coverage. The Department encourages all interested parties to submit such comments within 20 calendar days of the publication of this notice. Comments should be addressed to Import Administration's Central Records Unit (CRU), Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230. The period of scope consultations is intended to provide the Department with ample opportunity to consider all comments and to consult with parties prior to the issuance of the preliminary determinations.

Consultations

Pursuant to section 702(b)(4)(A)(ii) of the Act, the Department invited representatives of the relevant foreign governments for consultations with respect to the countervailing duty petitions. The Department held consultations with representatives of the government of the PRC on November 9 and November 20, 2006. *See* the November 9 and November 20, 2006, memoranda to the file regarding the consultations with officials from the PRC (public documents on file in the CRU of the Department of Commerce, Room B-099). The Department held consultations with representatives of the governments of Indonesia and Korea on November 16, 2006. *See* the November 16, 2006, memoranda to the file regarding the consultations with officials from Indonesia and Korea (public documents on file in the CRU). On November 20, 2006, the Government of Indonesia (GOI) filed a letter reiterating their concerns regarding one of the issues the GOI raised at consultations.

Determination of Industry Support for the Petitions

Section 702(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 702(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for (1) At least 25 percent of the total production of the domestic like product and (2) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for or opposition to the petition. Moreover, section 702(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for

more than 50 percent of the total production of the domestic like product, the Department shall: (i) Poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A), or (ii) determine industry support using a statistically valid sampling method.

Section 771(4)(A) of the Act defines the “industry” as the producers as a whole of a domestic like product. Thus, to determine whether the petition has the requisite industry support, the statute directs the Department to look to producers and workers who produce the domestic like product. The International Trade Commission (ITC) is responsible for determining whether “the domestic industry” has been injured and must also determine what constitutes a domestic like product in order to define the industry. While the Department and the ITC must apply the same statutory definition regarding the domestic like product, they do so for different purposes and pursuant to separate and distinct authority. *See* Section 771(10) of the Act. In addition, the Department’s determination is subject to limitations of time and information. Although this may result in different definitions of the domestic like product, such differences do not render the decision of either agency contrary to law.¹

Section 771(10) of the Act defines the domestic like product as “a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this subtitle.” Thus, the reference point from which the domestic like product analysis begins is “the article subject to an investigation,” *i.e.*, the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition.

With regard to domestic like product, petitioner does not offer a definition of domestic like product distinct from the scope of the investigations. Based on our analysis of the information presented by petitioner, we have determined that there is a single domestic like product, coated free sheet paper, which is defined in the “Scope of Investigations” section above, and we have analyzed industry support in terms of the domestic like product.

On November 15 and 16, 2006, we received submissions on behalf of Chinese and Indonesian producers of CFS questioning the industry support calculation. *See* “Office of AD/CVD

Operations Initiation Checklist for the Countervailing Duty Petition on Coated Free Sheet Paper from Indonesia,” at Attachment II (Nov. 20, 2006) (*Indonesia CVD Initiation Checklist*), “Office of AD/CVD Operations Initiation Checklist for the Countervailing Duty Petition on Coated Free Sheet Paper from the Republic of Korea,” at Attachment II (Nov. 20, 2006) (*Korea CVD Initiation Checklist*), and “Office of AD/CVD Operations Initiation Checklist for the Countervailing Duty Petition on Coated Free Sheet Paper from the People’s Republic of the PRC,” at Attachment II (Nov. 20, 2006) (*PRC CVD Initiation Checklist*), on file in the CRU. Our review of the data provided in the petition, supplemental submissions, and other information readily available to the Department indicate that petitioner has established industry support representing at least 25 percent of the total production of the domestic like product; and more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for or opposition to the petition, requiring no further action by the Department pursuant to section 702(c)(4)(D) of the Act. Therefore, the domestic producers (or workers) who support the petition account for at least 25 percent of the total production of the domestic like product, and the requirements of section 702(c)(4)(A)(i) of the Act are met. Furthermore, the domestic producers who support the petition account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Thus, the requirements of section 702(c)(4)(A)(ii) of the Act also are met. Accordingly, the Department determines that the petition was filed on behalf of the domestic industry within the meaning of section 702(b)(1) of the Act. *See Indonesia CVD Initiation Checklist* at Attachment II, *Korea CVD Initiation Checklist* at Attachment II, and *PRC CVD Initiation Checklist* at Attachment II.

Injury Test

Because the PRC, Indonesia and Korea are each a “Subsidies Agreement Country” within the meaning of section 701(b) of the Act, section 701(a)(2) of the Act applies to these investigations. Accordingly, the ITC must determine whether imports of the subject merchandise from the PRC, Indonesia and Korea materially injure, or threaten material injury to, a U.S. industry.

Allegations and Evidence of Material Injury and Causation

Petitioner alleges that the U.S. industry producing the domestic like product is being materially injured, or is threatened with material injury, by reason of the individual and cumulated allegedly subsidized imports of the subject merchandise from Indonesia, the PRC, and Korea. With regard to the PRC and Korea, the allegedly subsidized imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act. With respect to Indonesia, while the allegedly subsidized imports from Indonesia do not meet the statutory requirement of four percent over the most recent 12-month period for which import data are available, in its analysis for threat (*see* section 771(24)(B) of the Act), petitioner alleges and provides supporting evidence that these imports will imminently account for more than four percent of all CFS imports of the subject merchandise and, therefore, are not negligible. *See* section 771(24)(A)(iv) of the Act.

Petitioner contends that the industry’s injury is evidenced by reduced market share, increased inventories, reduced shipments, lost sales, reduced production, lower capacity and capacity utilization rates, decline in prices, lost revenue, reduced employment, and a decline in financial performance. The allegations of injury and causation are supported by relevant evidence including U.S. Customs import data, lost sales, and pricing information. We have assessed the allegations and supporting evidence regarding material injury and causation and have determined that these allegations are properly supported by adequate evidence and meet the statutory requirements for initiation. *See PRC CVD Initiation Checklist, Indonesia CVD Initiation Checklist, and Korea CVD Initiation Checklist.*

Initiation of Countervailing Duty Investigations

Section 702(b) of the Act requires the Department to initiate a countervailing duty proceeding whenever an interested party files a petition on behalf of an industry that (1) alleges the elements necessary for an imposition of a duty under section 701(a) of the Act and (2) is accompanied by information reasonably available to petitioner supporting the allegations. The Department has examined the countervailing duty petitions on CFS from the PRC, Indonesia, and Korea and found that they comply with the requirements of section 702(b) of the

¹ *See USEC, Inc. v. United States*, 25 CIT 49, 55–56, 132 F. Supp. 2d 1, 7–8 (Jan. 24, 2001) (*citing Algoma Steel Corp. v. United States*, 12 CIT 518, 523, 688 F. Supp. 639, 642–44 (June 8, 1988)).

Act. Therefore, in accordance with section 702(b) of the Act, we are initiating countervailing duty investigations to determine whether manufacturers, producers, or exporters of CFS in the PRC, Indonesia, and Korea receive countervailable subsidies. For a discussion of evidence supporting our initiation determination, see *PRC CVD Initiation Checklist, Indonesia CVD Initiation Checklist, and Korea CVD Initiation Checklist*.

We are including in our investigations the following programs alleged in the petitions to have provided countervailable subsidies to producers and exporters of the subject merchandise in the PRC, Indonesia, and Korea:

I. The PRC

A. Grant Programs

B. Policy Loans

Uncreditworthiness—Petitioner has provided a reasonable basis to believe or suspect that, in accordance with 351.505(a)(6) of the Department's regulations, that Shandong Chenming Paper Holdings Ltd. was uncreditworthy in 2004 and 2005 and Ningxia Meili Paper Industry Co., Ltd. was uncreditworthy from 2003 through 2005. See Memorandum from Susan Kuhbach, Director, to Stephen J. Claeys, Deputy Assistant Secretary regarding Initiation of Countervailing Duty Investigation: Coated Free Sheet Paper from the People's Republic of China; Shandong Chenming and Ningxia Meili Uncreditworthiness Allegation (November 20, 2006).

C. Preferential Tax Programs for Encouraged Industries Including the Paper Industry

1. Tax Incentives for Foreign Investment Enterprises (FIEs)
2. Tax & Tariff Incentives for Select Industries

D. The "Two Free, Three Half" Program

E. Income Tax Exemptions Program for FIEs Located in Certain Geographic Locations

F. Local income tax exemption and reduction program for "productive" FIEs

G. Income tax exemption program for export-oriented FIEs

H. Corporate Income Tax Refund Program for Reinvestment of Fie Profits in Export-oriented Enterprises

I. Debt-to-equity Infusion for APP China Equity Infusion/Debt-for-Equity Swap

Petitioner has provided a reasonable basis to believe or suspect that, in accordance with section 351.507(a)(7) of the Department's regulations, Asia Pulp and Paper's (APP's) subsidiary, APP China, was equityworthiness from March 2001 through the year of the debt-to-equity swap. See *PRC CVD Initiation Checklist*.

J. Subsidies to Input Suppliers

1. Preferential Tax Policies for FIEs Engaged in Forestry and Established in Remote Underdeveloped Areas
2. Preferential Tax Policies for Enterprises Engaged in Forestry

3. Special Fund for Projects for the Protection of Natural Forestry

4. Compensation Fund for Forestry Ecological Benefits

II. Indonesia

A. Provision of Standing Timber For Less Than Adequate Remuneration

B. Government Ban on Log Exports

C. Subsidized Funding for Reforestation (Hutan Tanaman Industri or HTI Program)

1. "Zero-Interest" Rate Loans
2. "Commercial Rate" Loans—Petitioner has provided a reasonable basis to believe or suspect that, in accordance with 351.505(a)(6) of the Department's regulations, that Asia Pulp & Paper (APP), a member of the Sinar Mas Group (SMG) and a cross-owned supplier of logs to PT. Pabrik Kertas Tjiwi Kimia Tbk. (TK) has been uncreditworthy since 2001. See *Indonesia CVD Initiation Checklist*.

III. Korea

Industry-Wide Programs

- A. Preferential Lending by the KDB and Other GOK Authorities
 - B. Export Industry Facility Loans ("EIFLs")
 - C. Reduction in Taxes for Operating in Regional and National Industrial Complexes
 - D. Funding for Technology Development and Recycling Program
 - E. Export and Import Credit Financing from the Export-Import Bank of Korea
 - F. Sale of Pulp for less than Adequate Remuneration
 - G. Sale of Pulp from Raw Material Reserve for less than Adequate Remuneration
 - H. Duty Drawback on Non-physically Incorporated Items and Excess Loss Rates
- I. Direction of Credit
 - J. Tax Programs under Restriction of Special Taxation Act (RSTA)
 1. RSTA Article 71
 2. RSTA Article 60
 3. RSTA Article 63–2

Company-Specific Programs

A. Shinho Paper (Shinho)-GOK-Led Bailouts in 1998, 2000, and 2002

1. **Equity Infusion**—Petitioner has provided a reasonable basis to believe or suspect that, in accordance with 351.507(a)(7) of the Department's regulations, that Shinho was unequityworthy in 1998, 2000, and 2002, the years in which the government-provided equity infusions were provided. See *Korea CVD Initiation Checklist*.

2. Extension of Debt Maturities and Reduction or Elimination of Interest Obligations

3. Debt Forgiveness

4. **New Loans**—Petitioner has provided a reasonable basis to believe or suspect that, in accordance with 351.505(a)(6) of the Department's regulations, that Shinho was uncreditworthy from 1998 through 2005. See *Korea CVD Initiation Checklist*.

B. Kye Sung Paper (Kye Sung)-GOK-Led Bailout of Subsidiary in 2004

Equity Infusion/Debt-for-Equity Swap—Petitioner has provided a reasonable

basis to believe or suspect that, in accordance with sections 351.505(a)(6) and 351.507(a)(7) of the Department's regulations, Poongman Paper, Kye Sung's CFS producing affiliate, was uncreditworthy and unequityworthy in 2004, the year in which the debt-for-equity swapped occurred. See *Korea CVD Initiation Checklist*.

We are not including in our investigation the following programs alleged to benefit producers and exporters of the subject merchandise in the PRC, Indonesia, and Korea:

I. The PRC

Currency Manipulation

Petitioner alleges that the GOC-maintained exchange rate effectively prevents the appreciation of the Chinese currency (RMB) against the U.S. dollar. Therefore, when producers in the PRC sell their dollars at official foreign exchange banks, as required by law, the producers receive more RMB than they otherwise would if the value of the RMB were set by market mechanisms.

Petitioner has not sufficiently alleged the elements necessary for the imposition of a countervailing duty and did not support the allegation with reasonably available information. Therefore, we do not plan to investigate the currency manipulation program.

II. Indonesia

Accelerated Depreciation Program

We are not including in our investigation the Accelerated Depreciation program alleged to benefit producers and exporters of the subject merchandise in Indonesia. Petitioner alleges that this program allows a few select industries with high fixed capital costs to significantly accelerate the depreciation of their capital assets, creating a tax advantage for capital intensive industries, such as the paper production industry. The Department, however, has recently determined that the Accelerated Depreciation program is not countervailable because it is non-specific, in accordance with section 771(5A) of the Act. See *Final Affirmative Countervailing Duty Determination: Certain Lined Paper Products from Indonesia*, 71 FR 47174 (August 16, 2006), and accompanying Issues and Decision Memorandum at 10. Although petitioner argues that the Department should reconsider its determination of non-countervailability, no new information or evidence of changed circumstances was provided to warrant reconsideration of our finding of non-specificity.

III. Korea

Infrastructure Expansions and Improvements for Operating in Regional and National Industrial Complexes

Petitioner alleges that the GOK developed plans to establish an exclusive plant complex for the paper industry in the military equipment industrial complex in Gunjang, North Cholla province by 2001. Petitioner alleges that the complex, known as the Gunjang National Industrial Complex and established by the Ministry of Trade, Industry, and Economy, is undergoing large-scale infrastructure expansions and improvements, including upgrading access roads, railroad connections and expanding harbor facilities.

Petitioner provided insufficient information regarding the existence of a benefit or specificity. In particular, we find that petitioner did not provide sufficient evidence that any CFS producers are operating in the Gunjang National Industrial Complex.

Application of the Countervailing Duty Law to the PRC

Petitioner contends that there is no statutory bar to applying countervailing duties to imports from the PRC or any other non-market economy country. Citing *Georgetown Steel*, petitioner asserts that the court deferred to the Department's conclusion that it did not have the authority to conduct a CVD investigation, but did not affirm the notion that the statute prohibits the Department from applying countervailing duties to NME countries. See Petition, Part I, at 8 (citing *Georgetown Steel Corp. v. United States*, 801 F.2d 1308 (Fed. Cir. 1986) (*Georgetown Steel*)). Petitioner further argues *Georgetown Steel* is not applicable as the countervailing duty law (section 303 of the Tariff Act of 1930) involved in the court's decision has since been repealed and the statute has been amended to provide an explicit definition of a subsidy. See section 777(5) of the Act. In addition, petitioner argues that the Chinese economy is entirely different from the economies investigated in *Georgetown Steel* and the Department should not have any special difficulties in the identification and valuation of subsidies involving a non-market economy, such as the PRC, that would not arise in a market economy countervailing proceeding.

Finally, petitioner contends that the PRC's accession to the World Trade Organization (WTO) allows the Department to investigate countervailing duties in that country. Petitioner notes that the WTO Subsidies

and Countervailing Measures Agreement (SCM Agreement), similar to U.S. law, permits the imposition of countervailing duties on subsidized imports on member countries and nowhere exempts non-market economy imports from being subject to the provisions of the SCM Agreement. As the PRC agreed to the SCM Agreement and other WTO provisions on the use of subsidies, petitioner argues the PRC should be subject to the same disciplines as all other WTO members.

Petitioner has provided sufficient argument and subsidy allegations (see "Initiation of Countervailing Duty Investigations") to meet the statutory criteria for initiating a countervailing duty investigation of CFS paper from the PRC. Given the complex legal and policy issues involved, and on the basis of the Department's discretion as affirmed in *Georgetown Steel*, the Department intends during the course of this investigation to determine whether the countervailing duty law should now be applied to imports from the PRC. The Department will invite comments from parties on this issue.

Distribution of Copies of the Petitions

In accordance with section 702(b)(4)(A)(i) of the Act, a copy of the public version of the petitions has been provided to the Governments of the PRC, Indonesia, and Korea. We will attempt to provide a copy of the public version of the petitions to each exporter named in the petitions, as provided for under 19 CFR 351.203(c)(2).

ITC Notification

We have notified the ITC of our initiations, as required by section 702(d) of the Act.

Preliminary Determinations by the ITC

The ITC will preliminarily determine, within 25 days after the date on which it receives notice of these initiations, whether there is a reasonable indication that imports of subsidized CFS from the PRC, Indonesia, and Korea are causing material injury, or threatening to cause material injury, to a U.S. industry. See section 703(a)(2) of the Act. A negative ITC determination will result in the investigations being terminated; otherwise, these investigations will proceed according to statutory and regulatory time limits.

This notice is issued and published pursuant to section 777(i) of the Act.

Dated: November 20, 2006.

David M. Spooner,

Assistant Secretary for Import Administration.

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DEPARTMENT OF COMMERCE

International Trade Administration

[C-427-810]

Corrosion-Resistant Carbon Steel Flat Products From France: Final Results of Countervailing Duty Administrative Review

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

SUMMARY: On September 7, 2006, the Department of Commerce ("the Department") published in the **Federal Register** its preliminary results of administrative review of the countervailing duty ("CVD") order on corrosion-resistant carbon steel flat products ("CORE") from France for the period January 1, 2004, through December 31, 2004 (see *Preliminary Results of Countervailing Duty Administrative Review: Corrosion-Resistant Carbon Steel Flat Products from France*, 71 FR 52770 (September 7, 2006) ("*CORE Preliminary Results*"). The Department preliminarily found that Duferco Coating S.A. and Sorral S.A. (collectively, "Duferco Sorral"), the producer/exporter of subject merchandise covered by this review did not receive countervailable subsidies during the period of review ("POR"). We did not receive any comments on our preliminary results and have made no revisions to those results.

DATES: *Effective Date:* November 27, 2006.

FOR FURTHER INFORMATION CONTACT: Kristen Johnson, 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) 482-4793.

SUPPLEMENTARY INFORMATION:

Background

On August 17, 1993, the Department published in the **Federal Register** the CVD order on CORE from France. See *Countervailing Duty Order and Amendment to Final Affirmative Countervailing Duty Determination: Certain Steel Products from France*, 58 FR 43759 (August 17, 1993). On September 7, 2006, the Department