

## Assessment

The Department will instruct U.S. Customs and Border Protection (CBP) to assess countervailing duties on all appropriate entries. For Zhongce and TUTRIC, countervailing duties shall be assessed at rates equal to the cash deposit or bonding rate of the estimated countervailing duties required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(1)(i). The Department intends to issue appropriate assessment instructions directly to CBP 15 days after publication of this notice.

## Notification Regarding Administrative Protective Order

This notice serves as a final reminder to parties subject to administrative protective orders (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. 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 notice is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.213(d)(4).

Dated: April 29, 2010.

**Edward C. Yang,**

*Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-560-823]

### Certain Coated Paper Suitable for High-Quality Print Graphics Using Sheet-Fed Presses From Indonesia: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination

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

**DATES:** *Effective Date:* May 6, 2010.

**SUMMARY:** The Department of Commerce (the Department) preliminarily determines that certain coated paper suitable for high-quality print graphics

using sheet-fed presses (coated paper) from Indonesia is being, or is likely to be, sold in the United States at less than fair value (LTFV), as provided in section 733(b) of the Tariff Act of 1930, as amended (the Act). The estimated dumping margins are listed in the "Suspension of Liquidation" section of this notice. Interested parties are invited to comment on this preliminary determination. Pursuant to requests from interested parties, we are postponing for 60 days the final determination and extending provisional measures from a four-month period to not more than six months. Accordingly, we will make our final determination not later than 135 days after publication of the preliminary determination.

#### FOR FURTHER INFORMATION CONTACT:

Gemal Brangman or Brian Smith, AD/CVD Operations, Office 2, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-3773 and (202) 482-1766, respectively.

#### SUPPLEMENTARY INFORMATION:

##### Background

In its initiation of this investigation (see *Certain Coated Paper Suitable for High-Quality Print Graphics Using Sheet-Fed Presses From Indonesia and the People's Republic of China: Initiation of Antidumping Duty Investigations*, 74 FR 53710 (October 20, 2009) (*Initiation Notice*)), the Department stated that it had selected PT. Pabrik Kertas Tjiwi Kimia Tbk. (TK) and PT. Pindo Deli Pulp and Paper (PD) as the mandatory respondents in this investigation. See *Initiation Notice*, 74 FR 53714. Since the *Initiation Notice*, the following events have occurred.

The Department set aside a period of time for parties to raise issues regarding product coverage and encouraged all parties to submit comments within 20 calendar days of publication of the *Initiation Notice*. See *Initiation Notice*, 74 FR at 53710; see also *Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27323 (May 19, 1997). We received several scope comment submissions from interested parties during the period November 2009 through April 2010. For further details, see "Scope Comments" section of this notice. The Department also set aside a time for parties to comment on product characteristics for use in the antidumping questionnaire. We received such comments from the respondents on November 2, 2009, and

from the petitioners<sup>1</sup> on November 10, 2009.

On November 17, 2009, the U.S. International Trade Commission (ITC) preliminarily determined that there is a reasonable indication that imports of coated paper from Indonesia are materially injuring the U.S. industry and notified the Department of its findings. See *Certain Coated Paper Suitable for High-Quality Print Graphics Using Sheet-Fed Presses from China and Indonesia*, Investigation Nos. 701-TA-470-471 and 731-TA-1169-1170 (Preliminary), 74 FR 61174 (November 23, 2009).

On November 20, 2009, we issued PD and TK the antidumping duty questionnaire.

On December 16, 2009, we issued a memorandum detailing the reasons why it would not be practicable in this investigation to examine individually more than the two Indonesian producers/exporters of coated paper named in the *Initiation Notice*. See Memorandum from James Maeder, Office Director, to John M. Andersen, Acting Deputy Assistant Secretary, entitled, "Certain Coated Paper Suitable for High-Quality Print Graphics Using Sheet-Fed Presses from Indonesia: Selection of Respondents," dated December 16, 2009 (Respondent Selection Memo).

On December 22, 2009, PD and TK submitted a consolidated response to section A (*i.e.*, the section covering general information about the company) of the antidumping duty questionnaire. In this submission, PD and TK indicated that not only are they affiliated with each other, but they are also affiliated with a third company that produces coated paper in Indonesia, PT Indah Kiat Pulp and Paper Tbk. (IK). Based on an analysis of the facts of record, as discussed in the "Collapsing" section of this notice below, we find that it is appropriate to treat these companies as a single entity, hereafter referred to as PD/TK/IK.

On January 12, 2010, PD and TK submitted their responses to sections B (*i.e.*, the section covering comparison-market sales) and C (*i.e.*, the section covering U.S. sales) of the antidumping duty questionnaire. On January 19, 2010, PD and TK submitted their response to section D (*i.e.*, the section covering cost of production (COP) and constructed value (CV)) of the

<sup>1</sup> The petitioners include the following companies: 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.

antidumping duty questionnaire. These responses did not include sales and cost data for multi-ply coated paper products the respondents produced and sold during the POI. Therefore, on January 25, 2010, we requested that PD/TK/IK provide such data, if the multi-ply coated paper they produced and sold during the POI met the description of the merchandise in the scope, pending the Department's ruling on the matter. PD/TK/IK provided the requisite data on multi-ply coated paper on February 16, 2010.

On January 22, 2010, the petitioners made a timely request pursuant to section 733(c)(1)(A) of the Act and 19 CFR 351.205(e) for a 50-day postponement of the preliminary determination. Therefore, pursuant to section 733(c)(1)(A) of the Act, on February 4, 2010, the Department postponed the preliminary determination of this investigation until April 21, 2010. *See Certain Coated Paper Suitable for High-Quality Print Graphics Using Sheet-Fed Presses From Indonesia and the People's Republic of China: Postponement of Preliminary Determinations of Antidumping Duty Investigations*, 75 FR 7447 (February 19, 2010). As explained in the memorandum from the Deputy Assistant Secretary for Import Administration, the Department has exercised its discretion to toll deadlines for the duration of the closure of the Federal Government from February 5, through February 12, 2010. Thus, all deadlines in this proceeding have been extended by seven days. The revised deadline for the preliminary determination of this investigation is now April 28, 2010. *See Memorandum to the file regarding "Tolling of Administrative Deadlines As a Result of the Government Closure During the Recent Snowstorm,"* dated February 12, 2010.

On March 2, 2010, the Department issued PD/TK/IK a supplemental questionnaire concerning its responses to sections A, B, and C of the antidumping questionnaire, and received PD/TK/IK's responses to this supplemental questionnaire during March and April 2010. On March 12, 2010, the Department issued PD/TK/IK a section D supplemental questionnaire and received a response to this questionnaire on April 2 and 9, 2010. The Department requested additional information from PD/TK/IK regarding its responses to sections A through D of the questionnaire in March and April 2010. PD/TK/IK provided the requested information pertaining to sections A through C of the questionnaire, and some of the requested information

pertaining to section D of the questionnaire during the same months. The Department expects to receive the remaining information requested with respect to section D in May 2010.

On March 12, 2010, the petitioners filed an allegation of targeted dumping by PD/TK/IK. *See* the "Targeted Dumping Allegation" section below.

On April 6, 2010, the petitioners submitted comments for consideration with respect to the preliminary determination.

On April 13, 2010, PD/TK/TK requested that in the event of an affirmative preliminary determination in this investigation, the Department: (1) Postpone its final determination by 60 days in accordance with 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii); and 2) extend the application of the provisional measures prescribed under 19 CFR 351.210(e)(2) from a four-month period to a six-month period.

Similarly, on April 16, 2010, the petitioners requested that in the event of a negative preliminary determination in this investigation, the Department postpone its final determination by 60 days in accordance with 735(a)(2)(B) of the Act and 19 CFR 351.210(b)(2)(i). For further discussion, see the "Postponement of Final Determination and Extension of Provisional Measures" section of this notice, below.

#### Period of Investigation

The period of investigation (POI) is July 1, 2008, to June 30, 2009. This period corresponds to the four most recent fiscal quarters prior to the month of the filing of the petition.

#### Scope of Investigation

The merchandise covered by this investigation includes certain coated paper and paperboard<sup>2</sup> 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;<sup>3</sup> weighing not more than 340 grams per square meter; whether gloss

<sup>2</sup> "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.'

<sup>3</sup> 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.

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

#### Scope Comments

As discussed in the preamble to the regulations, we set aside a period for interested parties to raise issues regarding product coverage. *See Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27323 (May 19, 1997). The Department encouraged all interested parties to submit such comments within 20 calendar days of signature of the *Initiation Notice*. *See Initiation Notice*, 74 FR at 31692. As we stated in *Certain Coated Paper Suitable For High-Quality Print Graphics Using Sheet-Fed Presses from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Countervailing Duty Determination with Final Antidumping Duty Determination*, 75 FR 10774 (March 9, 2010) (*PRC Coated Paper CVD Prelim*) and *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) (*Indonesia Coated Paper CVD Prelim*), the Department received scope comments from interested parties on November 6, 2009,<sup>4</sup> November 16, 2009,<sup>5</sup> December 16, 2009,<sup>6</sup> December 28, 2009,<sup>7</sup> and March 12, 2010,<sup>8</sup> with respect to whether multi-ply coated paper products are covered by the scope of the AD/CVD investigations of certain coated paper from the PRC and Indonesia. As the Department stated in the *PRC Coated Paper CVD Prelim* and *Indonesia Coated Paper CVD Prelim*, based on our review of the scope, we find that the number of plies is not among the specific physical characteristics (e.g., brightness, coating, weight, etc.) defining the subject merchandise. Accordingly, we preliminarily find that multi-ply coated paper is covered by the scope of these investigations, to the extent that it meets the description of the merchandise in the scope.

On February 25, 2010, the petitioners filed additional comments rebutting certain documents filed by the PRC and Indonesian respondents which contained scope comments and restating their prior claims. In response to a question the Department posed during an *ex parte* meeting, the petitioners stated that the phrase “suitable for high quality print graphics” could be stricken from the description of the subject merchandise without altering the scope of these investigations. In the *PRC Coated Paper CVD Prelim* and *Indonesia Coated Paper CVD Prelim*, the Department invited interested parties to comment within 20 calendar days of publication of the *PRC Coated Paper*

*CVD Prelim* and *Indonesia Coated Paper CVD Prelim* with respect to whether striking the language “suitable for high quality print graphics” from the description of the subject merchandise would alter the scope of these investigations. We received comments from interested parties on March 29, 2010,<sup>9</sup> and April 8, 2010.<sup>10</sup> Based on the information contained in these submissions, on April 23, 2010, the Department requested additional information from the petitioners with respect to this scope issue. The submission of this information is due May 3, 2010. Therefore, we intend to address this issue for the final determination in these coated paper AD/CVD investigations.

In their February 25, 2010, submission, the petitioners also stated that the phrase in the scope, “(c) any other coated paper that meets the scope definition” should also include the word “paperboard.” As the Department stated in the *PRC Coated Paper CVD Prelim* and *Indonesia Coated Paper CVD Prelim*, we agree that the word “paperboard” was inadvertently omitted (e.g., it is already explicitly included in the first sentence of the scope language and in “(b)” of the second paragraph) and have corrected the scope language to read “(c) any other coated paper and paperboard that meets this scope definition.”

### Collapsing

On December 22, 2009, PD and TK submitted a consolidated questionnaire response, based on a claim that they are producers of subject merchandise in Indonesia that are affiliated via common ownership and membership in the companies’ Boards of Directors. In this response, PD and TK claimed that they are also affiliated with an additional producer of certain coated paper in Indonesia, IK, by reason of a common parent company, as well as certain common board members.

In their March 26, 2010, response to the Department’s section A supplemental questionnaire, PD, TK and IK provided additional information regarding their relationship during the POI. After an analysis of this information, we preliminarily determine that, in accordance with 19 CFR 351.401(f), it is appropriate to collapse

these entities for purposes of this investigation because: (1) These entities are affiliated pursuant to section 771(33)(F) of the Act because they are under the control of a common parent company, PT. Purinusa Ekapersada (Purinusa), which owns a majority of the shares in each company; (2) PD, TK and IK have the facilities to produce identical or similar products, such that substantial retooling would not be required to restructure manufacturing priorities; and (3) we find that there exists a significant potential for manipulation of price or production if PD, TK and IK do not receive the same antidumping duty rate. With respect to the significant potential for manipulation, we find, in accordance with 19 CFR 351.401(f)(2), that: (1) There is common ownership through the shared parent, Purinusa; (2) PD, TK and IK share members on their Boards of Directors and other employees; and (3) these companies have intertwined operations. For further discussion, see Memorandum to John M. Andersen, Deputy Assistant Secretary for Import Administration, from the Team entitled, “Whether to Treat Respondents as a Single Entity for Margin Calculation Purposes in the Antidumping Duty Investigation of Certain Coated Paper Suitable for High-Quality Print Graphics Using Sheet-Fed Presses From Indonesia,” dated April 21, 2010 (Collapsing Memo).

### Targeted Dumping Allegation

The statute allows the Department to employ the average-to-transaction margin-calculation methodology under the following circumstances: (1) There is a pattern of export prices that differ significantly among purchasers, regions, or periods of time; (2) the Department explains why such differences cannot be taken into account using the average-to-average or transaction-to-transaction methodology. See section 777A(d)(1)(B) of the Act.

On March 12, 2010, the petitioners submitted allegations of targeted dumping with respect to PD/TK/IK and asserted that the Department should apply the average-to-transaction methodology in calculating the margin for this entity. In their allegations, the petitioners assert that there are patterns of export prices (EPs) (or constructed export prices (CEPs)) for comparable merchandise that differ significantly among purchasers, regions, and time periods. The petitioners relied on the Department’s targeted-dumping test in *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),

<sup>4</sup> See “Scope Comments: Coated Paper Suitable For High-Quality Print Graphics Using Sheet-Fed Presses from China and Indonesia,” dated November 6, 2009.

<sup>5</sup> See “Certain Coated Paper Suitable For High-Quality Print Graphics Using Sheet-Fed Presses (“Certain Coated Paper”) from Indonesia and the People’s Republic of China: Petitioners’ Rebuttal Comments on Scope,” dated November 16, 2009.

<sup>6</sup> See “Request to Re-Examine the Department’s Industry Support Calculation Coated Paper Suitable For High-Quality Print Graphics Using Sheet-Fed Presses from China,” dated December 16, 2009.

<sup>7</sup> See “Certain Coated Paper Suitable For High-Quality Print Graphics Using Sheet-Fed Presses from Indonesia and the People’s Republic of China: Petitioners’ Response to Chinese and Indonesian Respondents’ Request to Re-examine the Department’s Industry Support Calculation,” dated December 28, 2009.

<sup>8</sup> See “Ex Parte Meeting Regarding Scope: Records Documents, Certain Coated Paper Suitable For High-Quality Print Graphics Using Sheet-Fed Presses from Indonesia and the People’s Republic of China,” originally dated February 23, 2010, resubmitted on March 12, 2010.

<sup>9</sup> See “Additional Scope Comments: Certain Coated Paper Suitable For High-Quality Print Graphics Using Sheet-Fed Presses from China and Indonesia,” dated March 29, 2010.

<sup>10</sup> See “Certain Coated Paper Suitable For High-Quality Print Graphics Using Sheet-Fed Presses (Certain Coated Paper) from Indonesia and the People’s Republic of China: Petitioners’ Rebuttal Comments on Scope,” dated April 8, 2010.

and *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) (collectively *Nails*), as applied in more recent investigations such as *Notice of Final Determination of Sales at Less Than Fair Value: Polyethylene Retail Carrier Bags from Taiwan*, 75 FR 14569 (March 26, 2010) (*PRCBs from Taiwan*).<sup>11</sup> See Petitioners' Submission of Targeted Dumping Allegations dated March 12, 2010, at pages 3–8.

On April 6, 2010, the petitioners filed additional comments urging the Department to follow the practice it recently adopted in *PRCBs from Taiwan*, and make average-to-transaction price comparisons for all of PD/TK/IK's U.S. sales if it finds any targeted dumping by PD/TK/IK. Given the Department's current practice in investigations of allowing the dumped U.S. sales to be offset by non-dumped U.S. sales, the petitioners maintain that the only way for the Department to ensure that targeted dumping is captured in its final determination in this investigation without being offset by any non-dumped sales is to employ the alternative (average-to-transaction) price comparison methodology to all of PD/TK/IK's U.S. sales.

#### A. Targeted-Dumping Test

We conducted customer, regional, and time-period targeted-dumping analyses for PD/TK/IK using the methodology we adopted in *Nails* and most recently articulated in *PRCBs from Taiwan* and *Polyethylene Retail Carrier Bags from Indonesia: Final Determination of Sales at Less Than Fair Value*, 75 FR 16431 (April 1, 2010), and accompanying Issues and Decision Memorandum at Comment 1 (*PRCBs from Indonesia*) (collectively *PRCBs*); and *Certain Oil Country Tubular Goods from the People's Republic of China: Final Determination of Sales at Less Than*

*Fair Value, Affirmative Final Determination of Critical Circumstances and Final Determination of Targeted Dumping*, 75 FR 20335 (April 19, 2010) and accompanying Issues and Decision Memorandum at Comment 2 (*OCTG*).

The methodology we employed involves a two-stage test; the first stage addresses the pattern requirement and the second stage addresses the significant-difference requirement. See section 777A(d)(1)(B)(i) of the Act, *Nails*, *PRCBs*, and *OCTG*. In this test we made all price comparisons on the basis of identical merchandise (*i.e.*, by control number or CONNUM). The test procedures are the same for the customer, region, and time-period targeted-dumping allegations. We based all of our targeted-dumping calculations on the U.S. net price which we determined for U.S. sales by PD/TK/IK in our standard margin calculations. For further discussion of the test and results, see the Department's memorandum entitled, "Calculations Performed for PT. Pindo Deli Pulp and Paper Mills ("PD"), PT. Pabrik Kertas Tjiwi Kimia Tbk ("TK"), and PT Indah Kiat Pulp & Paper Tbk ("IK") for the Preliminary Determination in the Antidumping Duty Investigation of Certain Coated Paper Suitable for High-Quality Print Graphics Using Sheet-Fed Presses from Indonesia," dated April 28, 2010 (Calculation Memo). As a result of our analysis, we preliminarily determine that there is a pattern of EPs for comparable merchandise that differ significantly among certain customers, regions and time periods for PD/TK/IK in accordance with section 777A(d)(1)(B)(i) of the Act and our current practice as discussed in *Nails*, *PRCBs*, and *OCTG*.

#### B. Price-Comparison Method

Section 777A(d)(1)(B)(ii) of the Act states that the Department may compare the weighted average of the normal value (NV) to EPs (or CEPs) of individual transactions for comparable merchandise if the Department explains why differences in the patterns of EPs (or CEPs) cannot be taken into account using the average-to-average methodology. As described above, we preliminarily determine that, with respect to sales by PD/TK/IK for certain customers, regions and time periods, there was a pattern of prices that differed significantly. We find that these differences can be taken into account using the average-to-average methodology because the average-to-average methodology does not conceal differences in the patterns of prices between the targeted and non-targeted groups by averaging low-priced sales to

the targeted group with high-priced sales to the non-targeted group. Therefore, for the preliminary determination, we find that the standard average-to-average methodology takes into account the price differences because the alternative average-to-transaction methodology yields no difference in the margin or yields a difference in the margin that is so insignificant relative to the size of the resulting margin as to be immaterial. Accordingly, for this preliminary determination we have applied the standard average-to-average methodology to all U.S. sales. See Calculation Memo for further discussion.

#### Product Comparisons

We have taken into account the comments that were submitted by the interested parties concerning product-comparison criteria. In accordance with section 771(16) of the Act, we considered all products produced by PD/TK/IK that fit the description in the "Scope of Investigation" section of this notice, and sold in Indonesia during the POI, to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales. In making the product comparisons, we matched U.S. sales of the subject merchandise to home market sales of the foreign like product based on the physical characteristics reported by PD/TK/IK in the following order of importance: cast coating, coating sides, basis weight, brightness, finish, opacity, and sheet size.

Where there were no sales of identical merchandise in the home market made in the ordinary course of trade and produced by PD/TK/IK to compare to U.S. sales, we compared U.S. sales to sales of the next most similar foreign like product on the basis of the characteristics listed above, which were made in the ordinary course of trade.

#### Fair Value Comparisons

To determine whether sales of coated paper from Indonesia to the United States made by PD/TK/IK were made at LTFV, we compared, where appropriate, the EP to the NV, as described in the "Export Price," and "Normal Value" sections of this notice, below. In accordance with section 777A(d)(1)(A)(i) of the Act, we compared POI weighted-average EPs to POI weighted-average NVs. See discussion below.

#### Export Price

Section 772(a) of the Act defines EP as the price at which the subject merchandise is first sold (or agreed to be

<sup>11</sup> In addition to a targeted dumping analysis based on the methodology established in *Nails*, the petitioners provided an alternative analysis based on two elements which they maintain are permissible options for the Department to consider in addressing targeted dumping under the statute: (1) Identification of product-specific weighted-average prices to a targeted entity that are two percent below the weighted-average prices of those products to non-targeted entities (a methodology rejected by the Department in recent prior investigations such as *Nails* and *PRCBs from Taiwan*); and (2) identification of any sales to a targeted entity that are below cost (a methodology which is not price-based and, therefore, not relevant to addressing targeted dumping under the Department's current practice). See Petitioners' Submission of Targeted Dumping Allegations dated March 12, 2010, at pages 8–12.

sold) before the date of importation by the producer or exporter outside of the United States to an unaffiliated purchaser for exportation to the United States, as adjusted under subsection (c).

During the POI, PD/TK/IK's U.S. sales were made through the following general channels of distribution: (1) Sales directly to unaffiliated customers in the United States; (2) sales to unaffiliated customers in the United States via affiliated trading companies located in countries other than Indonesia and the United States, but shipped directly from the producer; and (3) sales to unaffiliated customers in the United States via an affiliated trading company located in a country other than Indonesia and the United States, shipped out of that company's inventory. In accordance with section 772(a) of the Act, we have applied the EP methodology for sales made through the first channel of distribution noted above because they were made by the respondent and exported from Indonesia to the first unaffiliated purchaser in the United States prior to importation.

Regarding the second channel of distribution noted above, PD/TK/IK claimed that it was affiliated with all but one of the trading companies used in this distribution channel<sup>12</sup> because it: (1) Was involved in agreements legally binding the trading companies to buy all products they sell from PD/TK/IK and its affiliates; and (2) exercised almost total control of the trading companies' day-to-day operations, including establishing all prices and sales agreements with the U.S. customers. We have analyzed the information on the record with respect to this affiliation claim and preliminarily find that the trading companies are affiliated with PD/TK/IK pursuant to section 771(33)(G) of the Act given that there is, in essence, an agent relationship in which PD/TK/IK controls each trading company used in this second channel of distribution. Evidence on the record indicates that, among other things, PD/TK/IK establishes all prices and sales agreements with the U.S. customer, the affiliated trading companies do not inventory subject merchandise, and the merchandise is shipped directly from the respondent to the U.S. customer. See e.g., *Coated Free Sheet Paper from Indonesia: Notice of Preliminary*

*Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 72 FR 30753, 30755 (June 4, 2007) (unchanged in *Notice of Final Determination of Sales at Less Than Fair Value: Coated Free Sheet Paper from Indonesia*, 72 FR 60636 (October 25, 2007)) (*CFS from Indonesia*). Accordingly, we have applied EP methodology for sales made through this second channel of distribution because they were made by the producer's affiliate outside the United States to the first unaffiliated purchaser in the United States prior to importation. We intend to examine each trading company's involvement in the U.S. sales process and the affiliation claim further at verification.

Regarding the third channel of distribution noted above, PD/TK/IK claimed that it was affiliated with the trading company involved in this distribution channel by reason of a common parent company (Purinusa), which owns a majority of the shares in each company, as well as certain common board members. Based on the record evidence, we find that PD/TK/IK is affiliated with this company pursuant to section 771(33)(F) of the Act because they are under the common control of Purinusa. Accordingly, we have applied EP methodology for sales made through this third channel of distribution because they were made by the producer's affiliate outside the United States to the first unaffiliated purchaser in the United States prior to importation.

PD/TK/IK claimed that a portion of its U.S. sales through affiliated trading companies during the POI involved an affiliated U.S. company. PD/TK/IK reported these sales as CEP sales. According to PD/TK/IK, the U.S. company at issue was affiliated by reason of an exclusive selling agent arrangement with PD/TK/IK during the POI. After analyzing the information on the record with respect to this affiliation claim, we preliminarily find that the U.S. company is not affiliated with PD/TK/IK because the written agreement between PD/TK/IK and this company does not establish the exclusive nature of the relationship. The U.S. company is not precluded from selling merchandise produced by other manufacturers, and there is no evidence that PD/TK/IK otherwise has the ability to control this company. See, e.g., *CFS from Indonesia*, at 72 FR 30755; and *Notice of Final Determination of Sales at Less Than Fair Value: Carbon and Certain Alloy Steel Wire Rod from Mexico*, 67 FR 55800 (August 30, 2002), and accompanying Issues and Decision Memorandum at Comment 1c.

Accordingly, we have applied EP methodology (vs. CEP methodology) to these sales for purposes of the preliminary determination. We intend to examine the U.S. company's involvement in the U.S. sales process and PD/TK/IK's affiliation claim further at verification.

We based EP on the packed FOB, CFR, CIF, or DDU prices to unaffiliated purchasers in the United States. We adjusted the starting price, where appropriate, for billing adjustments. In accordance with section 772(c)(2)(A) of the Act, we made deductions, where appropriate, for foreign inland freight from plant to the port of exportation, insurance (including domestic, marine, and U.S. inland), freight and warehousing expenses (incurred on sales of subject merchandise sold out of the inventory of an affiliated trading company located in a third country), international freight (including foreign and U.S. brokerage and handling expenses and U.S. inland freight), and U.S. importation fees. We also added freight revenue, where applicable, and capped it by the amount of freight expenses incurred, in accordance with our practice. See *Certain Orange Juice from Brazil: Final Results of Antidumping Administrative Review*, 74 FR 40167 (August 11, 2009), and accompanying Issues and Decision Memorandum at Comment 3.

## Normal Value

### A. Home Market Viability and Comparison-Market Selection

To determine whether there is a sufficient volume of sales in the home market to serve as a viable basis for calculating NV (i.e., the aggregate volume of home market sales of the foreign like product is equal to or greater than five percent of the aggregate volume of U.S. sales), we compared PD/TK/IK's volume of home market sales of the foreign like product to the volume of U.S. sales of the subject merchandise. See section 773(a)(1)(C) of the Act. Based on this comparison, we determined that PD/TK/IK had a viable home market during the POI. Consequently, we based NV on home market sales.

### B. Level of Trade

In accordance with section 773(a)(1)(B) of the Act, to the extent practicable, we determine NV based on sales in the comparison market at the same level of trade (LOT) as the EP or CEP. Pursuant to 19 CFR 351.412(c)(1), the NV LOT is that of the starting-price sales in the comparison market or, when NV is based on constructed value (CV),

<sup>12</sup> The remaining trading company involved in this channel of distribution also made sales of subject merchandise to unaffiliated customers in the United States out of its inventory. PD/TK/IK's claim of affiliation with this company is discussed in the context of the third channel of distribution below.

that of the sales from which we derive selling, general and administrative expenses (SG&A) and profit. For EP, the U.S. LOT is also the level of the starting-price sale, which is usually from exporter to importer. For CEP, it is the level of the constructed sale from the exporter to the importer.

To determine whether NV sales are at a different LOT than EP or CEP sales, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer. *See* 19 CFR 351.412(c)(2). If the comparison-market sales are at a different LOT, and the difference affects price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and comparison-market sales at the LOT of the export transaction, we make an LOT adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP sales, if the NV level is more remote from the factory than the CEP level and there is no basis for determining whether the difference in levels between NV and CEP affects price comparability, we adjust NV under section 773(a)(7)(B) of the Act (the CEP-offset provision). *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from South Africa*, 62 FR 61731, 61732 (Nov. 19, 1997).

In this investigation, we obtained information from PD/TK/IK regarding the marketing stages involved in making their reported home market and U.S. sales, including a description of the selling activities performed by the respondent (and its affiliates) for each channel of distribution.

PD/TK/IK reported that it made EP sales in the U.S. market through the following general channels of distribution: (1) Direct sales to U.S. customers (Channel 1); (2) direct sales through affiliated trading companies (Channel 2); and (3) out-of-inventory sales through an affiliated trading company (Channel 3). PD/TK/IK stated that its U.S. sales were made at the same LOT, regardless of distribution channel. We examined the selling activities performed for all three channels and found that PD/TK/IK performed the following selling functions for all three channels: Sales forecasting, strategic/economic planning, personnel training/exchange, order input/processing, provision of direct sales personnel, packing, payment of commissions, and freight and delivery services. Regarding sales through Channel 2, we found that, in addition to the selling functions performed by PD/TK/IK on these sales, the trading companies further performed the following selling

functions: Order input/processing and payment of commissions. Regarding sales through Channel 3, we found that the trading company performed the following selling functions: Sales promotion, inventory maintenance, order input/processing, provision of direct sales personnel, sales/marketing support, technical assistance, freight and delivery services, and repacking. These selling activities can be generally grouped into four categories for analysis: (1) Sales and marketing; (2) freight and delivery; (3) inventory maintenance and warehousing; and (4) warranty and technical support. Accordingly, we found that PD/TK/IK (and its affiliates) performed sales and marketing and freight and delivery services for all U.S. sales. We also note that PD/TK/IK's affiliated trading company performed certain selling activities (e.g., inventory maintenance and technical services) for PD/TK/IK's sales through Channel 3 that were not performed for PD/TK/IK's sales through Channels 1 and 2. However, there is no evidence on the record to support finding these differences to be material selling function distinctions significant enough to warrant a separate LOT in the U.S. market, as the respondent did not provide information on the extent to which the selling activities identified above are performed in one channel or the other. Therefore, we preliminarily determine that there is one LOT in the U.S. market.

With respect to the home market, PD/TK/IK made sales through a single channel of distribution (*i.e.*, sales to unaffiliated customers through an affiliated reseller).<sup>13</sup> We examined the selling activities performed for this channel and found that PD/TK/IK performed the following selling functions: Sales forecasting, strategic/economic planning, personnel training/exchange, packing, inventory maintenance, order input/processing, provision of direct sales personnel, technical assistance, after-sales services, and freight and delivery services. In addition, PD/TK/IK's affiliated reseller performed the following sales functions:

Sales forecasting, strategic/economic planning, personnel training/exchange, advertising, sales promotion, distributor/dealer training, inventory maintenance, order input/processing, provision of direct sales personnel, sales/marketing support, market research, technical assistance, provision of cash discounts, and after-sales services. Accordingly, based on the four selling function categories identified above, we find that PD/TK/IK and its affiliated reseller performed sales and marketing, freight and delivery services, inventory maintenance and warehousing, and warranty and technical services in the home market. Because all sales in the home market were made through a single distribution channel, we preliminarily determine that there is one LOT in the home market.

Finally, we compared the EP LOT to the home market LOT and found that the home market selling functions differed from the U.S. selling functions with respect to: (1) Inventory maintenance and technical services performed in the home market that are performed only on certain sales to the United States; and (2) certain sales and marketing activities performed in the home market that are either not performed on U.S. sales or are performed only on certain U.S. sales. However, there is no evidence on the record to support a finding that these differences are significant enough to distinguish the home market LOT from the EP LOT, as the respondent did not provide information on the extent to which the selling activities identified above are performed in one market or the other. Notwithstanding this fact, we note that given that PD/TK/IK sold at only one LOT in the home market, and there is no additional information on the record that would allow for an LOT adjustment, no LOT adjustment is possible for PD/TK/IK.

### C. Cost of Production Analysis

Based on our analysis of the petitioners' sales-below-cost of production (COP) allegation in the petition, we found reasonable grounds to believe or suspect that coated paper sales were made in Indonesia at prices below the COP, and initiated a country-wide cost investigation. *See* section 773(b)(2)(A)(i) of the Act and *Initiation Notice* at 74 FR 53713. Accordingly, we conducted a sales-below-cost investigation to determine whether PD/TK/IK's sales were made at prices below their COP.

<sup>13</sup> PD/TK/IK reported that it also made some sales directly to unaffiliated customers in the home market. However, these sales were not included in the home market database PD/TK/IK submitted to the Department. Given that the quantity of these sales constitute an insignificant percentage of the total home market sales quantity that PD/TK/IK reported in its home market sales database, we have excluded these sales from our preliminary LOT (and margin) analysis. *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances: Certain Color Television Receivers From the People's Republic of China*, 69 FR 20594 (April 16, 2004), and accompanying Issues and Decision Memorandum at Comment 27.



## 1. Calculation of COP

In accordance with section 773(b)(3) of the Act, we calculated COP based on the sum of the cost of materials and fabrication for the foreign like product, plus an amount for general and administrative expenses (G&A), and financial expenses. *See* “Test of Home Market Sales Prices” section below for treatment of home market selling expenses and packing costs. We relied on the COP data submitted by PD/TK/IK in the April 15, 2010, response to section D of the Department’s questionnaire, except where noted below.

1. We applied the major input rule under section 773(f)(3) of the Act to PD/TK’s purchases of certain pulp from an affiliated supplier. As a result, we adjusted PD/TK’s reported cost of manufacturing to reflect the higher of transfer price, market price or COP for pulp. Regarding the affiliated supplier’s COP of the pulp, we currently have outstanding requests for information concerning affiliated log purchases by this company used in the production of pulp and will consider this information for the final determination.

2. We applied the transactions disregarded rule under section 773(f)(2) of the Act to purchases of certain pulp from affiliated parties, and we adjusted PD’s reported cost of manufacturing to the higher of transfer price or market price.

3. We eliminated the inter-company profit arising from the affiliated pulp transactions between IK and PD/TK. We currently have outstanding requests for information concerning affiliated log purchases by IK used in the production of pulp and will consider this information for the final determination.

4. We adjusted the COP of certain pulp PD/TK purchased from IK and an affiliated supplier to reflect the total financial expenses of an affiliated trading company.

5. We revised PD/TK/IK’s G&A expense ratios to include unconsolidated non-operating expenses in the numerator of the ratios.

6. We revised the reported financial expense ratio of the parent company (Purinus) to exclude that portion of the interest income offset that we are unable to determine was generated from short-term interest-bearing assets from the numerator of the ratio.

7. We revised the denominator of the financial expense ratio to exclude TK’s and PD’s reported packing expenses.

8. We applied the parent company’s financial expense ratio against each company’s reported total cost of manufacturing to determine the company’s per-unit financial expenses.

*See* the April 28, 2010, Memorandum from LaVonne Clark and Robert Greger, Senior Accountants, to Neal M. Halper, Director, Office of Accounting, entitled, “Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Determination—PT. Pabrik Kertas Tjiwi Kimia Tbk., PT. Pindo Deli Pulp and Paper, and PT Indah Kiat Pulp and Paper Tbk.,” for further discussion.

For the preliminary determination, we have relied upon the POI weighted-average COP PD/TK/IK reported, as adjusted above. However, depending on the extent to which production costs changed throughout the cost reporting period, we are considering whether it is more appropriate to use the Department’s alternative cost averaging methodology for the final determination. Accordingly, we have requested product-specific quarterly cost information from PD/TK/IK for consideration prior to the final determination.

## 2. Test of Home Market Sales Prices

On a product-specific basis, we compared the adjusted weighted-average COP to the home market sales prices of the foreign like product, as required under section 773(b) of the Act, to determine whether the sale prices were below the COP. The sales prices were exclusive of any applicable discounts, movement charges, direct and indirect selling expenses, and packing expenses. For purposes of this comparison, we used the COP exclusive of selling and packing expenses.

## 3. Results of the COP Test

Pursuant to section 773(b)(2)(C)(i) of the Act, where less than 20 percent of the respondent’s sales of a given product during the POI are at prices less than the COP, we do not disregard any below-cost sales of that product, because we determined that the below-cost sales were not made in “substantial quantities.” Where 20 percent or more of the respondent’s sales of a given product during the POI were at prices less than the COP, we determine that such sales have been made in “substantial quantities.” *See* section 773(b)(2)(C) of the Act. Further, we determine that the sales were made within an extended period of time, in accordance with section 773(b)(2)(B) of the Act, because we examine below-cost sales occurring during the entire POI. In accordance with section 773(b)(2)(D) of the Act, we compare prices to the POI-average costs to determine whether the prices permit recovery of costs within a reasonable period of time.

In this case, we found that, for certain products, more than 20 percent of PD/

TK/IK’s sales were made at prices less than the COP and, in addition, such sales did not provide for the recovery of costs within a reasonable period of time. We, therefore, excluded these sales and used the remaining sales as the basis for determining NV, in accordance with section 773(b)(1) of the Act.

## 4. Calculation of Normal Value Based on Comparison-Market Prices

We based NV for PD/TK/IK on packed CIF prices to unaffiliated customers. Where appropriate, we made adjustments for quantity discounts. We made deductions for movement expenses, including foreign inland freight, warehousing, and insurance expenses, under section 773(a)(6)(B)(ii) of the Act.

Pursuant to section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410(b), we made, where appropriate, circumstance-of-sale adjustments for imputed credit expenses, bank charges, courier expenses, and commissions. Regarding commissions, PD/TK/IK incurred commissions only in relation to U.S. sales. Therefore, pursuant to 19 CFR 351.410(e), we offset U.S. commissions by the lesser of the commission amount or home market indirect selling expenses.

Furthermore, we made adjustments for differences in costs attributable to differences in the physical characteristics of the merchandise in accordance with section 773(a)(6)(C)(ii) of the Act and 19 CFR 351.411. We also deducted home market packing costs and added U.S. packing costs in accordance with sections 773(a)(6)(A) and (B) of the Act.

## Currency Conversion

We made currency conversions into U.S. dollars in accordance with section 773A(a) of the Act and 19 CFR 351.415 based on the exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank.

## Verification

As provided in section 782(i)(1) of the Act, we intend to verify the information relied upon in making our final determination for PD/TK/IK.

## Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, we will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of all entries of coated paper from Indonesia that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. We will also 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 below. These suspension-of-liquidation instructions will remain in effect until further notice.

The weighted-average dumping margins are as follows:

Manufacturer/Exporter	Weighted-Average margin (percent)
PT. Pabrik Kertas Tjiwi Kimia Tbk./PT. Pindo Deli Pulp and Paper/PT. Indah Kiat Pulp and Paper Tbk .....	10.62
All Others .....	10.62

#### All Others Rate

Section 735(c)(5)(A) of the Act provides that the estimated "All Others" rate shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero or *de minimis* margins, and any margins determined entirely under section 776 of the Act. As mentioned above in this notice, the collapsed entity (*i.e.*, PD/TK/IK) is the only respondent in this investigation for which the Department calculated a company-specific rate. Therefore, for purposes of determining the all-others rate and pursuant to section 735(c)(5)(A) of the Act, we are using the weighted-average dumping margin calculated for PD/TK/IK, as referenced above. *See, e.g., CFS from Indonesia*, 72 FR at 60637; and *Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Sheet and Strip in Coils From Italy*, 64 FR 30750, 30755 (June 8, 1999).

#### Disclosure

The Department will disclose to parties the calculations performed in connection with this preliminary determination within five days of the date of publication of this notice. *See* 19 CFR 351.224(b).

#### Postponement of Final Determination and Extension of Provisional Measures

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters, who account for a significant proportion of exports of the subject merchandise, or in the event of a negative preliminary determination, a request for such postponement is made by the petitioner. The Department's regulations, at 19 CFR

351.210(e)(2), require that requests by respondents for postponement of a final determination be accompanied by a request for extension of provisional measures from a four-month period to not more than six months.

On April 13, 2010, PD/TK/IK requested that in the event of an affirmative preliminary determination in this investigation, the Department postpone its final determination by 60 days. At the same time, PD/TK/IK requested that the Department extend the application of the provisional measures prescribed under section 733(d) of the Act and 19 CFR 351.210(e)(2), from a four-month period to a six-month period. In accordance with section 735(a)(2) of the Act and 19 CFR 351.210(b)(2), because (1) our preliminary determination is affirmative, (2) the requesting exporters account for a significant proportion of exports of the subject merchandise, and (3) no compelling reasons for denial exist, we are granting this request and are postponing the final determination until no later than 135 days after the publication of this notice in the **Federal Register**. Suspension of liquidation will be extended accordingly.

#### ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of the Department's preliminary affirmative determination. If the Department's final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after our final determination whether imports of coated paper from Indonesia are materially injuring, or threatening material injury to, the U.S. industry (*see* section 735(b)(2) of the Act). Because we are postponing the deadline for our final determination to 135 days from the date of the publication of this preliminary determination, the ITC will make its final determination no later than 45 days after our final determination.

#### Public Comment

Interested parties are invited to comment on the preliminary determination. Interested parties may submit case briefs to the Department no later than seven days after the date of the issuance of the last sales or cost verification report in this proceeding. *See* 19 CFR 351.309(c). Rebuttal briefs, the content of which is limited to the issues raised in the case briefs, must be filed within five days from the deadline date for the submission of case briefs. *See* 19 CFR 351.309(d). A list of authorities used, a table of contents, and an executive summary of issues should

accompany any briefs submitted to the Department. Executive summaries should be limited to five pages total, including footnotes. Further, we request that parties submitting briefs and rebuttal briefs provide the Department with a copy of the public version of such briefs on diskette.

In accordance with section 774 of the Act, the Department will hold a public hearing, if timely requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs, provided that such a hearing is requested by an interested party. *See* also 19 CFR 351.310(d). If a timely request for a hearing is made in this investigation, we intend to hold the hearing two days after the rebuttal brief deadline date at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, at a time and in a room to be determined. *See* 19 CFR 351.310. Parties should confirm by telephone, the date, time, and location of the hearing 48 hours before the scheduled date.

Interested parties, who wish to request a hearing, or to participate in a hearing if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, within 30 days of the publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. At the hearing, oral presentations will be limited to issues raised in the briefs.

This determination is issued and published pursuant to sections 733(f) and 777(i)(1) of the Act.

Dated: April 28, 2010.

**Ronald K. Lorentzen,**

*Deputy Assistant Secretary for Import Administration.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-570-958]

#### Certain Coated Paper Suitable for High-Quality Print Graphics Using Sheet-Fed Presses From the People's Republic of China: Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination

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