

and its determination that it could not address its failure to consider the February 5, 2009, submission as a ministerial error. On June 7, 2010, the Department filed an unopposed motion for voluntary remand with the Court so that the Department could fully consider and evaluate the overlooked record evidence, prepare draft remand results, issue a draft to the parties for comment, analyze those comments, and take such action as may be appropriate pertaining to Bon Ten. On June 8, 2010, the Court granted the Department's voluntary remand motion.

On June 11, 2010, we issued a supplemental questionnaire to Bon Ten, in which we provided Bon Ten the opportunity to submit a no-shipment certification. On June 15, 2010, Bon Ten submitted a certification that it had no shipments of WBF during the period August 1, 2007, through December 31, 2007, the portion of the 2007 AR POR that was not covered by the preceding NSR POR. On July 16, 2010, we released to all interested parties for comment: (1) Our draft redetermination pursuant to the remand finding that Bon Ten had properly submitted its no-shipment certification and stating our intent to rescind the AR with respect to Bon Ten; (2) a U.S. Customs and Border Protection ("CBP") data listing of all type 3 entries (*i.e.*, entries subject to antidumping and countervailing duty tariffs) classified under subheadings 7009.92.5000, 9403.50.9080, and 9403.50.9040 of the Harmonized Tariff Schedule of the United States that entered the United States during the 2007 AR POR and were exported/manufactured by Bon Ten; and (3) a draft version of Bon Ten's amended final cash deposit instructions reflecting the draft redetermination results, which the Department intends to send to CBP, pending the expiration of the period of appeal or, if appealed, pending a final and conclusive court decision.⁷ We received no comments from interested parties on the Department's draft redetermination results, CBP data, or the draft version of the cash deposit instructions for Bon Ten.

On August 9, 2010, the Department issued its final results of redetermination pursuant to *Bon Ten v. United States*. The remand redetermination explained that, in accordance with the CIT's instructions, we have reconsidered the record

information with regard to Bon Ten's no-shipment certification and separate-rate status for the 2007 AR. Based on this reconsideration, we have determined to rescind the 2007 AR with respect to Bon Ten pursuant to 19 CFR 351.214(j) and 19 CFR 351.213(d)(3).

Timken Notice

In its decision in *Timken*, the CAFC held that, pursuant to section 516A(e) of the Tariff Act of 1930, as amended ("the Act"), the Department must publish a notice of a court decision that is not "in harmony" with a Department determination and must suspend liquidation of entries pending a "conclusive" court decision.⁸ The CIT's decision in *Bon Ten v. United States*, issued on September 17, 2010, constitutes a final decision of that Court that is not in harmony with the Department's *Final Results* and *Amended Final Results*. This notice is published in fulfillment of the publication requirements of *Timken*. Accordingly, pending the expiration of the period of appeal or, if appealed, pending a final and conclusive court decision, the Department will instruct CBP to collect a cash-deposit rate for Bon Ten, effective October 31, 2008, based on the rate established in the final results of Bon Ten's NSR (*i.e.*, 0.00 percent) until completion of any subsequent administrative review of Bon Ten.⁹

This notice is issued and published in accordance with section 516A(c)(1) of the Act.

Dated: September 23, 2010.

Paul Piquado,

Acting Deputy Assistant Secretary for Import Administration.

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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

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

⁷ See the Department's memorandum entitled, "2007 Administrative Review of the Antidumping Duty Order on Wooden Bedroom Furniture from the People's Republic of China: Due Date for Interested Parties to Submit Comments on Draft Results of Redetermination Pursuant to Remand," dated July 16, 2010.

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
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- V. Analysis of Programs
 - A. Programs Determined To Be Countervailable
 - 1. Provision of Standing Timber for

- Less Than Adequate Remuneration
- 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
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**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

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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

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DEPARTMENT OF COMMERCE

International Trade Administration

[C-570-959]

Certain Coated Paper Suitable for High-Quality Print Graphics Using Sheet-Fed Presses From the People's Republic of China: Final Affirmative Countervailing Duty Determination

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

SUMMARY: The Department of Commerce (the "Department") has determined that countervailable subsidies are being provided to producers and exporters of certain coated paper suitable for high-quality print graphics using sheet-fed presses from the People's Republic of China ("PRC"). For information on the estimated countervailing duty rates, please see the "Suspension of Liquidation" section, below.

DATES: *Effective Date:* September 27, 2010.

FOR FURTHER INFORMATION CONTACT: David Neubacher, Jennifer Meek, and Mary Kolberg, AD/CVD Operations, Office 1, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; *telephone:* (202) 482-5823, (202) 482-2778, and (202) 482-1785, respectively.

SUPPLEMENTARY INFORMATION:

Period of Investigation

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

Case History

The following events have occurred since the publication of the preliminary determination in the **Federal Register** on March 9, 2010. *See 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) ("*Preliminary Determination*").

On March 4, 2010, the Department initiated investigations into new subsidy allegations on several grant programs to Shandong Sun Paper Industry Co., Ltd. and Yanzhou Tianzhang Paper Industry Co., Ltd. (collectively, "Sun companies"). *See* Memorandum from David Neubacher, International Trade Compliance Analyst, Office 1, to Susan Kuhbach, Director, Office 1, Import Administration, regarding "New Subsidy Allegations," (March 4, 2010), available in the Department's Central Records Unit in Room 7046 of the main Department building ("CRU").

On March 5, 2010, the Department issued a questionnaire regarding the new subsidy allegations to the Government of the People's Republic of China ("GOC"), and received a response on April 2, 2010.

On March 17, 2010, the Department received a submission from Appleton Coated LLC, NewPage Corporation, S.D. Warren Company d/b/a Sappi Fine Paper North America, and United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union (collectively, "Petitioners") regarding additional information to be collected from Gold East (Jiangsu) Co., Ltd., Gold Huasheng Paper Co., Ltd., and their reporting cross-owned companies (collectively, "Gold companies") in connection with the entered value adjustment.

The Department issued supplemental questionnaires to the GOC on April 14, May 12, and May 21, 2010, and received responses on April 29, May 19, and May 26, 2010, respectively. The Department issued supplemental questionnaires to the Gold companies on April 22, May 12, and May 21, 2010, and received responses on May 14, May 20 (a portion of the response was timely filed on May 27), and May 26, 2010, respectively. Finally, the Department issued supplemental questionnaires to the Sun companies on April 1, and May 14, 2010, and received responses on April 27, and May 28, 2010, respectively.

On March 31, 2010, the Department determined to investigate Petitioners' uncreditworthiness allegation for the Gold companies for the years 2006-2008. *See* Memorandum from Nancy Decker, Program Manager, Office 1, to Susan Kuhbach, Director, Office 1, Import Administration, regarding "Uncreditworthiness Allegation for Gold East (Jiangsu) Co., Ltd., ("Gold East"), Gold Huasheng Paper Co., Ltd. ("GH"), Ningbo Zhonghua Paper Co., Ltd. ("NZ"), Ningbo Asia Pulp & Paper Co. Ltd., and Hainan Jinhai Pulp and Paper Co., Ltd. (collectively, the "APP companies")," (March 31, 2010), available in the CRU.

On June 1, 2010, the Department published an amended affirmative preliminary determination to correct a significant ministerial error in the *Preliminary Determination*. *See Certain Coated Paper Suitable For High-Quality Print Graphics Using Sheet-Fed Presses from the People's Republic of China: Amended Affirmative Preliminary Countervailing Duty Determination*, 75 FR 30370 (June 1, 2010) ("*Amended Preliminary Determination*").

From June 7, 2010, to June 18, 2010, the Department conducted verification of the questionnaire responses submitted by the GOC, Gold companies, and Sun companies. *See* Memorandum from David Neubacher and Jennifer Meek, International Trade Compliance Analysts, Office 1, to Susan H. Kuhbach,