

We are issuing and publishing this notice in accordance with sections 751(a)(2)(B) and 777(i)(1) of the Act.

Dated: July 18, 2007.

**Stephen J. Claeys,**

*Deputy Assistant Secretary for Import Administration.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[C-570-917]

#### Laminated Woven Sacks from the People's Republic of China: Initiation of Countervailing Duty Investigation

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

**EFFECTIVE DATE:** July 25, 2007.

**FOR FURTHER INFORMATION CONTACT:**

Mark Hoadley or Joshua Reitze, 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) 482-3128 and (202) 482-0666, respectively.

#### Initiation of Investigation

**SUPPLEMENTARY INFORMATION:**

##### The Petition

On June 28, 2007, the Department of Commerce (Department) received a Petition filed in proper form by the Laminated Woven Sacks Committee and its individual members, Bancroft Bag, Inc., Coating Excellence International, LLC, Hood Packaging Corporation, Mid-America Packaging, LLC, and Polytex Fibers Corporation (collectively, the Petitioners). See Petition for the Imposition of Antidumping and Countervailing Duties Against Laminated Woven Sacks from the People's Republic of China (June 28, 2007) (Petition). On July 2, July 6, July 11, and July 12, 2007, the Department issued requests for additional information and clarification of certain areas of the Petition involving general issues concerning the countervailing duty (CVD) allegations. Based on the Department's requests, the Petitioners filed additional information concerning the Petition on July 11 and July 13, 2007.

In accordance with section 702(b)(1) of the Tariff Act of 1930, as amended (the Act), the Petitioners allege that manufacturers, producers, or exporters of laminated woven sacks (LWS) in the

People's Republic of China (the PRC) receive countervailable subsidies within the meaning of section 701 of the Act and that such imports are materially retarding the establishment of an industry in the United States, or that such an industry is materially injured or threatened with material injury by reason of such imports.

The Department finds that the Petitioners filed the Petition on behalf of the domestic industry because they are interested parties as defined in sections 771(9)(E) and (F) of the Act and the Petitioners have demonstrated sufficient industry support with respect to the countervailing duty investigation (see "Determination of Industry Support for the Petition" section below).

#### Scope of Investigation

The merchandise covered by this investigation is laminated woven sacks. See Attachment to this notice for a complete description of the merchandise covered by this investigation.

#### Comments on Scope of Investigation

During our review of the Petition, we discussed the scope with the Petitioners 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 by August 7, 2007. Comments should be addressed to Import Administration's Central Records Unit, Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, attention Mark Hoadley, room 7866. 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 determination.

#### Consultations

Pursuant to section 702(b)(4)(A)(ii) of the Act, on June 29, 2007, the Department invited representatives of the Government of the People's Republic of China (herein after the GOC) for consultations with respect to the countervailing duty Petition. The Department held these consultations in Beijing, China, with representatives of the GOC on July 16, 2007. See Memorandum to the File,

"Consultations with Officials from the Government of the People's Republic of China" (July 16, 2007) (on file in the Central Records Unit (CRU) of the Department of Commerce building, Room B-099).

#### Determination of Industry Support for the Petition

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: (i) at least 25 percent of the total production of the domestic like product; and (ii) 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 a 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), which is responsible for determining whether "the domestic industry" has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC must apply the same statutory definition regarding the domestic like product (section 771(10) of the Act), they do so for different purposes and pursuant to a separate and distinct authority. In addition, the Department's determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law. See *USEC, Inc. v. United States*, 132 F. Supp. 2d 1, 8 (CIT 2001), citing *Algoma Steel Corp. Ltd. v. United States*, 688 F. Supp. 639, 644 (1988), *aff'd* 865 F.2d 240 (Fed. Cir. 1989), *cert. denied* 492 U.S. 919 (1989).

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, covered by the scope as defined in the Petition).

With regard to the domestic like product, the Petitioners do not offer a definition of domestic like product distinct from the scope of the investigation. Based on our analysis of the information submitted on the record, we have determined that LWS constitute a single domestic like product and we have analyzed industry support in terms of that domestic like product. For a discussion of the domestic like product analysis in this case, see the *Countervailing Duty Investigation Initiation Checklist: Laminated Woven Sacks from the People's Republic of China (PRC)*, Industry Support at Attachment II (*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 indicates that the Petitioners have established industry support. First, the Petition established support from domestic producers (or workers) accounting for more than 50 percent of the total production of the domestic like product and, as such, the Department is not required to take further action in order to evaluate industry support (e.g., polling). See Section 702(c)(4)(D) of the Act. Second, the domestic producers have met the statutory criteria for industry support under 702(c)(4)(A)(i) because the domestic producers (or workers) who support the Petition account for at least 25 percent of the total production of the domestic like product. Finally, the domestic producers have met the statutory criteria for industry support under 702(c)(4)(A)(ii) because the domestic producers (or workers) 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. 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 *CVD Initiation Checklist* at Attachment II (Industry Support).

The Department finds that the Petitioners filed the Petition on behalf of the domestic industry because they are interested parties as defined in sections 771(9)(C), (E), and (F) of the Act and

they have demonstrated sufficient industry support with respect to the countervailing duty investigation that they are requesting the Department initiate. See *CVD Initiation Checklist* at Attachment II (Industry Support).

#### **Allegations and Evidence of Material Retardation and of Material Injury and Causation**

Because the PRC is 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 materially injure, or threaten material injury to, a U.S. industry, or whether the establishment of an industry in the United States is materially retarded.

Section 703(a)(1)(B) of the Act states that the ITC "shall determine . . . whether there is a reasonable indication that the establishment of an industry in the United States is materially retarded by reason of imports of the subject merchandise." The Petitioners allege that imports of subject merchandise from the PRC have materially retarded the establishment of the domestic industry producing LWS. The Petitioners argue that U.S. producers of LWS have not stabilized their operations and, therefore, a U.S. industry producing LWS has not been established. To support their argument, the Petitioners examine the five factors considered by the ITC to determine if an industry is established, as set forth in the ITC's *Antidumping and Countervailing Duty Handbook*. See *Antidumping and Countervailing Duty Handbook* (12th Ed.), USITC Pub. 3916 (April 2007). Furthermore, the Petitioners contend that their efforts to establish a domestic LWS industry have been thwarted by dumped and subsidized imports of LWS from the PRC.

The Petitioners also allege that the U.S. industry producing the domestic like product is being materially injured, or is threatened with material injury, by reason of the subsidized imports of the subject merchandise. The Petitioners contend that the industry's injured condition is illustrated by lost sales, lost revenue, underselling and price depression or suppression, poor financial performance, capacity and depressed capacity utilization rate, and increased import penetration.

We have assessed the allegations and supporting evidence regarding material retardation and material injury and causation, and we have determined that these allegations are properly supported by adequate evidence and meet the

statutory requirements for initiation. See *CVD Initiation Checklist* at Attachment III (Injury).

#### **Subsidy Allegations**

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 the Petitioners supporting the allegations.

The Department has examined the countervailing duty Petition on LWS from the PRC and found that it complies with the requirements of section 702(b) of the Act. Therefore, in accordance with section 702(b) of the Act, we are initiating a countervailing duty investigation to determine whether manufacturers, producers, or exporters of LWS in the PRC receive countervailable subsidies.

We are including in our investigation the following programs alleged in the Petition to have provided countervailable subsidies to producers and exporters of the subject merchandise in the PRC:

##### *GOC Loan Programs*

1. Policy Loans to LWS Producers from Government-Owned Banks
  2. Loan Forgiveness for LWS Producers by the GOC
- GOC Provision of Goods or Services for Less Than Adequate Remuneration*

3. Provision of Electricity for Less than Adequate Remuneration
  4. Provision of Land for Less than Adequate Remuneration
- GOC Grant Programs*
5. The State Key Technologies Renovation Project Fund
  6. Grants and Other Funding for High Technology Equipment for the Textile Industry
  7. Grants to Loss-Making State-Owned Enterprises
- GOC Income Tax Programs*
8. Preferential Tax Policies for Enterprises with Foreign Investment (Two Free, Three Half Program)

9. Preferential Tax Policies for Export-Oriented Foreign Invested Enterprises (FIEs)
10. Corporate Income Tax Refund Program for Reinvestment of FIE Profits in Export-Oriented Enterprises

11. Tax Benefits for FIEs in Encouraged Industries that

Purchase Domestic Origin Machinery

12. Tax Program for FIEs Recognized as High or New Technology Enterprises  
13. Preferential Tax Policies for Research and Development  
14. Tax Subsidies to FIEs in Specially Designated Geographic Areas

15. Preferential Tax Policies for Township Enterprises by FIEs  
*GOC Indirect Tax Programs and Import Tariff Programs*  
16. Value Added Tax (VAT) Rebate for FIE Purchases of Domestically Produced Equipment  
17. VAT and Tariff Exemptions for FIEs Using Imported Technology and Equipment in Encouraged Industries

18. VAT and Tariff Exemptions on Imported Equipment (Domestic Enterprises)

19. Exemption from Payment of Staff and Worker Benefit Taxes for Export-Oriented Enterprises  
*Provincial Grant Programs*  
20. Export Interest Subsidy Funds for Enterprises Located in Zhejiang and Guangdong Provinces  
21. Technological Innovation Funds Provided by Zhejiang Province  
22. Programs to Rebate Antidumping Legal Fees  
*Provincial and Local Tax Programs for FIEs*  
23. Local Income Tax Exemption and Reduction Programs for “Productive” FIEs

For further information explaining the basis for the Department’s determination to investigate these programs, see *CVD Initiation Checklist*.

#### **Application of the Countervailing Duty Law to the PRC**

The Department has treated the PRC as an NME country in all past antidumping duty investigations and administrative reviews. In accordance with section 771(18)(C)(i) of the Act, any determination that a country is an NME country shall remain in effect until revoked by the administering authority. See *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, (TRBs) From the People’s Republic of China: Preliminary Results of 2001–2002 Administrative Review and Partial Rescission of Review*, 68 FR 7500, 7500–1 (February 14, 2003), unchanged in *TRBs from the People’s Republic of China: Final Results of 2001–2002 Administrative Review*, 68 FR 70488, 70488–89 (December 18, 2003).

In the amended preliminary determination in the investigation of coated free sheet paper from the PRC, the Department preliminarily determined that the current nature of the PRC economy does not create obstacles to applying the necessary criteria in the CVD law. See *Coated Free Sheet Paper from the People’s Republic of China; Amended Preliminary Affirmative Countervailing Duty Determination*, 72 FR 17484, 17486 (April 9, 2007) (*CFS Preliminary Determination*), and Memorandum for David M. Spooner, Assistant Secretary for Import Administration, “Countervailing Duty Investigation of Coated Free Sheet Paper from The People’s Republic of China Whether the Analytic Elements of the *Georgetown Steel* Opinion are Applicable to China’s Present-day Economy,” (March 29, 2007), on file in the CRU. Therefore, because the Petitioners have provided sufficient allegations and support of their allegations to meet the statutory criteria for initiating a countervailing duty investigation of LWS from the PRC, initiation of a CVD investigation is warranted in this case.

#### **Distribution of Copies of the Petition**

In accordance with section 702(b)(4)(A)(i) of the Act, a copy of the public version of the Petition has been provided to the GOC. To the extent practicable, we will attempt to provide a copy of the public version of the Petition to each exporter named in the Petition, consistent with 19 CFR 351.203(c)(2).

#### **ITC Notification**

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

#### **Preliminary Determination by the ITC**

The ITC will preliminarily determine, no later than August 13, 2007, whether there is a reasonable indication that imports of LWS from the PRC are materially retarding the establishment of a U.S. industry, or whether such an industry is materially injured or threatened with material injury by reason of such imports. See section 703(a)(2) of the Act. A negative ITC determination will result in the investigation being terminated; otherwise, the investigation will proceed according to statutory and regulatory time limits.

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

Dated: July 18, 2007.

**Joseph A. Spetrini,**

*Deputy Assistant Secretary for Import Administration.*

#### **Attachment**

#### **Scope of the Countervailing Duty Investigation**

#### **Laminated Woven Sacks from the People’s Republic of China**

The merchandise covered by this investigation is laminated woven sacks. Laminated woven sacks are bags or sacks consisting of one or more plies of fabric consisting of woven polypropylene strip and/or woven polyethylene strip; with or without an extrusion coating of polypropylene and/or polyethylene on one or both sides of the fabric;<sup>1</sup> laminated by any method either to an exterior ply of plastic film such as biaxially-oriented polypropylene (“BOPP”) or to an exterior ply of paper that is suitable for high quality print graphics; printed with three colors or more in register; with or without lining; whether or not closed on one end; whether or not in roll form; with or without handles; with or without special closing features; not exceeding one kilogram in weight. Laminated woven bags are typically used for retail packaging of consumer goods such as pet foods and bird seed.

Effective July 1, 2007, laminated woven sacks are classifiable under Harmonized Tariff Schedule of the United States (“HTSUS”) subheadings 6305.33.0050 and 6305.33.0080. Laminated woven sacks were previously classifiable under HTSUS subheading 6305.33.0020. If entered with plastic coating on both sides of the fabric consisting of woven polypropylene strip and/or woven polypropylene strip, laminated woven sacks may be classifiable under HTSUS subheadings 3923.21.0080, 3923.21.0095, and 3923.29.0000. If entered not closed on one end or in roll form, laminated woven sacks may be classifiable under HTSUS subheading 5903.90.2500 and 3921.19.0000. Although HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.

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<sup>1</sup>“Paper suitable for high quality print graphics,” as used herein, means paper having an ISO brightness of 82 or higher and a Sheffield Smoothness of 250 or less. Coated free sheet is an example of a paper suitable for high quality print graphics.