
DEPARTMENT OF COMMERCE

International Trade Administration

(C-580-857)

**Coated Free Sheet Paper from the
Republic of Korea: Notice of Final
Affirmative Countervailing Duty
Determination**

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

SUMMARY: We determine that
countervailable subsidies are being
provided to producers and exporters of
coated free sheet paper from the
Republic of Korea. For information on
the estimated subsidy rates, see the

“Suspension of Liquidation” section of this notice.

EFFECTIVE DATE: October 25, 2007.

FOR FURTHER INFORMATION CONTACT: Robert Copyak, AD/CVD Operations, Office 3, Import Administration, International Trade Administration, U.S. Department of Commerce, Room 4012, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; Telephone: 202-482-2209.

SUPPLEMENTARY INFORMATION:

Background

This investigation covers 19 programs and the following manufacturer/exporters: EN Paper Mfg. Co., Ltd. (EN Paper) (formerly Shinho Paper Co., Ltd. (Shinho Paper)), Kyesung Paper Co., Ltd. and its affiliate Namhan Paper Co., Ltd. (collectively, Kyesung), Moorim Paper Co. Ltd. (formerly Shinmoorim Paper Mfg. Co., Ltd.) and its affiliate Moorim SP (collectively, Moorim), and Hansol Paper Co., Ltd. (Hansol) (collectively, respondents).

On April 9, 2007, the Department of Commerce (the Department) published in the **Federal Register** its preliminary affirmative determination in the countervailing duty investigation of coated free sheet paper from the Republic of Korea. *See Coated Free Paper from the Republic of Korea: Preliminary Affirmative Countervailing Duty Determination*, 72 FR 17507, 17520 (April 9, 2007) (*Preliminary Determination*).

On May 8, 2007, the Department published in the **Federal Register** the *Notice of Amended Preliminary Countervailing Duty Determination: Coated Free Sheet Paper from the Republic of Korea*, 72 FR 26074 (May 8, 2007) (*Amended Preliminary Determination*). From June 11 through June 29, 2007, we conducted verification of the questionnaire responses submitted by the Government of Korea and respondents.

In the *Preliminary Determination*, we found that we required additional information in order to determine whether respondents' short-term financing from GOK-owned banks and commercial banks conferred countervailable benefits. Similarly, regarding the Industrial Base Fund (IBF), we found that we required additional information in order to determine whether the program conferred a countervailable subsidy. On September 6, 2007, we issued our preliminary findings regarding these programs. *See Memorandum* to David M. Spooner, Assistant Secretary for Import Administration, through Stephen J. Claeys, Deputy Assistant Secretary for

Import Administration (Preliminary Decision Memorandum).

We invited interested parties to comment on the *Preliminary Determination* and Preliminary Decision Memorandum. We received case and rebuttal briefs from petitioner and respondents regarding the *Preliminary Determination* on August 13 and August 22, 2007, respectively.¹ On September 14 and September 19, 2007, we received case and rebuttal briefs from petitioner and respondents regarding the Preliminary Decision Memorandum.

Period of Investigation

The period of investigation (POI) is January 1, 2005, through December 31, 2005.

Scope of Investigation

The merchandise covered by this investigation includes coated free sheet paper and paperboard of a kind used for writing, printing or other graphic purposes. Coated free sheet paper is produced from not-more-than 10 percent by weight mechanical or combined chemical/mechanical fibers. Coated free sheet paper is coated with kaolin (China clay) or other inorganic substances, with or without a binder, and with no other coating. Coated free sheet paper may be surface-colored, surface-decorated, printed (except as described below), embossed, or perforated. The subject merchandise includes single- and double-side-coated free sheet paper; coated free sheet paper in both sheet or roll form; and is inclusive of all weights, brightness levels, and finishes. The terms “wood free” or “art” paper may also be used to describe the imported product.

Excluded from the scope are: (1) coated free sheet paper that is imported printed with final content printed text or graphics; (2) base paper to be sensitized for use in photography; and (3) paper containing by weight 25 percent or more cotton fiber.

Coated free sheet paper is classifiable under subheadings 4810.13.1900, 4810.13.2010, 4810.13.2090, 4810.13.5000, 4810.13.7040, 4810.14.1900, 4810.14.2010, 4810.14.2090, 4810.14.5000, 4810.14.7040, 4810.19.1900, 4810.19.2010, and 4810.19.2090 of the Harmonized Tariff Schedule of the United States (HTSUS). While HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this investigation is dispositive.

¹ Petitioner is the New Page Corporation.

Scope Comments

On August 20, August 28, and September 10, 2007, the petitioner requested that the Department clarify the scope of the antidumping and countervailing duty investigations of CFS paper from Indonesia, Korea and the People's Republic of China. Specifically, the petitioner asked the Department to “clarify that the scope of the investigation includes coated free sheet paper containing hardwood BCTMP.”

Because this was a general issue pertaining to all six investigations, the Department set up a general issues file to handle this scope request. A hearing on the scope request was held on September 26, 2007. The hearing comprised a public session, a closed session for the antidumping investigation from Korea, and a closed session for the countervailing duty investigation from the PRC. After considering the comments submitted by the parties to these investigations, we have determined not to adopt the scope clarification sought by the petitioner. *See Memorandum* to Stephen J. Claeys, Deputy Assistant Secretary for Import Administration, entitled “Scope Clarification Request: NewPage Corporation” dated concurrently with this notice, which is appended to “Issues and Decision Memorandum for the Final Determination in the Countervailing Duty Investigation of Coated Free Sheet Paper from the People's Republic of China.”

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this investigation are addressed in the “Issues and Decision Memorandum” (Decision Memorandum) dated October 17, 2007, which is hereby adopted by this notice. A list of issues that parties have raised and to which we have responded, all of which are in the Decision Memorandum, is attached to this notice as Appendix I. Parties can find a complete discussion of all issues raised in this investigation and the corresponding recommendations in this public memorandum, which is on file in the Central Records Unit. In addition, a complete version of the Decision Memorandum can be accessed directly on the World Wide Web at <http://ia.ita.doc.gov/frn>. The paper copy and electronic version of the Decision Memorandum are identical in content.

Suspension of Liquidation

In accordance with section 705(c)(1)(B)(i)(I) of the Tariff Act of 1930 (as amended) (the Act), we have

calculated individual rates for the companies under investigation. For the period January 1, 2005, through December 31, 2005, we determine the net subsidy rates for the investigated companies are as follows:

Producer/Exporter	Net Subsidy Rate
EN Paper Mfg. Co., Ltd. (EN Paper)	0.04 percent (<i>de minimis</i>)
Kyesung Paper Co., Ltd. and its affiliate Namhan Paper Co., Ltd. (collectively, Kyesung)	1.46 percent <i>ad valorem</i>
Moorim Paper Co. Ltd. and its affiliate Moorim SP (collec- tively, Moorim)	0.00 percent
Hansol Paper Co., Ltd. (Hansol)	0.17 percent (<i>de minimis</i>)
All Others Rate	1.46 percent <i>ad valorem</i>

Under section 705(c)(5)(A) of the Act, the "All Others" rate is equal to the weight-averaged countervailable subsidy rates established for exporters and producers individually investigated, excluding any zero and *de minimis* countervailable subsidy rates and any rates determined under section 776 of the Act. In this investigation, the "All Others" rate is equal to the countervailable net subsidy rate calculated for Kyesung, the only individually investigated respondent with an affirmative net subsidy rate.

In accordance with our *Amended Preliminary Determination*, we instructed U.S. Customs and Border Protection (CBP) to terminate suspension of liquidation of all entries of subject merchandise from Korea on or after April 9, 2007, the date of the publication of our *Preliminary Determination* in the **Federal Register**.

We will reinstate suspension of liquidation under sections 705(c)(1)(C) and 703(d)(2) of the Act for all entries of subject merchandise other than those produced and exported by EN Paper, Hansol, and Moorim and will require a cash deposit or posting of a bond equal to estimated countervailing duties in the amounts indicated above, effective the publication date of our final determination in the **Federal Register**.

If the International Trade Commission (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. If however, the ITC determines that such injury does

exist, we will issue a countervailing duty order.

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 that 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 APO of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Failure to comply is a violation of the APO.

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

Dated: October 17, 2007.

David M. Spooner,
Assistant Secretary for Import Administration.

Appendix I

- I. SUMMARY
- II. SCOPE COMMENTS
- III. PERIOD OF INVESTIGATION
- IV. SUBSIDIES VALUATION INFORMATION
 - A. Benchmark for Short-Term Loans
 - B. Benchmark for Long-Term Loans
 - C. Benchmark Discount Rates
 - D. Allocation Period
- V. CROSS-OWNERSHIP
- VI. CREDITWORTHINESS
- VII. EQUITYWORTHINESS
- VIII. PROGRAMS DETERMINED TO BE COUNTERAVAILABLE
 - A. Poongman Restructuring
 - B. Export and Import Credit Financing from KEXIM
 - C. Sale of Pulp for Less Than Adequate Remuneration
 - D. Sales of Pulp From Raw Material Reserve for Less Than Adequate Remuneration
 - E. Reduction in Taxes for Operation in Regional and National Industrial Complexes
 - F. Duty Drawback on Non-Physically Incorporated Items and Excess Loss Rate
 - G. Loans Under the Industrial Base

Fund (IBF)

- H. Export Loans by Commercial Banks Under KEXIM's Trade Bill Rediscounting Program
- I. D/A Loans Issued by the KDB and Other Government-Owned Banks
- IX. PROGRAMS DETERMINED TO BE NOT COUNTERAVAILABLE
 - A. Long-Term Lending Provided by the KDB and Other GOK-Owned Institutions
 - B. Direction of Credit to the Pulp and Paper Sector
 - C. Usance Loans Issued by the KDB and Other Government-Owned Banks
 - D. Shinho Restructuring
 1. Debt-to-Equity Swaps and Conversion of Convertible Bonds to Equity
 2. Extension of Debt Maturities
 3. New Loans
- X. OTHER PROGRAMS: LOANS UNDER THE ACCL PROGRAM
 - A. Trade Financing Under the ACCL Program
 - B. Commercial Paper Loans Under the ACCL Program
 - C. Corporate Procurement Loans Under the ACCL Program
 - D. Electronically Processed Secured Receivables Loans
 - E. Funds for the Production of Basic Materials or Parts
- XI. TERMINATED PROGRAMS
 - A. Loans Under the KDB's Rediscount Program
- XII. ANALYSIS OF COMMENTS

Comment 1: Whether the GOK Directed Credit to the Pulp and Paper Industry

Comment 2: Stainless Steel Is Not Applicable to Poongman's Restructuring

Comment 3: GOK Assisted and Directed Credit to Poongman During its Restructuring

Comment 4: Poongman Was Unequityworthy and Uncreditworthy

Comment 5: Poongman Did Not Benefit from Debt Forgiveness

Comment 6: Evidence of Entrustment or Direction of Shinho's Creditors

Comment 7: GOK Ownership of Shinho's Creditors and the Corporate Restructuring Process

Comment 8: Whether Shinho Was Uncreditworthy During its 1998, 2000, and 2002 Restructurings and 2004 Syndicated Loan

Comment 9: Whether Shinho Was Unequityworthy During its 1998, 2000, and 2002 Restructurings

Comment 10: The Validity of the Analyses of Shinho's Financial Status Conducted by Third Parties

Comment 11: Donghae Pulp's Sale of Chemical Pulp for Less Than Adequate Remuneration

Comment 12: Commerce Correctly Calculated the Benefits from Donghae

Pulp Based On Monthly Weighted–Average Prices

Comment 13: If the Department Continues to Calculate Monthly Weighted–Average Prices for Donghae Pulp, Certain Methodological Corrections Are Required

Comment 14: Hansol’s Arguments that Donghae Pulp is Owned or Controlled by the GOK

Comment 15: The Benefit Calculation for Donghae Pulp’s Sale of Pulp Must Account for Prevailing Market Conditions

Comment 16: Whether Usance and Document Acceptance Loans Provided Outside of the ACCL Program Are Countervailable

Comment 17: Whether the Department Should Pro–Rate Benefits on D/A Loans Under the Korea Export Import Bank (KEXIM) Program

Comment 18: Source Data of the Benchmark To Be Applied to D/A Loans Under the KEXIM Rediscount Program and Usance Loans Issued by GOK Authorities

Comment 19: Calculation of Benchmark To Be Applied to D/A Loans Under the KEXIM Rediscount Program

Comment 20: Whether Commercial Paper and Corporate Procurement Loans are Countervailable

Comment 21: Use of Company–Specific Benchmark to Measure the Benefit to Hansol Under KEXIM’s Export and Import Credit Financing Program

Comment 22: Use of Non–Company–Specific Benchmarks for KEXIM’s Import and Export Credit Financing Program

Comment 23: Whether Hansol Received Countervailable Benefits Through the KDB’s Placement of its Corporate Bonds

Comment 24: Whether Loans from the Industrial Base Fund (IBF) Constitute Countervailable Export Subsidies

Comment 25: Benchmark Rates for Long–Term Korean Won–Denominated Loans

XIII. RECOMMENDATION

[FR Doc. E7–21036 Filed 10–24–07; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

C–560–821

Coated Free Sheet Paper from Indonesia: Final Affirmative Countervailing Duty Determination

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

SUMMARY: The Department of Commerce (the Department) has reached a final

determination that countervailable subsidies are being provided to producers and exporters of coated free sheet paper (CFS) from Indonesia. For information on the countervailable subsidy rates, please see the “Final Determination” section of this notice.

EFFECTIVE DATE: October 25, 2007.

FOR FURTHER INFORMATION CONTACT:

Sean Carey, Nicholas Czajkowski, or Gene Calvert, AD/CVD Operations, Office 6, Import Administration, International Trade Administration, U.S. Department of Commerce, Room 7866, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–3964, (202) 482–1395, or (202) 482–3586, respectively.

SUPPLEMENTARY INFORMATION:

Case History

On April 9, 2007, the Department published *Coated Free Sheet Paper from Indonesia: Notice of Preliminary Affirmative Countervailing Duty Determination*, 72 FR 17498 (April 9, 2007) (*Preliminary Determination*). Since the issuance of the *Preliminary Determination*, the following events have occurred. On April 10 and May 18, 2007, the Department issued supplemental questionnaires to the Government of Indonesia (GOI) and to PT. Pabrik Kertas Tjiwi Kimia Tbk. (TK) and Pindo Deli Pulp and Paper Mills (PD) (the respondent companies). On April 20 and May 24, 2007, the Department issued initial and supplemental questionnaires to the GOI and to the respondent companies regarding the petitioner’s December 15, 2007 additional allegations concerning debt forgiveness. Both parties submitted timely responses to all of the Department’s questionnaires and supplemental questionnaires.

On May 2, 2007, the Department aligned the final determination in this countervailing duty investigation with the final determination in the companion antidumping duty investigation. See *Coated Free Sheet Paper from Indonesia, the People’s Republic of China, and the Republic of Korea: Alignment of Final Countervailing Duty Determinations with Final Antidumping Duty Determinations*, 72 FR 24277 (May 2, 2007). On May 10, 2007, NewPage Corporation (the petitioner) requested a hearing pursuant to 19 CFR 351.310(c) and the Department’s *Preliminary Determination*.

On June 18 and June 19, 2007, the petitioner and the respondent companies submitted new factual information concerning the Department’s investigation of the “GOI

Provision of Standing Timber for Less than Adequate Remuneration,” or “stumpage.” On June 28, 2007, the petitioner submitted rebuttal comments regarding the respondent companies’ new factual information submission.

From June 25 through July 13, 2007, the Department conducted verification of the questionnaire responses provided by the GOI and the respondent companies. On July 13, 2007, the petitioner filed an upstream subsidy allegation, claiming, in accordance with section 771A(a) of the Tariff Act of 1930, as amended, (the Act), that (1) a subsidy, other than an export subsidy, has been paid or bestowed on an input product that is used in the manufacture or production of merchandise subject to a countervailing duty proceeding; (2) the subsidy bestows a competitive benefit on the merchandise; and (3) the subsidy has a significant effect on the cost of manufacturing or producing the merchandise. On July 23, 2007, the respondent companies filed rebuttal comments, and on August 10, 2007, the petitioner filed surrebuttal comments on this allegation.

The Department issued verification reports on August 24, 2007: see Memoranda to the File, *Countervailing Duty Investigation of Coated Free Sheet (CFS) Paper from Indonesia: Verification of the Questionnaire Responses Submitted by Ministry of Forestry and the Ministry of Finance; Countervailing Duty Investigation of Coated Free Sheet Paper from Indonesia: Verification of Cross–Ownership and Debt Restructuring for the Asia Pulp and Paper/Sinar Mas Group; Countervailing Duty Investigation of Coated Free Sheet Paper from Indonesia: Verification of PT Pindo Deli Pulp & Paper Mills and PT. Pabrik Kertas Tjiwi Kimia (Paper Producers/ Exports) and PT Cakrawala Mega Indah (trading company); Countervailing Duty Investigation of Coated Free Sheet (CFS) Paper from Indonesia: Verification of the Questionnaire Responses Submitted by Pulp Producers PT. Lontar Papyrus Pulp and Paper and Indah Kiat Pulp and Paper Tbk.; and, Countervailing Duty Investigation of Coated Free Sheet (CFS) Paper from Indonesia: Verification of the Questionnaire Responses Submitted by Forestry Companies PT. Arara Abadi, PT. Wirakarya Sakti, PT. Finnantara Intiga, and PT. Riau Abadi Lestari.*

On September 5 and September 6, 2007, the petitioner, the GOI, the respondent companies, and the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL–CIO, CLC

(USW), a domestic interested party to this proceeding, timely filed case briefs regarding our *Preliminary Determination*. On September 11, 2007, the petitioner, the GOI, the respondent companies, and the USW each filed rebuttal comments regarding our *Preliminary Determination*. At the Department's request, the petitioner, the GOI, and the respondent companies removed what the Department determined to be new factual information from their comments and rebuttal comments regarding the Department's *Preliminary Determination*, and resubmitted those comments to the Department on September 18 and September 19, 2007.

On September 7, 2007, the Department issued the interim analysis of two additional subsidy allegations. We explained in the *Preliminary Determination* that because we had only recently initiated investigations of these two programs, there was not sufficient time to gather information and analyze the countervailability of the programs for the purposes of the *Preliminary Determination*. See the Memorandum to David M. Spooner, Assistant Secretary for Import Administration from Barbara E. Tillman, Director, Office 6, AD/CVD Operations, *Countervailing Duty Investigation: Coated Free Sheet Paper from Indonesia; Post-Preliminary Analysis of Two New Subsidy Allegations (Post-Preliminary Analysis)*. The Department set a separate briefing schedule for parties to file comments and rebuttal comments on our *Post-Preliminary Analysis*. On September 18, 2007, such comments were filed by the GOI and the respondent companies. The petitioner filed rebuttal comments regarding the Department's *Post-Preliminary Analysis* on September 25, 2007. The petitioner withdrew its request for a hearing on September 10, 2007.

Period of Investigation

The period of investigation (POI) for which we are measuring subsidies is January 1, 2005 through December 31, 2005, which corresponds to the most recently completed fiscal year for the respondent companies. See 19 CFR 351.204(b)(2).

Scope of the Investigation

The merchandise covered by this investigation includes coated free sheet paper and paperboard of a kind used for writing, printing or other graphic purposes. Coated free sheet paper is produced from not-more-than 10 percent by weight mechanical or combined chemical/mechanical fibers. Coated free sheet paper is coated with

kaolin (China clay) or other inorganic substances, with or without a binder, and with no other coating. Coated free sheet paper may be surface-colored, surface-decorated, printed (except as described below), embossed, or perforated. The subject merchandise includes single- and double-side-coated free sheet paper; coated free sheet paper in both sheet or roll form; and is inclusive of all weights, brightness levels, and finishes. The terms "wood free" or "art" paper may also be used to describe the imported product.

Excluded from the scope are: (1) Coated free sheet paper that is imported printed with final content printed text or graphics; (2) base paper to be sensitized for use in photography; and, (3) paper containing by weight 25 percent or more cotton fiber.

Coated free sheet paper is classifiable under subheadings 4810.13.1900, 4810.13.2010, 4810.13.2090, 4810.13.5000, 4810.13.7040, 4810.14.1900, 4810.14.2010, 4810.14.2090, 4810.14.5000, 4810.14.7040, 4810.19.1900, 4810.19.2010, and 4810.19.2090 of the Harmonized Tariff Schedule of the United States (HTSUS). While HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this investigation is dispositive.

Scope Comments

On January 12, 2007, the respondent companies filed a request to exclude cast-coated free sheet paper from the scope of the investigations of CFS from Indonesia, Korea, and the People's Republic of China. The petitioner submitted comments on the respondent companies' request on January 19, 2007. The Department analyzed both parties' comments and denied the respondent companies' request to exclude cast-coated free sheet paper from the scope of these investigations. See the Memorandum to Stephen J. Claeys, Deputy Assistant Secretary for Import Administration, *Request to Exclude Cast-Coated Free Sheet Paper from the Antidumping Duty and Countervailing Duty Investigations on Coated Free Sheet Paper*, dated March 22, 2007, which is on file in the Central Records Unit (CRU), Room B099 of the main Commerce building.

On August 20, August 28, and September 10, 2007, the petitioner requested that the Department clarify the scope of the antidumping and countervailing duty investigations of CFS paper from Indonesia, Korea and the People's Republic of China (PRC). Specifically, the petitioner asked the Department to "clarify that the scope of

the investigation includes coated free sheet paper containing hardwood BCTMP."

Because this was a general issue pertaining to all six investigations, the Department set up a general issues file to handle this scope request. A hearing on the scope request was held on September 26, 2007. The hearing comprised a public session, a closed session for the antidumping investigation from Korea, and a closed session for the countervailing duty investigation from the PRC. After considering the comments submitted by the parties to these investigations, we have determined not to adopt the scope clarification sought by the petitioner. See Memorandum to Stephen J. Claeys, Deputy Assistant Secretary for Import Administration, entitled "Scope Clarification Request: NewPage Corporation" dated concurrently with this notice, which is appended to "Issues and Decision Memorandum for the Final Determination in the Countervailing Duty Investigation of Coated Free Sheet Paper from the People's Republic of China."

Initiation and Deferral of Upstream Subsidy Investigation

On July 13, 2007, the petitioner filed an upstream subsidy allegation, claiming, in accordance with section 771A(a) of the Act, that (1) a subsidy, other than an export subsidy, has been paid or bestowed on an input product, *i.e.*, pulpwood, that is used in the manufacture or production of merchandise subject to a countervailing duty proceeding, *i.e.*, CFS paper; (2) the subsidy bestows a competitive benefit on the merchandise; and (3) the subsidy has a significant effect on the cost of manufacturing or producing the merchandise. See 19 CFR 351.523. The respondent companies filed rebuttal arguments on July 23, 2007, and the petitioner filed additional comments and clarifications of its allegation on August 13, 2007.

After fully considering all of these submissions, we have determined that the threshold requirements set forth in the Act and the Department's regulations for initiation of an upstream subsidy investigation have been met. However, we have simultaneously decided to defer the conduct of the upstream subsidy investigation until the first administrative review, if a countervailing duty order is issued and such a review is requested. See section 703(g)(2)(B)(i) of the Act. A complete discussion of our decisions to both initiate an upstream investigation and defer the conduct of such investigation can be found in the "Issues and

Decision Memorandum” from Stephen J. Claeys, Deputy Assistant Secretary for Import Administration, to David M. Spooner, Assistant Secretary for Import Administration, dated concurrently with this notice (*Decision Memorandum*) and hereby adopted by this notice.

Analysis of Subsidy Programs and Comments Received

The subsidy programs under investigation and the issues raised by interested parties in their case briefs and rebuttal briefs on the *Preliminary Determination* and the *Post-Preliminary Analysis*, are discussed in the *Decision Memorandum*. A list of the subsidy programs and of the issues which parties have raised is attached to this notice as Appendix I. Parties can find a complete discussion of all of the subsidy programs, and issues raised in this investigation and the corresponding recommendations in this public memorandum, which is on file in the CRU. A complete version of the *Decision Memorandum* is available at <http://www.trade.gov/ia> under the heading “**Federal Register** Notices.” The paper copy and the electronic version of the *Decision Memorandum* are identical in content.

Final Determination

In accordance with section 705(c)(1)(B)(i) of the Act, we have determined a single subsidy rate for the two cross-owned producers/exporters of the subject merchandise. We determine the total countervailable subsidy rate to be:

Producer/Exporter	Rate
PT. Pabrik Kertas Tjiwi Kimia Tbk./PT. Pindo Deli Pulp and Paper Mills	22.48%
All Others	22.48%

In accordance with sections 703(d) and 705(c)(5)(A) of the Act, we have set the all- others rate as the rate for TK/PD because it was the only producer/exporter under investigation.

Suspension of Liquidation

In accordance with our affirmative *Preliminary Determination*, we instructed U.S. Customs and Border Protection (CBP) to suspend liquidation of all entries of CFS from Indonesia, which were entered or withdrawn from warehouse, for consumption on or after April 9, 2007, the date of the publication of our *Preliminary Determination* in the **Federal Register**. In accordance with section 703(d) of the Act, we instructed CBP to discontinue

the suspension of liquidation for merchandise entered on or after August 7, 2007, but to continue the suspension of liquidation of entries made on or after April 9, 2007 and before August 7, 2007.

If the International Trade Commission (ITC) issues a final affirmative injury determination, we will issue a countervailing duty order, reinstate suspension of liquidation under section 706(a) of the Act for all entries, and require a cash deposit of estimated countervailing duties for such entries of merchandise at the rates 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 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 APO of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with section 351.305(a)(3) of the Department’s regulations. Failure to comply is a violation of the APO.

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

Dated: October 17, 2007.

David M. Spooner,
Assistant Secretary for Import Administration.

Appendix I: Issues and Decision Memorandum

I. Summary

II. Background

III. Initiation and Deferral of Upstream Subsidy Investigation

IV. Subsidies Valuation Information

A. Cross-Ownership

- B. Attribution of Subsidies Provided to Cross-Owned Input Suppliers
- C. Allocation Period
- D. Loan Benchmark and Discount Rate
- E. Creditworthiness

V. Application of Facts Available and Use of an Adverse Inference

VI. Analysis of Programs

- A. Programs Determined to Be Countervailable
 - 1. GOI Provision of Standing Timber for Less Than Adequate Remuneration
 - 2. GOI’s Log Export Ban
 - 3. Subsidized Funding for Reforestation (Hutan Tanaman Industria or HTI Program): “Zero Interest” Rate Loans
 - 4. Debt Forgiveness Through the GOI’s Acceptance of Instruments that Had No Market Value
 - 5. Debt Forgiveness through SMG/APP’s the Buyback of Its Own Debt from the GOI
- B. Program Determined to Be Not Countervailable
 - Subsidized Funding for Reforestation (Hutan Tanaman Industria or HTI Program): Government Capital Infusions into Joint Venture Forest Plantation
- C. Program Determined To Be Not Used Subsidized Funding for Reforestation (Hutan Tanaman Industria or HTI Program): Commercial Rate Loans

VII. Analysis of Comments

- Comment 1:* Whether the Department Should Find that SMG/APP Received Upstream Subsidies on Purchases of Timber from Non-Cross Owned Entities and Consider the Legality Under which This Timber was Harvested
- Comment 2:* Whether the Department’s Cross-Ownership Regulations Provide for the Attribution of Upstream Subsidies to Cross-Owned Companies
- Comment 3:* Cross-Ownership of AA and WKS with IK, Lontar, TK and PD
- Comment 4:* Widjaja Family Interest In Purinusa and Cross-Ownership
- Comment 5:* Cross-Ownership Between AA and WKS
- Comment 6:* Cross-Ownership Between WKS and Purinusa
- Comment 7:* Cross-Ownership Between AA and Purinusa
- Comment 8:* Cross-Ownership of Certain Additional Companies That Were Preliminarily Found to be Cross-Owned with Companies in the APP/SMG CFS Group
- Comment 9:* Whether the Provision of Standing Acacia is the Provision of a Good by the GOI to the SMG/APP Forestry Companies
- Comment 10:* Specificity of the GOI’s Provision of Standing Timber for Less Than Adequate Remuneration

Comment 11: Use of Malaysian Export Statistics as the Starting Point for Deriving Stumpage Benchmarks
Comment 12: The Stumpage Rate Calculation Provided by Respondents in their Expert's Report
Comment 13: Calculation of Species-Specific Benchmarks
Comment 14: Whether to Adjust the Benchmark for Movement Expenses
Comment 15: Whether to Use Monthly Exchange Rates
Comment 16: Whether to Adjust the Benchmark for Export Royalty Fees and G&A Expenses
Comment 17: Profit Adjustment to the Benchmark
Comment 18: Use of Actual Versus Accrued Stumpage Payments
Comment 19: Use of the FAO's Conversion Factors
Comment 20: Whether to Adjust WKS' Log Harvest
Comment 21: Adjustments to the Sales Denominator
Comment 22: Treatment of Alleged Illegal Logging in Indonesia
Comment 23: Indications of Illegal Logging Practices in Subsidizing Indonesia's CFS Paper Industry
Comment 24: Examination of Log Purchases from Non-Cross Owned Entities Under the Log Export Ban
Comment 25: The Legality of the WTO's Findings on Export Restraints
Comment 26: Whether Respondent Companies Cured Any Deficiency with Respect to Settling Debt with COEs
Comment 27: Specificity of IBRA's Acceptance of BII Shares and COEs for the Repayment of SMG/APP Debt
Comment 28: The Effect of IBRA's Outright Debt Forgiveness on the Specificity of the Acceptance of COEs for SMG/APP Debt
Comment 29: Benefit from IBRA's Acceptance of COEs as Settlement of Debt
Comment 30: Whether an Adverse Inference Can be Applied in Determining that Orleans was Affiliated with SMG/APP
Comment 31: Specificity of IBRA's Sale of SMG/APP Debt to an Affiliate of the Original Debtor
Comment 32: Whether the Information the Department Relied Upon Was Speculative and Circumstantial
Comment 33: Procedural Abnormalities in IBRA's Sale of the SMG/APP Debt and Specificity
Comment 34: Effect of the Lack of Reduction in Debt on the Countervailability of the Sale of SMG/APP's Debt to Orleans
Comment 35: The Appropriateness of the Department's Reliance on Facts Available with an Adverse Inference

Comment 36: Whether A Government Can Provide a Financial Contribution When the Act is Illegal

VIII. Recommendation

[FR Doc. E7-21040 Filed 10-24-07; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[C-570-907]

Coated Free Sheet Paper 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 (Department) has made a final determination that countervailable subsidies are being provided to producers and exporters of coated free sheet (CFS) paper from the People's Republic of China. For information on the estimated countervailing duty rates, please see the "Suspension of Liquidation" section, below.

EFFECTIVE DATE: October 25, 2007.

FOR FURTHER INFORMATION CONTACT: David Layton or David Neubacher, 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) 482-0371 or (202) 482-5823, respectively.

SUPPLEMENTARY INFORMATION:

Petitioner

The petitioner in this investigation is the NewPage Corporation (petitioner).

Period of Investigation

The period for which we are measuring subsidies, or period of investigation, is January 1, 2005, through December 31, 2005.

Case History

The following events have occurred since the announcement of the preliminary determination on March 30, 2007, and subsequent publication in the **Federal Register** on April 9, 2007. See *Coated Free Sheet Paper from the People's Republic of China: Amended Affirmative Preliminary Countervailing Duty Determination*, 72 FR 17484 (April 9, 2007) (*Preliminary Determination*).

On April 9, 2007, Gold East Paper (Jiangsu) Co., Ltd. (GE) and the petitioner submitted ministerial error allegations relating to the *Preliminary*

Determination. We addressed these ministerial error allegations in a May 11, 2007, memorandum to Stephen J. Claeys, Deputy Assistant Secretary for Import Administration, entitled *Ministerial Error Allegations*, which is on file in the Central Records Unit (CRU), Room B-099 of the main Department building.

On April 12, 2007, the Department requested that GE amend the bracketing and resubmit its March 9, 2007, supplemental questionnaire response, which GE did on April 17, 2007.

We issued a supplemental questionnaire to the Government of the People's Republic of China (GOC) on April 23, 2007, and to GE and Shandong Chenming Paper Holdings Ltd. (Shandong Chenming) on April 20, 2007. We received the GOC's supplemental questionnaire response on May 13, 2007, Shandong Chenming's supplemental questionnaire response on May 18, 2007, and GE's supplemental response on May 25, 2007. On May 25, 2007, we issued a supplemental questionnaire to Shandong Chenming, but did not receive a response. The GOC, GE, the petitioner, and interested parties also submitted factual information, comments, and arguments at numerous instances prior to the final determination based on various deadlines for submissions of factual information and/or arguments established by the Department subsequent to the *Preliminary Determination*.

On May 2, 2007, the Department published notification of alignment of the final determinations in the antidumping and countervailing duty investigations of CFS paper from the People's Republic of China (PRC). See *Coated Free Sheet Paper from Indonesia, the People's Republic of China, and the Republic of Korea: Alignment of Final Countervailing Duty Determinations with Final Antidumping Duty Determinations*, 72 FR 24277 (May 2, 2007). The Department subsequently postponed the final determinations for the antidumping and countervailing investigations of CFS paper from the PRC. See *Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Coated Free Sheet Paper from the People's Republic of China*, 72 FR 30758 (June 4, 2007).

On June 13, 2007, we received a letter from Shandong Chenming withdrawing its participation in the investigation and requesting that all of its business proprietary information be removed from the record and destroyed. On June 27, 2007, the Department notified Shandong Chenming that it had

removed and destroyed the company's submitted proprietary information from the record of this investigation and would direct all interested parties under the Administrative Protective Order (APO) to certify its destruction. All interested parties certified destruction of Shandong Chenming's proprietary information.

From July 11 to July 28, 2007, we conducted verification of the questionnaire responses submitted by the GOC and GE.

On August 30, 2007, we issued our preliminary determination regarding the creditworthiness of GE and its cross-owned companies. We addressed our preliminary findings in a August 30, 2007, memorandum to David M. Spooner, Assistant Secretary for Import Administration, entitled *Preliminary Creditworthiness Determination for Gold East Paper (Jiangsu) Co., Ltd. and its Cross-Owned Companies*, which is on file in the CRU.

We received case briefs from the GOC; GE; the petitioner; and the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL-CIO-CLC on September 7, 2007. The same parties submitted rebuttal briefs on September 12, 2007. We held a hearing for this investigation on September 18, 2007.

Scope of the Investigation

The merchandise covered by this investigation includes coated free sheet paper and paperboard of a kind used for writing, printing or other graphic purposes. Coated free sheet paper is produced from not-more-than 10 percent by weight mechanical or combined chemical/mechanical fibers. Coated free sheet paper is coated with kaolin (China clay) or other inorganic substances, with or without a binder, and with no other coating. Coated free sheet paper may be surface-colored, surface-decorated, printed (except as described below), embossed, or perforated. The subject merchandise includes single- and double-side-coated free sheet paper; coated free sheet paper in both sheet or roll form; and is inclusive of all weights, brightness levels, and finishes. The terms "wood free" or "art" paper may also be used to describe the imported product.

Excluded from the scope are: (1) coated free sheet paper that is imported printed with final content printed text or graphics; (2) base paper to be sensitized for use in photography; and (3) paper containing by weight 25 percent or more cotton fiber.

Coated free sheet paper is classifiable under subheadings 4810.13.1900,

4810.13.2010, 4810.13.2090, 4810.13.5000, 4810.13.7040, 4810.14.1900, 4810.14.2010, 4810.14.2090, 4810.14.5000, 4810.14.7040, 4810.19.1900, 4810.19.2010, and 4810.19.2090 of the Harmonized Tariff Schedule of the United States (HTSUS). While HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of these investigations is dispositive.

Scope Comments

On August 20, August 28, and September 10, 2007, the petitioner requested that the Department clarify the scope of the antidumping and countervailing duty investigations of CFS paper from Indonesia, Korea and the People's Republic of China. Specifically, the petitioner asked the Department to "clarify that the scope of the investigation includes coated free sheet paper containing hardwood BCTMP."

Because this was a general issue pertaining to all six investigations, the Department set up a general issues file to handle this scope request. A hearing on the scope request was held on September 26, 2007. The hearing comprised a public session, a closed session for the antidumping investigation from Korea, and a closed session for the countervailing duty investigation from the PRC. After considering the comments submitted by the parties to these investigations, we have determined not to adopt the scope clarification sought by the petitioner. See Memorandum to Stephen J. Claeys, Deputy Assistant Secretary for Import Administration, entitled "Scope Clarification Request: NewPage Corporation," dated concurrently with this notice, which is appended to the "Issues and Decision Memorandum for Final Determination" from Stephen J. Claeys, Deputy Assistant Secretary for Import Administration, to David M. Spooner, Assistant Secretary for Import Administration, dated October 17, 2007 (*Decision Memorandum*).

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this investigation are addressed in 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 a complete discussion of all issues raised in this investigation and the corresponding recommendations in this public memorandum, which is on file in

the CRU. In addition, a complete version of the *Decision Memorandum* can be accessed directly on the Internet at <http://ia.ita.doc.gov/frn/>. The paper copy and electronic version of the *Decision Memorandum* are identical in content.

Use of Adverse Facts Available

Sections 776(a)(1) and (2) of the Act provide that the Department shall apply "facts otherwise available" if, *inter alia*, necessary information is not on the record or an interested party or any other person: (A) withholds information that has been requested; (B) fails to provide information within the deadlines established, or in the form and manner requested by the Department, subject to subsections (c)(1) and (e) of section 782 of the Act; (C) significantly impedes a proceeding; or (D) provides information that cannot be verified as provided by section 782(i) of the Act.

Where the Department determines that a response to a request for information does not comply with the request, section 782(d) of the Act provides that the Department will so inform the party submitting the response and will, to the extent practicable, provide that party the opportunity to remedy or explain the deficiency. If the party fails to remedy the deficiency within the applicable time limits and subject to section 782(e) of the Act, the Department may disregard all or part of the original and subsequent responses, as appropriate. Section 782(e) of the Act provides that the Department "shall not decline to consider information that is submitted by an interested party and is necessary to the determination but does not meet all applicable requirements established by the administering authority" if the information is timely, can be verified, is not so incomplete that it cannot be used, and if the interested party acted to the best of its ability in providing the information. Where all of these conditions are met, the statute requires the Department to use the information if it can do so without undue difficulties.

Section 776(b) of the Act further provides that the Department may use an adverse inference in applying the facts otherwise available when a party has failed to cooperate by not acting to the best of its ability to comply with a request for information. Section 776(b) of the Act also authorizes the Department to use as adverse facts available (AFA) information derived from the petition, the final determination, a previous administrative review, or other information placed on the record.

Section 776(c) of the Act provides that, when the Department relies on secondary information rather than on information obtained in the course of an investigation or review, it shall, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal. Secondary information is defined as “[i]nformation derived from the petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 concerning the subject merchandise.” See *Statement of Administrative Action* (SAA) accompanying the Uruguay Round Agreements Act, H. Doc. No. 316, 103d Cong., 2d Session at 870 (1994). Corroborate means that the Department will satisfy itself that the secondary information to be used has probative value. See SAA at 870. To corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information to be used. The SAA emphasizes, however, that the Department need not prove that the selected facts available are the best alternative information. See SAA at 869.

The Department has concluded that it is appropriate to base the final determination for Shandong Chenming on facts otherwise available. Shandong Chenming failed to respond fully to the Department’s questionnaires and did not respond at all to one questionnaire. Also, on June 13, 2007, Shandong Chenming withdrew its proprietary information from the record. Thus, Shandong Chenming withheld information requested by the Department. Consequently, the use of facts otherwise available is warranted under section 776(a)(2)(A) of the Act.

In selecting from among the facts available, the Department has determined that an adverse inference is warranted, pursuant to section 776(b) of the Act because, in addition to not fully responding to all of our requests for information, as of June 13, 2007, Shandong Chenming withdrew from all participation in the investigation and did not provide the Department with the opportunity to verify the information it did submit. Thus, Shandong Chenming failed to cooperate by not acting to the best of its ability, and our final determination is based on total AFA.

Selection of the Adverse Facts Available Rate

In deciding which facts to use as AFA, section 776(b) of the Act and 19 CFR 351.308(c)(1) authorize the Department to rely on information derived from (1) the petition, (2) a final

determination in the investigation, (3) any previous review or determination, or (4) any information placed on the record. It is the Department’s practice to select, as AFA, the highest calculated rate in any segment of the proceeding. See, e.g., *Certain In-shell Roasted Pistachios from the Islamic Republic of Iran: Final Results of Countervailing Duty Administrative Review*, 71 FR 66165 (November 13, 2006), and accompanying Issues and Decision Memorandum at “Analysis of Programs.”

The Department’s practice when selecting an adverse rate from among the possible sources of information is to ensure that the margin is sufficiently adverse “as to effectuate the purpose of the facts available role to induce respondents to provide the Department with complete and accurate information in a timely manner.” See *Notice of Final Determination of Sales at Less than Fair Value: Static Random Access Memory Semiconductors From Taiwan*; 63 FR 8909, 8932 (February 23, 1998). The Department’s practice also ensures “that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully.” See SAA at 870. In choosing the appropriate balance between providing a respondent with an incentive to respond accurately and imposing a rate that is reasonably related to the respondent’s prior commercial activity, selecting the highest prior margin “reflects a common sense inference that the highest prior margin is the most probative evidence of current margins, because, if it were not so, the importer, knowing of the rule, would have produced current information showing the margin to be less.” See *Rhone Poulenc, Inc. v. United States*, 899 F. 2d 1185, 1190 (Fed. Cir. 1990).

For these reasons the Department is relying on the highest calculated final subsidy rates for income tax, VAT, and policy lending programs of the other producer/exporter of the subject merchandise in this investigation, GE, to calculate the AFA rate for Shandong Chenming. We do not need to corroborate these rates because they are not considered secondary information as they are based on information obtained in the course of this investigation, pursuant to section 776(c) of the Act.

Suspension of Liquidation

In accordance with section 705(c)(1)(B)(i)(I) of the Act, we have calculated an individual rate for the companies under investigation, GE and Shandong Chenming. According to section 705(c)(5)(A)(i) of the Act, the

Department excludes any rates determined entirely under section 776 of the Act. As Shandong Chenming’s rate was calculated under section 776 of the Act, we have used the rate for GE as the “all others” rate.

Exporter/Manufacturer	Net Subsidy Rate
Gold East Paper (Jiangsu) Co., Ltd.	7.40 %
Shandong Chenming Paper Holdings Ltd.	44.25 %
All Others	7.40 %

As a result of our *Preliminary Determination* and pursuant to section 703(d) of the Act, we instructed the U.S. Customs and Border Protection (CBP) to suspend liquidation of all entries of coated free sheet paper from the PRC which were entered or withdrawn from warehouse, for consumption on or after April 9, 2007, the date of the publication of the *Preliminary Determination* in the **Federal Register**. In accordance with section 703(d) of the Act, we instructed CBP to discontinue the suspension of liquidation for countervailing duty purposes for subject merchandise entered on or after August 7, 2007, but to continue the suspension of liquidation of entries made from April 9, 2007, through August 7, 2007.

We will issue a countervailing duty order and reinstate the suspension of liquidation under section 706(a) of the Act if the International Trade Commission (ITC) issues a final affirmative injury determination, and will require a cash deposit of estimated countervailing duties for such entries of 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 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 administrative protective order (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 published pursuant to sections 705(d) and 777(i) of the Act.

Dated: October 17, 2007.

David M. Spooner,

Assistant Secretary for Import Administration.

Appendix

List of Comments and Issues in the Decision Memorandum

- Comment 1: Applicability of the CVD Law to China
- Comment 2: The Administrative Procedures Act (APA) Claim
- Comment 3: The Department's Justification for its Change in Practice from *Sulfanilic Acid from Hungary*
- Comment 4: China's WTO Accession Protocol
- Comment 5: Retroactive Application of the CVD Law to China
- Comment 6: Comparison of the Department's Findings in the *Georgetown Memo* and the *August 30 Market Economy Status Memo*
- Comment 7: Application of Adverse Facts Available to the GOC
- Comment 8: Policy Lending
- Comment 9: Countervailability of Foreign-denominated Loans
- Comment 10: Benchmark for Policy Lending
- Comment 11: Adjustment for Long-term Interest Rate Benchmark
- Comment 12: Creditworthiness of GE and its Cross-owned Companies
- Comment 13: Application of a Risk Premium to the Short-term Loan Benchmark
- Comment 14: Specificity of Programs for FIEs
- Comment 15: Over-calculation of the Two Free/Three Half Benefit
- Comment 16: Specificity of VAT Programs
- Comment 17: Attribution of GHS' Subsidies to GE

Comment 18: Attribution of Subsidies Bestowed on Input Suppliers

Comment 19: Whether the Department's Cross-ownership Regulations Provide for the Attribution of Upstream Subsidies to Cross-owned Companies

Comment 20: Attribution of Subsidies Bestowed on the Forestry Companies to CFS

Comment 21: Rate Adjustment for GE's *Ad Valorem* Subsidy Rate

Comment 22: Subsidies to Forestry Companies Discovered After the Preliminary Determination

Comment 23: Correction to GE's Domestic Sales Value

Comment 24: Application of Adverse Facts Available to Chenming

Comment 25: Certification of Non-Reimbursement of Duties

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