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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,

Director, AD/CVD Operations, Office 1, regarding “Verification Report of the Government of the People’s Republic of China” (July 28, 2010); Memorandum from David Neubacher, David Layton, and Jennifer Meek, International Trade Compliance Analysts, Office 1, to Susan H. Kuhbach, Director, AD/CVD Operations, Office 1, regarding “Verification Report of Shandong Sun Paper Industry Joint Stock Co., Ltd., and Yanzhou Tianzhang Paper Industry Co., Ltd.” (August 4, 2010); and Memorandum from David Neubacher, Scott Holland, David Layton, and Jennifer Meek, International Trade Compliance Analysts, Office 1, to Susan H. Kuhbach, Director, AD/CVD Operations, Office 1, regarding “Verification Report of Gold East Paper (Jiangsu) Co., Ltd. and its reported cross-owned affiliates” (August 24, 2010).

On August 26, 2010, we issued a preliminary determination regarding the creditworthiness of the Gold companies for the years 2006–2008. See Memorandum from Mary Kolberg, International Trade Compliance Analyst, Office 1, to Susan H. Kuhbach, Director, AD/CVD Operations, Office 1, regarding “Preliminary Creditworthiness Determination for Gold East Paper (Jiangsu) Co., Ltd. and its Cross-Owned Affiliates,” (August 26, 2010).

On August 27, 2010, the Department issued its Post-Preliminary Analysis for the Gold and Sun companies. See Memorandum from The Team, Office 1, to Ronald K. Lorentzen, Deputy Assistant Secretary for Import Administration, regarding “Countervailing Duty Investigation of Certain Coated Paper Suitable for High-Quality Print Graphics Using Sheet-Fed Presses from the People’s Republic of China: Post-Preliminary Analysis Memorandum for Gold East Paper (Jiangsu) Co., Ltd. (“GE”), Gold Huasheng Paper Co., Ltd. (“GHS”), and their reported cross-owned affiliates (collectively, “APP companies”),” (August 27, 2010) and Memorandum from The Team, Office 1, to Ronald K. Lorentzen, Deputy Assistant Secretary for Import Administration, regarding “Countervailing Duty Investigation of Certain Coated Paper Suitable for High-Quality Print Graphics Using Sheet-Fed Presses from the People’s Republic of China: Post-Preliminary Analysis Memorandum for Shandong Sun Paper Industry Joint Stock Co., Ltd. (“Sun Paper”) and Yanzhou Tianzhang Paper Industry Co. Ltd. (“Yanzhou Tianzhang”) (collectively, “Sun companies”),” (August 27, 2010), available in the CRU. (These analyses are referred to herein as “Post-Preliminary Analyses.”)

On August 30, 2010, the Department determined not to investigate a new subsidy allegation regarding currency undervaluation. See Memorandum from The Team to Ronald K. Lorentzen, Deputy Assistant Secretary for Import Administration, regarding “New Subsidy Allegation—Currency,” (August 30, 2010), available in the CRU.

We received case briefs from the GOC, the Gold companies, the Sun companies, and Petitioners on September 7, 2010. The same parties submitted rebuttal briefs on September 10, 2010.

The GOC, Gold companies, and Petitioners requested a hearing. The same parties later withdrew their requests. Therefore, no hearing was held.

Scope of the Investigation

The merchandise covered by this 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

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.

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 this 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 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 Memorandum from Susan Kuhbach, Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Ronald K. Lorentzen, Deputy Assistant Secretary for Import Administration, entitled “*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*” (September 20, 2010) (hereafter “Decision Memorandum”), which is hereby adopted by this notice.

Injury Test

Because the PRC 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 (the “ITC”) is required to determine whether imports of the subject merchandise from the PRC materially injure, or threaten material injury to, a U.S. industry. On November 9, 2009, the U.S. International Trade Commission (“ITC”) issued its affirmative preliminary determination that there is a reasonable indication that an industry in the United States is materially injured by reason of allegedly subsidized imports of coated paper from the PRC. See *Certain Coated Paper Suitable for High-Quality Print Graphics Using Sheet-Fed Presses From China and Indonesia; Determinations*, Investigation Nos. 701–TA–470–471 and 731–TA–1169–1170, 74 FR 61174 (November 23, 2009).

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this investigation are addressed in the above-referenced Decision Memorandum. 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

Consistent with the *Preliminary Determination*, we have continued to rely on facts available and to draw an adverse inference, in accordance with sections 776(a) and (b) of the Act, for certain of our findings. With respect to the GOC’s provision of papermaking chemicals, we determine that kaolin clay, caustic soda and titanium dioxide are being provided by governmental authorities for the reasons explained in the *Preliminary Determination* and we determine that the subsidy conferred through the GOC’s provision of caustic soda is specific for the reasons explained in the Post-Preliminary Analysis. With respect to the GOC’s provision of land use rights in the Yangpu Economic Development Zone, we determine that the subsidy is specific for the reason explained in Post-Preliminary Analyses. Finally, with respect to the GOC’s provision of electricity, we determine that the GOC has made a financial contribution that is specific, and we have applied an adverse inference is determining the benefit for the reasons explained in the *Preliminary Determination*.

Sun Companies

In a departure from the *Preliminary Determination*, the Department now finds that the use of “facts otherwise available” pursuant to section 776(a) of the Act is warranted with regard to the Sun companies. At verification, we learned that numerous companies that meet the Department’s criteria for being “cross-owned,” as that term is defined in 19 CFR 351.525(b)(6)(vi), and that produced certain coated paper or inputs for paper products were not included in the Sun companies’ responses. Therefore, information that the Department needs to calculate the Sun companies’ subsidy rate has not been provided and the Department is unable to accurately determine the appropriate level of subsidization provided to the Sun companies. By not providing this information despite being in a position to do so, the Sun companies failed to act to the best of their ability. Accordingly, we find that an adverse inference is warranted, pursuant to section 776(b) of the Act.

For the final determination and consistent with the Department’s recent practice, we are computing a total AFA rate for the Sun companies, generally using program-specific rates determined

for the cooperating respondent or in past cases. Specifically, for programs other than those involving income tax exemptions and rate reductions, we will apply the highest calculated rate for the identical program in this investigation if a responding company used the identical program. If there is no identical program match within the investigation, we will use the highest non-*de minimis* rate calculated for the same or similar program in another PRC CVD investigation. Absent an above-*de minimis* subsidy rate calculated for the same or similar program, we will apply the highest calculated subsidy rate for any program otherwise listed that could conceivably be used by the Sun companies. See, e.g., *Certain Kitchen Shelving and Racks from the People’s Republic of China: Final Affirmative Countervailing Duty Determination*, 74 FR 37012 (July 27, 2009) and the accompanying Issues and Decision Memorandum at “Use of Facts Otherwise Available and Adverse Facts Available” at 4–5. The Department has further amended its methodology to exclude any calculated rate for a program by a voluntary respondent. See *Aluminum Extrusions From the People’s Republic of China: Preliminary Affirmative Countervailing Duty Determination*, 75 FR 54302, 54305 (September 7, 2010).

Also, as explained in *Certain Tow-Behind Lawn Groomers and Certain Parts Thereof from the People’s Republic of China: Initiation of Countervailing Duty Investigation*, 73 FR 42324 (July 21, 2008) and accompanying Initiation Checklist, where the GOC can demonstrate through complete, verifiable, positive evidence that non-cooperative companies (including all their facilities and cross-owned affiliates) are not located in particular provinces whose subsidies are being investigated, the Department does not intend to include those provincial programs in determining the countervailable subsidy rate for the non-cooperative companies.

The GOC failed to provide verifiable information demonstrating that the Sun companies are located in particular provinces or that they have no facilities or cross-owned affiliates in any other province in the PRC, as requested. Therefore, the Department makes the adverse inference that the Sun companies have facilities and/or cross-owned affiliates that received subsidies under all of the sub-national programs alleged prior to the selection of mandatory respondents.

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 other information placed on the record. The Department's practice when selecting an adverse rate from among the possible sources of information is to ensure that the rate is sufficiently adverse "as to effectuate the statutory purposes of the adverse facts available rule to induce respondents to provide the Department with complete and accurate information in a timely manner." See, e.g., *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 Uruguay Round Agreements Act Statement of Administrative Action ("SAA"), attached to H.R. Rep. No. 103-316, Vol. I, at 870 (1994), reprinted in 1994 U.S.C.A.N 3773, 4163.

Consistent with this, we have calculated the Sun companies' countervailable subsidy rate as follows:

Loans

For the "Preferential Lending to the Coated Paper Industry" and "Fast Growth High-Yield Forestry Program Loans" programs, we have applied the loan rate calculated for the Gold companies in this investigation, 8.89 percent, to each program.

Grants

The Department included in its investigation numerous grant programs: "Funds for Forestry Plantation Construction and Management," "State Key Technologies Renovation Project Fund," "Loan Interest Subsidies for Major Industrial Technology Reform Projects in Wuhan," "Funds for Water Treatment Improvement Projects in the Songhuajiang Basin," "Special Fund for Energy Saving Technology Reform in Wuhan and Shougang Municipality," "Clean Production Technology Fund," "Famous Brands Awards," "Grants to Enterprises Achieving RMB 10 Million in Sales Revenue and Implementing 'Three Significant Projects,'" "Grants to Large Enterprises in Jining City," "Funds for Water Treatment and Pollution Control Projects for Three Rivers and Three Lakes," "Grants for Programs Under the 2007 Science and Technology Development Plan in Shandong Province," "Special Funds for Economic and Trade Development," and "Interest Subsidies for Forestry Loans." The Gold companies did not use any of these

programs and the Department has not calculated above *de minimis* rates for any of these programs in prior investigations. Moreover, all previously calculated rates for grant programs from prior PRC CVD investigations have been *de minimis*. Therefore, for each of these programs, we have determined to use the highest calculated subsidy rate by a non-voluntary respondent for any program otherwise listed, which could conceivably have been used by the Sun companies. This rate was 8.89 percent for the "Government Policy Lending Program" calculated for the Gold companies in this investigation.

Income Tax Rate Reduction and Exemption Programs

For "The 'Two Free, Three Half Program,'" "Income Tax Subsidies for Foreign Invested Enterprises ('FIEs') Based on Geographic Location," "Income Tax Reduction for FIEs Purchasing Domestically Produced Equipment," "Local Income Tax Exemption and Reduction Program for 'Productive FIEs,'" "Preferential Tax Policies for Technology or Knowledge-Intensive FIEs," "Preferential Tax Programs for FIEs that are New or High Technology Enterprises," "Income Tax Reductions for High-Technology Industries in Guandong Province," "Income Tax Exemption Program for Export-Oriented FIEs," we have applied an adverse inference that the Sun companies paid no income tax during the POI (*i.e.*, calendar year 2008). The standard income tax rate for corporations in the PRC was 30 percent, plus a three percent provincial income tax rate. See GOC's Response to the Department's Initial Questionnaire, dated January 8, 2010. Therefore, the highest possible benefit for these income tax programs is 33 percent. We are applying the 33 percent AFA rate on a combined basis (*i.e.*, the eight programs combined provided a 33 percent benefit). This 33 percent AFA rate does not apply to tax credit and refund programs.

Other Tax Benefits and VAT/Tariff Reductions and Exemptions

We are using the rates calculated for the Gold companies in this investigation for the following programs: "Preferential Tax Policies for Research and Development at FIEs" (0.01 percent); "Exemption from Maintenance and Construction Taxes and Education Surcharges for FIEs" (0.34 percent); "Value Added-Tax and Tariff Exemptions on Imported Equipment" (3.46 percent); "Domestic VAT Refunds for Companies Located in the Hainan Economic Development Zone" (0.37

percent); and "VAT Rebates on Domestically Produced Equipment" (0.20 percent). For the programs the Gold companies did not use, "Corporate Income Tax Refund Program for Reinvestment of FIE Profits in Export Orientated Enterprises," and "Income Tax Credits for Domestically Owned Companies Purchasing Domestically Produced Equipment," we have used the highest non-*de minimis* rate for any indirect tax program from a PRC CVD investigation. The rate we selected is 1.51 percent, which was the rate calculated for respondent Gold East Paper (Jiangsu) Co., Ltd. ("GE") for the "Value-added Tax and Tariff Exemptions on Imported Equipment," program. See *Coated Free Sheet Paper from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 72 FR 60645 (October 25, 2007) and accompanying Issues and Decision Memorandum at 14.

Provision of Goods and Services for Less Than Adequate Remuneration ("LTAR")

For "Provision of Electricity for LTAR," "Provision of Papermaking Chemicals for LTAR," and "Land in the Yangpu Economic Development Zone," we have used the rates calculated for the Gold companies in this investigation, 0.08 percent, 0.80 percent and 0.85 percent, respectively.

Economic Development Zones ("EDZs")

For the "Subsidies in the Nanchang Economic Development Zone," Petitioners alleged that land, water and electricity were provided to producers of coated paper for LTAR in the Nanchang EDZ. For land, we have applied the rate calculated for the Gold companies in this investigation, 0.85 percent. For water, the Department has not calculated an above *de minimis* rate for this program in prior investigations. Therefore, we have applied the land for LTAR rate calculated for the Gold companies in this investigation, 0.85 percent because this program is similar to other EDZ LTAR programs in this investigation. We are not applying a sub-national rate for electricity, as we are already applying a national-level rate to the Sun companies as AFA.

For "Subsidies in the Wuhan Economic Development Zone," Petitioners alleged that land was provided to producers of coated paper at LTAR in the Wuhan EDZ. Therefore, we have applied the rate calculated for the Gold companies in this investigation, 0.85 percent. For "Subsidies in the Yangpu Economic Development Zone," Petitioners alleged that land and electricity were provided to producers of coated paper at LTAR in the Yangpu

EDZ. For land, we are applying the rate calculated for the Gold companies in this investigation, 0.85 percent. For electricity, as previously discussed we are not applying a sub-national rate. Finally, for “Subsidies in the Zhenjiang Economic Development Zone,” Petitioners alleged that electricity was provided to producers of coated paper at LTAR in the Zhenjiang EDZ. As discussed above, we are not applying a sub-national rate for electricity.

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 “information 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 *e.g.*, SAA, at 870. The Department considers information to be corroborated if it has probative value. See *id.* 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.

With regard to the reliability aspect of corroboration, we note that these rates were calculated in recent final CVD determinations. Further, the calculated rates were based upon verified information about the same or similar

programs. Moreover, no information has been presented in this investigation that calls into question the reliability of these calculated rates that we are applying as AFA. Finally, unlike other types of information, such as publicly available data on the national inflation rate of a given country or national average interest rates, there typically are no independent sources for data on company-specific benefits resulting from countervailable subsidy programs.

With respect to the relevance aspect of corroborating the rates selected, the Department will consider information reasonably at its disposal in considering the relevance of information used to calculate a countervailable subsidy benefit. Where circumstances indicate that the information is not appropriate as AFA, the Department will not use it. See *Fresh Cut Flowers From Mexico; Final Results of Antidumping Duty Administrative Review*, 61 FR 6812 (February 22, 1996).

In the absence of record evidence concerning these programs due to Sun companies’ decision to impede the investigation, the Department has reviewed the information concerning PRC subsidy programs in this and other cases. For those programs for which the Department has found a program-type match, we find that, because these are the same or similar programs, they are relevant to the programs of this case. For the programs for which there is no program-type match, the Department has selected the highest calculated subsidy rate for any PRC program from a non-voluntary respondent from which the Sun companies could receive a benefit to use as AFA. The relevance of this rate is that it is an actual calculated

CVD rate for a PRC program from which the Sun companies could conceivably receive a benefit. Further, this rate was calculated for a period close to the POI in the instant case. Moreover, the Sun companies’ failure to respond to requests for information has “resulted in an egregious lack of evidence on the record to suggest an alternative rate.” See *Shanghai Taoen Int’l Trading Co., Ltd. v. United States*, 360 F. Supp. 2d 1339, 1348 (Ct. Int’l Trade 2005). Due to the lack of participation by the Sun companies and the resulting lack of record information concerning these programs, the Department has corroborated the rates it selected to the extent practicable.

On this basis, we determine that the AFA countervailable subsidy rate for the Sun companies is 178.03 percent *ad valorem*.

Suspension of Liquidation

In accordance with section 705(c)(1)(B)(i)(I) of the Act, we have calculated individual rates for each producer/exporter of the subject merchandise individually investigated. 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 determined entirely under section 776 of the Act. As the Sun companies’ subsidy rate was determined entirely under section 776 of the Act, the Gold companies’ calculated rate was used as the All Others rate.

Exporter/manufacturer	Net subsidy rate
Gold East Paper (Jiangsu) Co., Ltd, Gold Huasheng Paper Co., Ltd., Gold East Trading (Hong Kong) Company Ltd., Ningbo Zhonghua Paper Co., Ltd., and Ningbo Asia Pulp & Paper Co., Ltd	17.64
Shandong Sun Paper Industry Joint Stock Co., Ltd. and Yanzhou Tianzhang Paper Industry Co., Ltd	178.03
All Others	17.64

Also, in accordance with section 703(d) of the Act, we instructed U.S. Customs and Border Protection 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 from March 9, 2010, through July 6, 2010.

We will issue a countervailing duty order if the ITC issues a final affirmative injury determination, and we 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 deposits 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: September 20, 2010.

Ronald K. Lorentzen,

Deputy Assistant Secretary for Import Administration.

Appendix

List of Comments and Issues in the Decision Memorandum

General Issues

Comment 1 Application of CVD Law to the PRC

Comment 2 Application of the CVD Law to NMEs and the Administrative Protection Act

Comment 3 Double Counting/Overlapping Remedies

Comment 4 Cutoff Date for Identifying Subsidies

Currency

Comment 5 Opportunity to Comment and the Initiation Standard

Comment 6 The Determination Not To Investigate the Alleged Currency Subsidy

Comment 7 The Department’s Analysis of a Unified Rate of Exchange

Scope

Comment 8 Burden Imposed on Respondents

Comment 9 Whether Multi-ply Paperboard Was Intended To Be in the Scope

Comment 10 Physical Characteristics and End-use Applications Distinguish Multi-ply Paper From the Covered Merchandise

Comment 11 Whether the Department Should Retain the “Suitability” Language in the Scope Description

Comment 12 Whether Inclusion of Multi-ply Paper in the Scope Affects Respondent Selection

Comment 13 Scope Expansion Violates Standing and Injury Requirements

Chemicals for LTAR

Comment 14 Benchmarks—Papermaking Chemicals

Comment 15 Provision of Papermaking Chemicals for LTAR—Specificity

Comment 16 Government Ownership and Determining Whether a Financial Contribution Has Occurred

Preferential Lending to the Coated Paper Industry

Comment 17 Whether Chinese Banks Are Authorities

Comment 18 Whether the Policy Loan Program Is Specific

Lending Benchmarks

Comment 19 Whether Negative Real Interest Rates Should Be Excluded From the Regression

Comment 20 Whether the Regression Is Statistically Valid

Comment 21 Should the Department Use an In-Country Benchmark

Comment 22 Terms of Loan Rates in the IMF Data

Comment 23 Whether the Long-Term and Discount Rates Are Flawed

Provision of Land for LTAR

Comment 24 Whether HYDC Is an Authority

Comment 25 Financial Contribution

Comment 26 Whether To Use an In-country Benchmark

Comment 27 Whether There Are Flaws in the Thai Benchmark

Comment 28 Specificity of Land for LTAR Based on AFA

Issues Related to Sun Companies

Comment 29 Whether To Use Revised Sales Values for the Sun Companies

Comment 30 Whether To Apply Adverse Facts Available to Sun Companies’ Unreported Loans

Comment 31 Whether To Apply Facts Available to Sun Companies’ Unreported Cross-Owned Companies

Issues Related to Gold Companies

Comment 32 Whether To Grant the Gold Companies an EV Adjustment

Comment 33 Creditworthiness

Comment 34 Whether To Adjust the Uncreditworthiness Benchmark

Comment 35 GE Sales Denominator

Comment 36 Whether To Attribute Subsidies Received by Input Suppliers Whose Inputs Are Not Used for Merchandise Exported to the United States

Comment 37 Whether the Department Should Attribute Subsidies From Pulp Producers Based on the Percentage of Total Pulp Sales to the Paper Producers Covered

Comment 38 Whether To Countervail Additional Financing Reported by the Gold Companies

Comment 39 Whether To Adjust the Gold Companies’ Interest Calculation

Comment 40 Whether To Adjust JHP’s Reported VAT and Duty Exemptions on Imported Equipment

Comment 41 Whether To Use an Alternative Electricity Benchmark

Comment 42 Whether To Apply AFA to JAP and JHP Caustic Soda Purchases

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–958]

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

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

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

SUMMARY: On May 6, 2010, the Department of Commerce (“Department”) published its preliminary determination of sales at less than fair value (“LTFV”) in the antidumping investigation of certain coated paper suitable for high-quality print graphics using sheet-fed presses (“coated paper”) from the People’s Republic of China (“PRC”). We invited interested parties to comment on our preliminary determination of sales at LTFV. Based on our analysis of the comments we received, we have made changes to our margin calculations for the mandatory respondents. The final dumping margins for this investigation are listed in the “Final Determination Margins” section below.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:

Case History

The Department published its preliminary determination of sales at LTFV on May 6, 2010. *See Certain Coated Paper Suitable for High-Quality Print Graphics Using Sheet-Fed Presses from the People’s Republic of China: Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination, 75 FR 24892, (May 6, 2010) (“Preliminary Determination”).*

On May 19, 2010, Shandong Sun Paper Industry Joint Stock Co., Ltd., Yanzhou Tianzhang Paper Industry Co., Ltd., Shandong International Paper and Sun Coated Paperboard Co., Ltd., International Paper and Sun Cartonboard Co., Ltd. (collectively “Sun Paper Companies”) ceased participating