

# COMMERCE NEWS

UNITED STATES DEPARTMENT OF COMMERCE  
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FOR IMMEDIATE RELEASE  
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## COMMERCE APPLIES ANTI-SUBSIDY LAW TO CHINA

**WASHINGTON, D.C.** – The U.S. Department of Commerce today announced its preliminary decision to apply U.S. anti-subsidy law to imports from China. This is the first time countervailing duties will be imposed on imports from a non-market economy. The decision alters a 23-year old bipartisan policy of not applying the countervailing duty (CVD) law to non-market economy countries, and reflects China's economic development.

Today's preliminary decision determined that Chinese producers and exporters of coated free sheet paper received countervailable subsidies ranging from 10.90 to 20.35 percent.

"This Administration has aggressively enforced our anti-dumping laws to combat unfair Chinese trade," said Commerce Secretary Carlos M. Gutierrez. "China's economy has developed to the point that we can add another trade remedy tool, such as the countervailing duty law. The China of today is not the China of years ago. Just as China has evolved, so has the range of our tools to make sure Americans are treated fairly. By acting on the petition filed last October, the United States today is demonstrating its continued commitment to leveling the playing field for American manufacturers, workers and farmers."

From 2005 to 2006, imports of coated free sheet paper products from China increased approximately by 177 percent in volume, and were valued at an estimated \$224 million in 2006.

The Department of Commerce has the legal authority to apply the CVD law to non-market economies. In 1984, the Department of Commerce adopted a policy of not applying the U.S. countervailing duty law to non-market economy countries. Commerce reasoned that subsidies had no measurable economic impact in the 1980's Soviet-style economies that were then under consideration. This policy was upheld by the Court of Appeals for the Federal Circuit in the 1986 Georgetown Steel case. Since then, the antidumping law has been a commonly used instrument to address unfair trade practices.

"The Bush Administration will continue to vigorously enforce U.S. trade law with respect to China. Since 2001, we have issued 31 antidumping orders against China, compared to the 24 orders put into place between 1993 and 2000," said Gutierrez.

In addition:

- Chinese dumping cases now represent 25 percent of all dumping orders.
- The United States was the first country to file a WTO case against China.
- In February 2007, a second WTO case was filed, challenging several Chinese prohibited subsidy programs at the WTO.

In October 2006, a U.S. manufacturer of glossy paper, the NewPage Corporation of Dayton, Ohio, asked the Department of Commerce to reconsider its longstanding policy of not applying the anti-subsidy law to China. NewPage's petition marks the first time since 1991 that a U.S. company formally requested the Commerce Department to countervail a non-market economy, such as China. In the petition, NewPage alleged that several Chinese companies were recipients of subsidies such as tax breaks, debt forgiveness, and low-cost loans.

Upon publication of today's decision in the Federal Register, U.S. Customs and Border Protection will collect a cash deposit or bond from importers of coated free sheet paper subject to the investigations. Also, Commerce announced its preliminary results of the countervailing duty investigations covering imports of paper from Indonesia and South Korea. Commerce is currently scheduled to announce its final determinations in all three countervailing duty investigations by mid-June, although the law allows postponement until mid-October.

Commerce recognizes that the basis of our conclusion to apply the CVD law to China may require a review of U.S. anti-dumping methodology for China, particularly at the enterprise-specific level, and is currently considering this issue. Since the possibility of double counting resulting from simultaneous anti-dumping and countervailing duty investigations is dependent on the specific facts arising in such investigations, to the extent that the parties to these proceedings provide evidence on the record of these investigations, Commerce will have to respond to these concerns in the course of our investigations.

More information can be found at [www.trade.gov](http://www.trade.gov) regarding the International Trade Administration and Import Administration.

**Background:**

The Department of Commerce is charged with the enforcement of U.S. trade remedy laws including enforcing our domestic anti-subsidy law, the CVD law. Anti-dumping trade rules and countervailing duty trade rules are both tools that are sanctioned by the WTO to deal with unfair pricing and subsidization of imports. Government subsidies distort the free flow of goods and adversely affect American business in the global marketplace. Foreign governments subsidize industries when they provide financial assistance to benefit the production, manufacture or exportation of goods. Subsidies can take many forms, such as direct cash payments, credits against taxes, and loans at terms that do not reflect market considerations. The statute and regulations establish standards for determining when an unfair subsidy has been conferred. The amount of subsidies the foreign producer receives from the government is the basis for the subsidy rate by which the subsidy is offset or "countervailed."

Commerce commonly applies anti-dumping and countervailing duty law at the same time, 30 out of Commerce's 35 current countervailing orders are paired with a dumping order.

Antidumping and countervailing duties offset distinct and different unfair trade practices. For example, as happens frequently, concurrent antidumping and countervailing duty petitions have been filed against coated free sheet paper from Indonesia and the Republic of Korea and may result in both antidumping and countervailing duties against those countries. To the extent that parties may demonstrate that any calculation of a margin in one proceeding double-counts some element of the margin calculated in the other proceeding, we will address those issues in the course of our investigations.

On March 29, 2007, The Court for International Trade reaffirmed the Commerce Department's position that the Georgetown Steel decision was not a bar to applying the countervailing duty law to NMEs, but instead, was a recognition of Commerce's broad discretion in this area.

71 FR 75507, December 15, 2006

DEPARTMENT OF COMMERCE

International Trade Administration

Application of the Countervailing Duty Law to Imports From the  
People's Republic of China: Request for Comment

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

DATES: Effective Date: December 15, 2006.

SUMMARY: The Department of Commerce invites comments on the  
applicability of the countervailing duty law to imports from the  
People's Republic of China.

DATES: Comments must be submitted no later than thirty days after  
publication of this Notice.

ADDRESSES: Written comments (original and eight copies) should be sent  
to Susan H. Kuhbach, Senior Office Director for Import Administration,  
U.S. Department of Commerce, Central Records Unit, Room 1870,  
Pennsylvania Avenue and 14th Street, NW., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Callie Conroy or David Layton, Import  
Administration, U.S. Department of Commerce, 14th Street and  
Constitution Avenue, NW., Washington, DC 20230, telephone: 202-482-0754  
or 202-482-0371, respectively.

Background

In 1986, the Court of Appeals for the Federal Circuit affirmed that  
the Department of Commerce (the Department) has the discretion not to  
apply the countervailing duty (CVD) law to non-market economy (NME)  
countries in *Georgetown Steel Corp. v. United States*, 801 F.2d 1308  
(Fed. Cir. 1986) (*Georgetown Steel*). On November 20, the Department  
initiated a countervailing duty investigation on imports of coated free  
sheet paper from the People's Republic of China (PRC). This is the  
first CVD investigation involving the PRC since 1991, when the  
Department initiated investigations on lugnuts and ceiling fans, which  
were terminated before going to order. See *Rescission of Initiation of  
Countervailing Duty Investigation and Dismissal of Petition: Chrome-  
Plated Lug Nuts and Wheel Locks From the People's Republic of China  
(`PRC')*, 57 FR 10459 (March 26, 1992); and *Final Negative  
Countervailing Duty Determinations: Oscillating and Ceiling Fans From  
the People's Republic of China*, 57 FR 24018 (June 5, 1992). In both  
cases, the Department did not find at that time a basis for applying  
the CVD law to the industry in question, consistent with *Georgetown  
Steel*. The initiation of the present investigation requires that the  
Department review its long-standing policy of not applying the CVD law  
to NMEs, such as the PRC.

The Department intends during the course of the present  
investigation to determine whether the countervailing duty law should  
now be applied to imports from the PRC. Given the complex legal and  
policy issues involved, the Department, therefore, invites public  
comment on this matter.

Persons wishing to comment should file a signed original and eight  
copies of each set of comments before the close of the comment period.

Comments should be limited to thirty pages, double spaced. The Department will not accept comments accompanied by a request that a part or all of the material be treated confidentially because of its business proprietary nature or for any other reason. All comments responding to this notice will be a matter of public record and will be available for public inspection and copying at Import Administration's Central Records Unit, Room B-099, between the hours of 8:30 a.m. and 5 p.m. on business days. The Department requires that comments be submitted in written form, but also recommends submission of comments in electronic form to accompany the required paper copies. Comments filed in electronic form should be submitted either by e-mail to the webmaster below, or on CD-ROM, as comments submitted on diskettes are likely to be damaged by postal radiation treatment. Comments received in electronic form will be made available to the public in Portable Document Format (PDF) on the Internet at the Import Administration Web site at the following address: <http://ia.ita.doc.gov/>. Any questions concerning file formatting, document conversion, access on the Internet, or other electronic filing issues should be addressed to Andrew Lee Beller, Import Administration Webmaster, at (202) 482-0866, e-mail address: [webmaster-support@ita.doc.gov](mailto:webmaster-support@ita.doc.gov).

All comments and submissions should be mailed to Susan H. Kuhbach, Senior Office Director for Import Administration; Subject: Application of the Countervailing Duty Law to Imports from the People's Republic of China: Request for Comment; Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC, by no later than 5 p.m., on the above-referenced deadline date.

Dated: December 11, 2006.

David M. Spooner,  
Assistant Secretary for Import Administration.

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