



Main Tel: 978-632-1513 • 800-784-7783 (800-7-TISSUE) • Main Fax: 978-632-6319 • 800-541-1583 • Mill Tel: 978-939-5356 • Mill Fax: 978-939-2359  
Mail: P.O. Box 21, Baldwinville, MA 01436 • Physical: 35 Willdins Road, Gardner, MA 01440 • Mill: 51 Main Street, Otter River, MA 01436  
[www.seamanpaper.com](http://www.seamanpaper.com)

April 20, 2010

**VIA E-MAIL**

Honorable Ronald K. Lorentzen  
Deputy Assistant Secretary for Import  
Administration  
Room 1870  
Department of Commerce  
14<sup>th</sup> Street and Constitution Ave., NW,  
Washington, DC 20230

Attn: Mr. Kelly Parkhill  
Supervisory Import Policy Analyst

**Re: Comments on Retrospective Versus Prospective Antidumping and  
Countervailing Duty Systems**

Dear Mr. Lorentzen:

Seaman Paper Company of Massachusetts, Inc. ("Seaman Paper") presents the following comments in response to the March 31, 2010, notice inviting comments on retrospective versus prospective antidumping and countervailing duty systems. *See Report to Congress: Retrospective Versus Prospective Antidumping and Countervailing Duty Systems; Request for Comment and Notice of a Public Hearing, 75 Fed. Reg. 16,079 (Mar. 31, 2010)*(The "Notice").

The Department of Commerce (Commerce) has been directed by the United States Congress to work with the Secretaries of the Departments of Homeland Security and Treasury to conduct an analysis on the relative advantages and disadvantages of prospective and retrospective antidumping and countervailing duty systems. Specifically, Commerce is required to address the extent to which each type of system would likely achieve the goals of:

- Remediating injurious dumping or subsidized exports,
- Minimizing uncollected duties,
- Reducing incentives and opportunities for importers to evade anti-dumping and countervailing duties,
- Effectively targeting high-risk importers,
- Addressing the impact of retrospective rate increases on U.S. importers and their employees, and
- Creating a minimal administrative burden.

Based on its first-hand experience as a U.S. producer and an active participant in multiple proceedings before Commerce, Seaman Paper supports the continued use of the existing retrospective system. Changing to a prospective system would weaken Commerce's ability to effectively administer the trade laws, and would undermine the efficacy of all antidumping (AD) and countervailing duty (CVD) orders.

Seaman Paper is a third-generation family-owner producer of decorative and gift tissue paper products and crepe paper products based in central Massachusetts. We employ over 600 people and are one of the most up-to-date, efficient and competitive producers of tissue paper products and crepe paper in the United States, if not the world. In 2004, Seaman Paper and several other members of the U.S. tissue paper and crepe paper industries petitioned Commerce and the United States International Trade Commission to investigate dumping of tissue paper products and of crepe paper from the People's Republic of China. In both cases, antidumping duty orders were issued and remain in place to this day. Both orders impose significant duties on all Chinese imports, without exception.

In our proceedings, the retrospective assessment system has allowed the U.S. industry and Commerce to identify and combat circumvention and fraud in important ways that a prospective system would not.

Circumvention has been an issue in the Certain Tissue Paper Products from China proceeding since imposition of the AD order. Seaman Paper has brought three anticircumvention actions against companies in Vietnam (2 companies) and Thailand (1 company). Two of these inquiries have been successfully completed, with a Vietnamese and a Thai exporter now covered by the order. The third inquiry, involving a different Vietnamese company, is currently underway. Under the Department's regulations, as soon as Commerce has issued an affirmative preliminary determination of circumvention, duties have been imposed retroactively to the date the inquiry was initiated.

The retrospective systems has allowed Commerce to collect duties lawfully owed, which a prospective system would not do. The retrospective approach has provided a concrete remedy

Ronald K. Lorentzen  
April 20, 2010  
Page 3

for the unlawful activities of the foreign exporters, and has helped to keep our AD order as effective as possible. Simply put, if exporters and U.S. importers know that they can be held accountable for past circumvention, they will be less likely to try to circumvent the order. Alternatively, if a circumventing exporter or U.S. importer has no liability for past shipments, their incentive will be to circumvent as much as possible before being caught. Such a situation would be highly detrimental to the efficacy of our AD orders, and to the health of the U.S. industries that invested so much to bring and win their cases.

The existing retrospective review and assessment system also has enabled Commerce to investigate and address situations in which respondents in the Certain Tissue Paper Products from China proceeding have affirmatively misled Commerce in order to enjoy artificially low cash deposit and assessment rates. A recent example can be found in the ongoing annual administrative review covering the 2008-2009 period of review. In that review we presented compelling evidence showing that a major Chinese exporter has been misleading the Department – for years – about its production operations, using unreported suppliers and unreported processors. In the recently-issued preliminary results of the review, the Department concluded that the respondent had misled the Department, and increased the company's margin from 14.25 percent to 112.64 percent.

A prospective system would not allow such review proceedings, and fraud of this type will become difficult if not impossible to remedy. Moreover, in the example given above, in a prospective system the respondent's liability for the previous entries would be capped at 14.25 percent, regardless of their misrepresentations and the actual duty rate that should apply. Apart from the inequity that would result, the duties that would not be collected would represent a significant amount of lost revenue to the United States Government.

Having been actively maintaining two separate AD orders for over five years, Seaman Paper is very well aware of the strengths and weaknesses of our existing retrospective system, and the burdens that it imposes on parties. AD (and CVD) orders like those covering imports of tissue paper products and crepe paper from China are intended to remedy the injury suffered by the domestic industry, by creating incentives to reduce and eliminate dumping and improper subsidies. The retrospective system allows Commerce to investigate the pricing behavior of foreign exporters, address circumvention, and adjust margins to reflect the most recently-observed pricing behavior and levels of subsidies that have been conferred. While this approach involves burdens on interested parties, so too would a prospective system.

The existing retrospective system, in our opinion, strikes an appropriate balance between imposing some level of burden and uncertainty on parties who choose to import products subject to unfair trade orders, on the one hand, and the goal of ensuring that U.S. industries have an effective remedy for unfair trade practices, on the other.

Ronald K. Lorentzen  
April 20, 2010  
Page 4

In accordance with Commerce's instructions, an electronic file containing our comments has been submitted to [webmaster-support@ita.doc.gov](mailto:webmaster-support@ita.doc.gov). In addition, for Commerce's convenience, the original and one copy of these comments are being submitted in printed form at the captioned address.

Sincerely,

SEAMAN PAPER COMPANY OF MASS., INC.



George D. Jones  
President



GDJ/mar