



**American
Forest & Paper
Association**

December 14, 2017

TO: WTO/TBT National Notification and Enquiry Center of the People's Republic of China

**FROM: American Forest & Paper Association
1101 K Street, NW, Suite 700
Washington, DC 20005
Jacob Handelsman
Senior Director, International Trade
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Ref: G/TBT/N/CHN/1225

Dear Sir or Madam:

The American Forest & Paper Association (AF&PA) is submitting these comments regarding the 15 November 2017 notification by the Ministry of Environmental Protection of the People's Republic of China to the World Trade Organization (WTO) Committee on Technical Barriers to Trade of the change in the "carried waste" level for imported waste and scrap paper of HS 4707100000, 4707200000 and 4707300000. We are concerned that the new regulation – lowering the "carried waste" limit for imported recovered paper from 1.5 percent to 0.5 percent – together with the ban on imports of HS 4707900090: "Other, including unsorted waste and scrap" China notified to the WTO on 18 July, will disrupt international trade and the global market for recovered paper. We believe that these actions are in violation of China's obligations under the WTO Agreement on Technical Barriers to Trade (TBT) and other WTO provisions.

AF&PA represents companies producing paper and paperboard utilizing new and recovered fiber and some of whom also are involved in the recycling and export of recovered paper. AF&PA supports free and fair trade policies. In an increasingly globalized paper, paperboard and packaging industry, it is critical to achieve unrestricted access to international markets and a level playing field among international competitors.

Recovered Paper is not Waste

The document notified by China, GB 16487.4, "Environmental Protection Control Standard for Imported Solid Wastes as Raw Materials – Waste and Scrap Paper and

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Paperboard”, mischaracterizes recovered paper as solid waste. This mischaracterization appears in other recent government documents establishing and implementing new policies under China’s “National Sword 2017” program. Recovered paper – also known as “paper stock”, “scrap paper”, “recyclable material” or “secondary material” – is a valuable raw material used in the manufacture of new paper and paperboard. In fact, China’s paper industry depends on recovered paper for much of its fiber to manufacture new paper and paperboard, especially for the manufacture of packaging materials used to transport China’s exports to the U.S. and around the world.

The “FAO Yearbook of Forest Products, 2015” published this year by the Food and Agriculture Organization of the United Nations (FAO) uses the term “recovered paper”, and defines it as “waste and scraps of paper or paperboard that have been collected for re-use or trade. It includes: paper and paperboard that has been used for its original purpose and residues from paper and paperboard production.” The FAO, which received its data from China and other member governments, would not be tracking the production, consumption, exports and imports of recovered paper if it was solid waste rather than an important raw material for the manufacture of paper and paperboard.

The New “Carried Waste” Level Is Prohibitive and Is Not Proportional to Regulation’s Objective

China’s sovereign right to protect the health and safety of its people and its environment is not in question. However, China’s action is not proportional to the intent of the regulation’s objective. The announced change in GB 16487.4 for “carried waste” for imports of recovered paper from 1.5 percent to 0.5 percent is so restrictive that the application of this regulation will effectively result in a ban on the importation of many grades of recovered paper. We have been informed by experts in the recovered paper supply chain that technically it would be very difficult if not impossible to achieve such a strict quality control limit.

The current recovered paper grade definitions and related quality guidelines followed by U.S. recyclers, haulers and exporters are found in the “Scrap Specifications Circular 2017” issued by the Institute of Scrap Recycling Industries, Inc. (ISRI) and vary for specific grades. For examples, for “outthrows”¹, similar to “carried waste”, the permitted limit generally vary from 1.0 percent to 5.0 percent. In Europe, EN 643 – The European List of Standard Grades of Paper and Board for Recycling – has a tolerance level for non-paper components for a majority of recovered paper grades of 1.5 percent, similar to the current “carried waste” level in GB 16487.4.

AF&PA believes that these import regulations violate Article 2 of the TBT Agreement that states that “Technical regulations shall not be maintained if the circumstances or

¹ *ISRI Scrap Specifications Circular 2017*, Outthrows: Outthrows shall be understood to be all papers that are so manufactured or treated or are in such form as to be unsuitable for consumption as the grade specified.

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objectives giving rise to their adoption...can be addressed in a less-trade restrictive manner". China is using prohibitive technical regulations rather than enforce its current 1.5 percent "carried waste" limit by its customs authorities at the port of importation. Violation of this technical regulation is a customs and law enforcement issue and China should not put restriction on international trade as an expedient solution.

China's restrictive "carried waste" level for imported recovered paper under HS 4707100000, 4707200000 and 4707300000, together with the ban on recovered paper imported under HS 4707900090, will adversely affect recovered paper imports from the U.S. that amounted to 12.8 million metric tons in 2016 with a value of \$2.3 billion. This recovered paper primarily is used to manufacture new products by China's paper and paperboard mills, especially packaging paper and paperboard materials to transport and protect goods domestically and for export.

Domestic Regulations Should Not Discriminate Against Recovered Paper Imports

China's restrictive regulations on recovered paper imports violate the WTO's national treatment provisions of TBT Article 2.1 and the WTO (GATT) Article III which require that imports be treated no less favorably than the same or similar domestically-produced goods. According to the 18 July statements by the General Office of the State Council, China intends to drastically reduce the quantity of imported solid waste by integrated use of legal, economic and administrative means. At the same time, the document indicated that China plans to strengthen and expand its domestic recycling economy.

We question whether the same regulations will apply to domestic operators. In the case of recovered paper, we are not aware of any standards for domestic operations. In the apparent absence of domestic regulation, we must conclude that China's paper mills will be able to accept recovered paper for reprocessing from domestic operators regardless of the quality of the recovered paper but with limited access for recovered paper imports from the U.S. and other countries.

Inadequate Transition Period Is Allotted

While AF&PA opposes China's restrictive "carried waste" limit on recovered paper imports and the absolute ban on mixed paper imports, we would note that the transition period provided by China is not sufficient to allow for compliance by U.S. operators. China's 15 November 2017 WTO notification indicates that the new "carried waste" limit will be adopted on 31 December 2017 and enter into force on 1 March 2018. We do not believe China has identified any change in circumstance that would require the urgent implementation of the new regulation on a commodity that has been imported into China for many decades. We urge Chinese authorities to provide a longer, multi-year transition period to allow U.S. operators to comply with any new "carried waste" limit.

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U.S. Recovered Paper Is a Critical Raw Material for China's Paper and Paperboard Mills

China has the world's largest paper and paperboard industry and is the world's largest consumer of recovered paper. According to the FAO report cited above, China's paper and paperboard mills used 82.6 million metric tons of recovered paper in 2015, or about 37 percent of the world's recovered paper consumption. Also, according to China Customs, China's recovered paper imports from all sources were 29.3 million metric tons in 2015, of which imports from the U.S. were 13 million metric tons, or about 16 percent of China's total recovered paper consumption that year.

We question that China can cut imports of recovered paper and replace it by raising the amount of recovered paper from domestic sources. China is short of good quality recovered paper because its recycling system lacks a sufficient inflow of new wood-fiber based recovered paper. Moreover, a large portion of China's packaging paperboard is used to package and transport other exported goods and so does not remain in China for recycling. On its own, the quality of China's recovered paper will diminish since recycled fiber can be reused only 4-7 times before it loses too much strength and bonding capacity. As a result, China's recycling system needs the infusion of recovered paper from the U.S. that was primarily manufactured from new wood fibers. These new fibers are especially needed for the manufacture of paper and paperboard packaging materials used to package exported goods but also to supply the growing domestic consumption of packaged goods.

We urge that Chinese authorities engage with WTO member states and with respective recovered paper operators to ensure that the global recycling system is not impaired and international trade in recovered paper is not hampered. We would be glad to respond to any questions regarding the issues raised in these comments.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Jacob Handelsman", with a long horizontal flourish extending to the right.

Jacob Handelsman