

Paper: The Next Trade Skirmish

America takes on China and Indonesia this time

[Hana R. Alberts](#)

Forbes

September 24, 2009

HONG KONG -- A trade tiff over tires may escalate into a full-fledged trade war, with American unions taking on Asian exporters.

Three American paper companies, joined by the union that represents their workers, charged on Wednesday that unfair trade practices in China and Indonesia have cost thousands of Americans their jobs by driving down the cost of paper.

The three companies plus the United Steelworkers (USW) union submitted petitions to the U.S. Department of Commerce and the International Trade Commission (ITC). They claimed that certain types of coated paper imported from China and Indonesia have eliminated thousands of American jobs and are hurting American producers.

Joined by three paper companies located in ailing industrial regions, including Appleton Coated in Kimberly, Wisc., [Sappi](#) ([SPP](#) - [news](#) - [people](#)) Fine Paper of Boston, and NewPage Corp. in Miamisburg, Ohio, the union is calling for antidumping and anti-subsidy duties against Chinese and Indonesian coated paper, which they say flooded the American market. The Steelworkers union represents 850,000 American workers nationwide, including 6,000 paper mill workers employed by the three companies.

Earlier this month, China protested vehemently when President Barack Obama levied a 35% tariff on tire imports. China complained to the World Trade Organization about the U.S. tariffs. In addition, China retaliated by launching investigations into whether the U.S. is dumping chicken products and auto parts at unfair prices in its market. The new paper lawsuit is sure to further escalate trade tensions between China and the U.S.

In order to win the case, according to Winston & Strawn partner William Barringer, there must be sufficient evidence not only that the governments of these countries are unlawfully aiding the production of these paper goods and lowering their prices, but also that increased imports directly injure domestic producers. Unlike the tire trade case, however, the final decision is not up to the president but is instead in the hands of the Commerce Department and the ITC, which will evaluate the petitions.

The three paper companies said in a statement that in China, the government helps producers by offering them low-interest loans, granting them tax subsidies and undervaluing the currency to keep prices down, among other measures. Indonesian companies, on the other hand, received government loans, timber from government-owned land, debt forgiveness and tax incentives to encourage them to boost their production, the U.S. paper firms said.

From January through June of 2009, total imports of paper jumped 29% to 185,422 tons from 131,687 in the first half of 2008. Paper shipped from China and India together account for nearly 30% of the U.S. paper market, which, the petitions say, is double the market share they had last year. During the same period, the petitions estimated, covered coated paper shipments by domestic manufacturers declined by 38%.

"We have watched as paper machines at each of the companies shut down from surging China and Indonesian imports," Jon Geenen, USW's international vice president, said in a statement on the union's Web site.

This case has a precedent--and it's on Asia's side. Domestic companies brought the same charge against China in 2007, but it was struck down by the ITC.

"They lost last time at the ITC because they couldn't prove injury," Elliott Feldman, head of the international trade practice at Baker & Hostetler in Washington, wrote in an e-mail, adding that the ITC ruled in favor of the petitioners in the tire case but against it in the paper case, which were filed under different statutes. "[T]hey are trying again, presumably banking on the impact of the recession to make their case. It is the more prominent role of the union that might be ascribed to the tires case, but not the fact of the petition itself."

The U.S. claimants must provide compelling evidence to back up their argument, according to Barringer, whose firm represented the Chinese government in the 2007 paper case, and will represent China's largest paper producer, Asia Pulp & Paper, in the current case. His firm has also been retained to represent the Chinese in their WTO appeal of the tire-tariff decision.

First, he said, the petitioners have to show that the imported paper directly competes against the goods produced by domestic manufacturers. "They are sold in rolls, which are then cut into pieces by purchasers, whereas what they Chinese are selling is already in sheets," he said. "The fact of the matter is the overwhelming cause of injury in the U.S. manufacturing industry today is decline in demand not imports."

The union's recent victory in securing the imposition of the tire tariffs could buoy its case--or it might alienate the president because of the timing. His election was partly due to strong union support, but Obama has to face China's premier, Hu Jintao, at the G-20 summit Thursday.

"Is it intentional to follow up on the tire case, to tell the world that we're the unions, we have Obama behind us and the tire case was just step No. 1?" said Dan Harris, an attorney at Seattle-based Harris & Moure and an editor of the firm's China law blog. "But isn't this going to make it difficult for Obama?"

Further complicating matters is a separate case brought by two tire companies. Currently stalled in the U.S. court system, the plaintiffs effectively argue that the anti-dumping and countervailing duties charges against China filed on Wednesday are themselves illegal. If that case, GPX International and Hebei Starbright v. United States, is decided in the Chinese tire manufacturers' favor, then the entire paper case is null, not to mention every similar case filed since November 2006.

A preliminary ruling from the ITC on whether paper imports have damaged the U.S. economy is expected by mid-November. After that, it is in the hands of the Department of Commerce to

evaluate the anti-dumping claims and decide whether to impose a countervailing duty to balance out the effect of the alleged government subsidization by China and Indonesia. Then, about a year from now, the ITC will make a final decision.