



C-122-862
Investigation
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DATE: January 8, 2018

MEMORANDUM TO: Gary Taverman
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations,
performing the non-exclusive functions and duties of the
Assistant Secretary for Enforcement and Compliance

FROM: James P. Maeder
Senior Director
performing the duties of Deputy Assistant Secretary for
Antidumping and Countervailing Duty Operations

SUBJECT: Decision Memorandum for the Affirmative Preliminary
Determination in the Countervailing Duty Investigation of Certain
Uncoated Groundwood Paper from Canada

I. SUMMARY

The Department of Commerce (Commerce) preliminarily determines that countervailable subsidies are being provided to producers of certain uncoated groundwood paper (UGW paper) in Canada, as provided in section 703 of the Tariff Act of 1930, as amended (the Act).

II. BACKGROUND

A. Initiation and Case History

On August 9, 2017, Commerce received antidumping duty (AD) and countervailing duty (CVD) petitions concerning imports of UGW paper from Canada, filed on behalf of North Pacific Paper Company (the petitioner).¹ Prior to Commerce's initiation of this investigation, we received a request from White Birch Paper Canada Company NSULC (White Birch Paper NSULC) and its three wholly-owned subsidiaries, all producers/exporters of UGW paper in Canada, to participate

¹ See Petitioner's Letter, "Petitions for the Imposition of Antidumping and Countervailing Duties on Uncoated Groundwood Paper from Canada," dated August 9, 2017 (the Petition).

as a voluntary respondent.² We subsequently also received requests from Catalyst Paper Company (CPC) to participate as a voluntary respondent.³

On September 1, 2017, we initiated a CVD investigation on UGW paper from Canada.⁴ In the *Initiation Notice*, Commerce notified parties of an opportunity to comment on the scope of the investigation.⁵ Commerce received timely scope comments on the record of this investigation, as well as on the record of the companion AD investigation, from September 2017 through December 2017.⁶ Commerce intends to issue its preliminary decision regarding these scope comments in the preliminary determination of the companion AD investigation.

Respondent Selection

The Petition identified seven companies in Canada that produce and/or export UGW paper to the United States. In the *Initiation Notice*, Commerce stated that, where appropriate, it intended to select respondents based on U.S. Customs and Border Protection (CBP) data for U.S. imports of UGW paper under the appropriate Harmonized Tariff Schedule of the United States (HTSUS) subheadings.⁷ Accordingly, on August 30, August 31, and September 1 2017, we released the

² See White Birch NSULC's, Papier Masson WB (White Birch) LP's (Papier Masson's), FF Soucy WB LP (FF Soucy), and Stadacona WB LP (Stadacona's) (collectively, White Birch Paper and its Mills') Letter, "Certain Uncoated Groundwood Paper from Canada, Case No. C-122-862: Request for Voluntary Respondent Treatment," dated August 29, 2017. White Birch and its Mills reiterated this request twice on August 30, 2017, and again on September 15, 2017, September 20, 2017, and September 26, 2017.

³ See CPC, Catalyst Pulp and Paper Sales Inc. (CPPSI) and Catalyst Paper (USA) Inc.'s Letter, "Certain Uncoated Groundwood Paper from Canada: Catalyst's Entry of Appearance, Application for Administrative Protective Order, and Request for Voluntary Respondent Treatment," dated August 28, 2017. CPC reiterated this request on September 6, 2017, September 19, 2017, and September 21, 2017. See CPC's, CPPSI's, and Catalyst Paper (USA) Inc.'s, "Uncoated Groundwood Paper from Canada: Catalyst's Comments on Respondent Selection," dated September 5, 2017 (Catalyst Respondent Selection Comments); CPC's, CPPSI's, and Catalyst Paper (USA) Inc.'s, "Certain Uncoated Groundwood Paper from Canada: Catalyst's Response to White Birch Paper Regarding Voluntary Respondent Treatment and Conditional Request for Voluntary Respondent Treatment," dated September 19, 2017; and CPC's, CPPSI's, and Catalyst Paper (USA) Inc.'s, "Certain Uncoated Groundwood Paper from Canada: Catalyst's Second Response to White Birch Paper Regarding Voluntary Respondent Treatment," dated September 21, 2017.

⁴ See *Certain Uncoated Groundwood Paper from Canada: Initiation of Countervailing Duty Investigation*, 82 FR 41603 (September 1, 2017) (*Initiation Notice*).

⁵ See *Initiation Notice*, 82 FR at 41604.

⁶ See CPC's, CPPSI's, and Catalyst Paper (USA) Inc.'s Letter, "Certain Uncoated Groundwood Paper from Canada: Catalyst's Scope Comments," dated September 18, 2017; The Government of British Columbia's (GBC's) Letter, "Uncoated Groundwood Paper from Canada: Scope Comments of the Government of British Columbia," dated September 18, 2017; The Government of Canada's (GOC's) Letter, "Uncoated Groundwood Paper from Canada: Scope Comments of the Government of Canada," dated September 18, 2017; Petitioner's Letter, "Certain Uncoated Groundwood Paper from Canada/ Rebuttal Comments to Catalyst, the Government of Canada, and the Government of British Columbia Scope Comments," dated September 28, 2017; Petitioner's Letter, "Certain Uncoated Groundwood Paper from Canada: Additional Comments on Scope," dated October 2, 2017; Kruger Trois-Rivières's (KTR's) Letter, "Uncoated Groundwood Paper from Canada: Additional Scope Comments Rebuttal of Kruger Trois-Rivières L.P.," dated October 10, 2017; Petitioner's Letter, "Certain Uncoated Groundwood Paper from Canada: Additional Comments on Scope," dated November 13, 2017; and Petitioner's Letter, "Certain Uncoated Groundwood Paper from Canada: Additional Comments on Scope," dated December 29, 2017.

⁷ See *Initiation Notice*, 82 FR at 41606.

CBP entry data to all interested parties under an administrative protective order (APO), and requested comments regarding the data and respondent selection.⁸

On September 1, 2017, and September 5, 2017, we received comments from certain interested parties identifying deficiencies in the CBP data placed on the record.⁹ Two of these parties argued that these data were fundamentally flawed, such that they could not be used as the basis of respondent selection.^{10,11} Therefore, they requested that Commerce solicit quantity and value (Q&V) data from the producers of subject merchandise named in the Petition and use these data as the basis for respondent selection in this investigation. After examining the CBP data, we agreed that data contained certain flaws which made the CBP data unreliable for respondent selection purposes, and on September 5, 2017, we solicited Q&V data from all known producers of subject merchandise.¹² We received responses to these questionnaires on September 7, 2017,¹³ as well as comments on these responses on September 11, 2017.¹⁴

⁸ See Memoranda, “Countervailing Duty Investigation of Certain Uncoated Groundwood Paper from Canada: Customs Data for Use in Respondent Selection,” dated August 30, 2017, August 31, 2017, and September 1, 2017.

⁹ See White Birch Paper Canada Company NSULC’s (White Birch NSULC’s), Papier Masson WB (White Birch) LP’s (Papier Masson’s), FF Soucy WB LP’s (FF Soucy’s), and Stadacona WB LP (Stadacona’s) (collectively, White Birch Paper and its Mills’) Letter, “Certain Uncoated Groundwood Paper from Canada, Case No. C-122-862: Comments on CBP Data and Respondent Selection,” dated September 1, 2017 (White Birch First Respondent Selection Comments); Alberta Newsprint Company’s Letter, “Uncoated Groundwood Paper from Canada: Comments on CBP Data and Respondent Selection,” dated September 5, 2017 (ANC Respondent Selection Comments); Catalyst Respondent Selection Comments; Resolute FP Canada Inc.’s (Resolute FP Canada’s) and Resolute FP US Inc.’s Letter, “Uncoated Groundwood Paper from Canada: Comments on CBP Data and Respondent Selection,” dated September 5, 2016 (Resolute Respondent Selection Comments); and White Birch Paper and its Mills’ Letter, “Certain Uncoated Groundwood Paper from Canada, Case No. C-122-862: Comments on CBP Data and Respondent Selection,” dated September 5, 2017 (White Birch Second Respondent Selection Comments).

¹⁰ See ANC Respondent Selection Comments at 2; Resolute Respondent Selection Comments at 2 to 3; White Birch First Respondent Selection Comments at 2; and White Birch Second Respondent Selection Comments at 6.

¹¹ As noted above, in these comments, as well as in separate submissions, Catalyst and White Birch requested to participate in this investigation as voluntary respondents, if they were not selected as mandatory ones.

¹² See Commerce Letter re: Quantity and Value Questionnaire, dated September 7, 2017.

¹³ See Alberta Newsprint Company’s Letter, “Uncoated Groundwood Paper from Canada: Response to Quantity and Value Questionnaire,” dated September 7, 2017; CPC’s, CPPSI’s, and Catalyst Paper (USA) Inc.’s Letter, “Certain Uncoated Groundwood Paper from Canada: Catalyst’s Response to the Department’s Quantity and Value Questionnaire,” dated September 7, 2017; Corner Brook Pulp and Paper Limited’s (CBPP’s) Letter, “Uncoated Groundwood Paper from Canada: Quantity and Value Response,” dated September 7, 2017; KTR’s Letter, “Uncoated Groundwood Paper from Canada: Quantity and Value Response,” dated September 7, 2017; Irving Paper Limited’s Letter, “Countervailing Duty Investigation of Certain Uncoated Groundwood Paper from Canada: Submission of Quantity and Value Data,” dated September 7, 2017; Resolute FP Canada’s and Resolute FP US Inc.’s Letter, “Uncoated Groundwood Paper from Canada: Response to Quantity and Value Questionnaire,” dated September 7, 2016; Tembec, Inc.’s Letter, “Uncoated Groundwood Paper from Canada Response to Quantity and Sales Value Questionnaire,” dated September 7, 2017; White Birch Paper and its Mills’ and Bear Island Paper WB LLC’s Letter, “Certain Uncoated Groundwood Paper from Canada, Case No. C-122-862: Quantity and Value Questionnaire Response,” dated September 7, 2017; and White Birch Paper and its Mills’ and Bear Island Paper WB LLC’s Letter, “Certain Uncoated Groundwood Paper from Canada, Case No. C-122-862: {Revised} Response to Quantity and Value Questionnaire,” dated September 7, 2017.

¹⁴ See Resolute’s Letter, “Uncoated Groundwood Paper from Canada: Comments on Quantity and Value Questionnaire Responses,” dated September 11, 2017; White Birch Paper and its Mills’ and Bear Island Paper WB LLC’s Letter, “Certain Uncoated Groundwood Paper from Canada, Case No. C-122-862: Comments on Quantity and Value Questionnaire Responses,” dated September 11, 2017; and Petitioner’s Letter, “Certain Uncoated

On September 22, 2017, Commerce limited the number of respondents selected for individual examination to the three largest publicly-identifiable producers/exporters of the subject merchandise by volume.¹⁵ Accordingly, we selected CPC, KTR, and Resolute FP Canada as mandatory respondents in this investigation and issued the CVD questionnaire to them, as well as to the GOC.

On October 5, 2017, we reassessed our resource availability and concluded that, should White Birch NSULC timely file responses to all sections of the questionnaires issued in these investigations, Commerce would examine it as a voluntary respondent.¹⁶

B. Questionnaires and Responses

As noted above, in September 2017, we issued CVD questionnaires to CPC, KTR, Resolute FP Canada, and the GOC. In October 2017, we received timely responses to the “affiliated companies” section of the questionnaires from each of these companies as well as from White Birch NSULC.¹⁷ In their responses, the companies reported that they had a number of cross-owned affiliates.¹⁸ Therefore, we hereinafter refer to Catalyst Paper Company and its cross-owned affiliates as “Catalyst,” KTR and its cross-owned affiliates as “Kruger,” Resolute FP Canada and its cross-owned affiliates as “Resolute,” and White Birch NSULC and its cross-owned affiliates as “White Birch.”

Also in October 2017, we issued supplemental questionnaires to Kruger and White Birch regarding their “affiliated companies” response; we received timely responses to these questionnaires in the same month.¹⁹

Groundwood Paper from Canada/ Rebuttal Comments on Kruger Quantity and Value Response - Countervailing Duty Investigation, dated September 11, 2017.

¹⁵ See Memorandum, “Respondent Selection for the Countervailing Duty Investigation of Certain Uncoated Groundwood Paper from Canada,” dated September 22, 2017.

¹⁶ See Memorandum, “AD/CVD Investigations of Uncoated Groundwood Paper from Canada,” dated October 5, 2017.

¹⁷ See CPC’s October 6, 2017 Affiliation Response (Catalyst October 6, 2017 AFFR); KTR’s October 6, 2017 Affiliation Response (Kruger October 6, 2017 AFFR); Resolute FP Canada’s October 6, 2017 Affiliation Response (Resolute October 6, 2017 AFFR); and White Birch’s October 6, 2017 Affiliation Response (White Birch October 6, 2017 AFFR).

¹⁸ For further discussion, see the “Attribution of Subsidies” section of this memorandum, below.

¹⁹ See Kruger’s October 26, 2017 Supplemental Affiliation Response (Kruger October 26, 2017 SAFFR); and White Birch’s October 26, 2017 Supplemental Affiliation Response (White Birch October 26, 2017 SAFFR).

In November 2017, we received timely responses to the remainder of the initial questionnaires from Catalyst,²⁰ Kruger,²¹ Resolute,²² and White Birch,²³ as well as to the entire questionnaires issued to the GOC²⁴ (including responses from the governments of six provinces in Canada).²⁵ Also in November 2017, the petitioner submitted timely new factual information (NFI) to rebut, clarify, and/or correct information in the respondents' questionnaire responses, pursuant to 19 CFR 351.301(c)(1)(v).²⁶ Catalyst provided timely additional NFI in response to these comments in December 2017.²⁷

In November and December 2017, we issued supplemental questionnaires to each of the respondents and certain of the governments, as well as to the Government of Nova Scotia (GNS);

²⁰ See Catalyst's November 9, 2017 Initial Questionnaire Response (Catalyst November 9, 2017 IQR) and Catalyst's November 13, 2017 Initial Stumpage Questionnaire Response (Catalyst November 13, 2017 Stumpage IQR).

²¹ See Kruger's November 9, 2017 Initial Questionnaire Response (Kruger November 9, 2017 IQR).

²² See Resolute's November 9, 2017 Initial Questionnaire Response (Resolute November 9, 2017 IQR) and Resolute's November 13, 2017 Initial Stumpage Questionnaire Response (Resolute November 13, 2017 Stumpage IQR).

²³ See White Birch's November 9, 2017 Initial Questionnaire Response (White Birch November 9, 2017 IQR) and White Birch's November 13, 2017 Initial Questionnaire Response (White Birch November 13, 2017 Stumpage IQR).

²⁴ See the GOC's November 9, 2017 Initial Questionnaire Response (GOC November 9, 2017 IQR); and the GOC's November 13, 2017 Initial Stumpage Questionnaire Response (GOC November 13, 2017 Stumpage IQR).

²⁵ See the Government of Alberta's November 6, 2017 Initial Questionnaire and Stumpage Questionnaire Response; the Government of New Brunswick's November 6, 2017 Initial Questionnaire and Stumpage Questionnaire Response; the GBC's November 9, 2017 Initial Questionnaire Response (GBC November 9, 2017 IQR); the Government of Newfoundland and Labrador's (GNL's) November 9, 2017 Initial Questionnaire Response (GNL November 9, 2017 IQR); the Government of Ontario (GOO's) November 9, 2017 Initial Questionnaire Response (GOO November 9, 2017 IQR); the Government of Québec's (GOQ's) November 9, 2017 Initial Questionnaire Response (GOQ November 9, 2017 IQR); the GBC's November 13, 2017 Initial Stumpage Questionnaire Response (GBC November 13, 2017 Stumpage IQR); the GOO's November 13, 2017 Initial Stumpage Questionnaire Response (GOO November 13, 2017 Stumpage IQR); and the GOQ's November 13, 2017 Initial Questionnaire Response (GOQ November 13, 2017 Stumpage IQR).

²⁶ See Petitioner's Letter, "Certain Uncoated Groundwood Paper from Canada: Petitioner's Deficiency Comments on the Initial Non-Stumpage Questionnaire Responses of Catalyst, Kruger, Resolute, and White Birch, and Rebuttal Factual Information," dated November 22, 2017; and Petitioner's Letter, "Certain Uncoated Groundwood Paper from Canada: Petitioner's Submission of Information To Rebut, Clarify or Correct Catalyst Paper's November 13, 2017 Initial Stumpage/Wood Products Questionnaire," dated November 27, 2017.

²⁷ See Catalyst's Letter, "Certain Uncoated Groundwood Paper from Canada: Catalyst's Rebuttal to Petitioner's Stumpage Questionnaire Response Comments," dated December 4, 2017.

we received timely responses to the questionnaires in December 2017^{28,29} and January 2018.³⁰ In addition, Commerce also received pre-preliminary comments and rebuttal comments from various interested parties from December 21, 2017 through January 5, 2018. Certain of these responses and comments were received too late for consideration in this preliminary determination; however, as appropriate we intend to verify this information and consider it for purposes of the final determination.

In January 2018, the GOC and the GOO submitted timely NFI to rebut, clarify, and/or correct information in the GNS's questionnaire responses, pursuant to 19 CFR 351.301(c)(1)(v).³¹ Also in January 2018, the petitioner submitted timely NFI to rebut, clarify, and/or correct information in Catalyst's questionnaire responses, pursuant to 19 CFR 351.301(c)(1)(v).³²

C. New Subsidy Allegations

In October 2017, the petitioner submitted six timely new subsidy allegations (NSAs) with respect to Resolute.³³ In the same month, Resolute and the GOQ provided timely NFI in response to the

²⁸ See Catalyst's December 12, 2017 First Supplemental Questionnaire Response (Catalyst December 12, 2017 1SQR); White Birch's December 12, 2017 Supplemental Questionnaire Response (White Birch December 12, 2017 SQR); Resolute's December 15, 2017 Supplemental Questionnaire Response (Resolute December 15, 2017 SQR); White Birch's December 15, 2017 Supplemental Questionnaire Response (White Birch December 15, 2017 SQR); Kruger's December 18, 2017 Supplemental Questionnaire Response (Kruger December 18, 2017 SQR); White Birch's December 18, 2017 Supplemental Questionnaire Response (White Birch December 18, 2017 SQR); Catalyst's December 20, 2017 Supplemental Questionnaire Response (Catalyst December 20, 2017 SQR); Resolute's December 20, 2017 Stumpage Supplemental Questionnaire Response (Resolute December 20, 2017 Stumpage SQR); and Resolute's December 20, 2017 Non-Stumpage Supplemental Questionnaire Response (Resolute December 20, 2017 Non-Stumpage SQR); Resolute's December 21, 2017 Supplemental Questionnaire Response (Resolute December 21, 2017 SQR); Kruger's December 22, 2017 Supplemental Questionnaire Response (Kruger December 22, 2017 SQR); and Kruger's December 29, 2017 Supplemental Questionnaire Response (Kruger December 29, 2017 SQR).

²⁹ See the GOC's December 20, 2017 Supplemental Questionnaire Response (GOC December 20, 2017 SQR); the GBC's December 20, 2017 Supplemental Questionnaire Response (GBC December 20, 2017 SQR); the GNL's December 22, 2017 Supplemental Questionnaire Response (GNL December 22, 2017 SQR); the GNS's December 21, 2017 Supplemental Questionnaire Response (GNS December 21, 2017 SQR); the GOO's December 21, 2017 Supplemental Questionnaire Response (GOO December 21, 2017 SQR); the GOQ's December 22, 2017 Supplemental Questionnaire Response (GOQ December 22, 2017 SQR); and the GBC's December 28, 2017 Supplemental Questionnaire Response (GBC December 28, 2017 SQR).

³⁰ See Resolute's January 4, 2018 Supplemental Questionnaire Response (Resolute January 4, 2018 SQR); and the GNS's January 5, 2018 Stumpage Supplemental Questionnaire (GNS January 5, 2018 Stumpage SQR).

³¹ See the GOC's Letter, "Uncoated Groundwood Paper from Canada: Factual Information Submitted in Response to the Government of Nova Scotia's Supplemental Response," dated January 2, 2018; and the GOO's Letter, "Countervailing Duty Investigation of Uncoated Groundwood Paper from Canada: Factual Information in Response to Nova Scotia Supplemental Questionnaire Response," dated January 2, 2018.

³² See Petitioner's Letter, "Certain Uncoated Groundwood Paper from Canada: Petitioner's Additional Deficiency Comments and Submission of Information to Rebut, Clarify or Correct Catalyst Paper's December 20, 2017 Supplemental Stumpage/Wood Products Questionnaire," dated January 2, 2018.

³³ See Petitioner's Letter, "Investigation on Imports of Uncoated Groundwood Paper from Canada: New Subsidy Allegations Regarding Resolute FP Canada Inc.," dated October 17, 2017 (October 17 NSAs).

allegations, pursuant to 19 CFR 351.301(c)(2)(vi).³⁴ In November 2017, the petitioner responded to the GOQ's submission.³⁵

After considering the information on the record, in November 2017, Commerce initiated an investigation of four of the alleged new programs³⁶ and issued questionnaires to Resolute and the GOC related to those programs.³⁷ Commerce found that the petitioner provided inadequate support with respect to the remaining two NSAs.³⁸ In December 2015, we received responses to the NSA questionnaires from Resolute, the GOC, the GNS, the GOO, and the GOQ.³⁹ In this same month, the petitioner submitted timely NFI to rebut, clarify, and/or correct information in the these responses, pursuant to 19 CFR 351.301(c)(1)(v).⁴⁰

Finally, on November 29, 2017, the petitioner submitted an additional 15 NSAs with respect to one or more of the respondents, and a creditworthiness allegation with respect to Kruger.⁴¹ After considering these NSAs, we are also initiating an investigation with respect to 14 of the alleged new programs and Kruger's creditworthiness related to the loan subject to the allegation.⁴² Because we have already initiated an investigation with respect to the remaining NSA, we find it unnecessary to consider it anew.⁴³ Further, we note that, where the respondents self-reported sufficient data related to the new programs under consideration, we have analyzed these data for purposes of the preliminary determination. For those programs not addressed in this preliminary

³⁴ See Resolute's Letter, "Countervailing Duty (CVD) Investigation of Certain Uncoated Groundwood Paper from Canada: Resolute's Rebuttal of Petitioner's New Subsidy Allegations," dated October 27, 2017; and GOQ's Letter, "Countervailing Duty Investigation of Uncoated Groundwood Paper from Canada: Response of the Government of Québec to Petitioner's New Subsidy Allegations Regarding Resolute FP Canada Inc.," dated October 27, 2017.

³⁵ See Petitioner's Letter, "Certain Uncoated Groundwood Paper from Canada: Petitioner's Response to the Government of Québec's October 27, 2017 Comments on Petitioner's New Subsidy Allegations," dated November 3, 2017.

³⁶ See Memorandum, "Decision Memorandum on New Subsidy Allegations," dated November 8, 2017 (Resolute NSA Memorandum).

³⁷ On November 15, 2017, the petitioner requested that Commerce also issue questionnaires related to these NSAs to the other respondents in this case. See Petitioner's Letter, "Certain Uncoated Groundwood Paper from Canada: Petitioner's Comments Regarding the Applicability of the New Subsidy Allegations with Respect To All Mandatory And Voluntary Respondents," dated November 15, 2017. However, because the petitioner's NSA allegations were clearly limited to Resolute, we did not issue additional questionnaires to the remaining respondents related to the initiated programs.

³⁸ See Resolute NSA Memorandum at 8 and 10.

³⁹ See GOC's December 1, 2017 NSA Questionnaire Response (GOC December 1, 2017 NSAR); GNS's December 1, 2017 NSA Questionnaire Response (GNS December 1, 2017 NSAR); the GOO's December 1, 2017 NSA Questionnaire Response (GOO December 1, 2017 NSAR); GOQ's December 1, 2017 NSA Questionnaire Response (GOQ December 1, 2017 NSAR); and Resolute's December 4, 2017 NSA Questionnaire Response (Resolute December 4, 2017 NSAR). We also received a response from Catalyst, stating that it did not receive any subsidies under the newly-initiated programs. See Catalyst's November 22, 2017 NSA Questionnaire Response.

⁴⁰ See Petitioner's Letter, "Certain Uncoated Groundwood Paper from Canada: Petitioner's Submission of Information To Rebut, Clarify or Correct Information In The New Subsidy Allegation Questionnaire Responses of Resolute, the Government of Nova Scotia, The Government of Québec and The Government of Ontario," dated December 11, 2017.

⁴¹ See Petitioner's Letter, "Certain Uncoated Paper from Canada: New Subsidy Allegations For Kruger, Resolute, and White Birch," dated November 29, 2017 (November 29, 2017 NSAs).

⁴² See Memorandum, "Decision Memorandum on November 29 New Subsidy Allegations," dated January 8, 2018 (January 8, 2018 NSA Initiation Memorandum).

⁴³ See January 8, 2018 NSA Initiation Memorandum at 17.

determination, we have issued or intend to issue NSA questionnaires to the relevant parties and further intend to consider that information for purposes of examining these programs in a post-preliminary determination.

D. Potential Benchmark Data

In December 2017, we received timely-filed NFI related to benchmarks used to measure the adequacy of remuneration under 19 CFR 351.511(a)(2) in this investigation from the petitioner, Catalyst, Kruger, Resolute, the GOO, and the GOQ, pursuant to 19 CFR 351.310(c)(3)(ii).⁴⁴ In this same month, the petitioner and Catalyst each submitted timely NFI to rebut the other's submissions.⁴⁵ In addition, the GOO submitted NFI to clarify electricity-related information provided by Resolute, pursuant to 19 CFR 351.301(c)(3)(iv).⁴⁶

Also in December 2017, we requested that the GNS provide the latest available information related to private stumpage prices in Nova Scotia,⁴⁷ for use as a potential stumpage benchmark in Ontario and Québec. In response, the GNS provided the 2015-2016 GNS Private Stumpage Survey Report, which contains standing timber sales from Nova Scotia private woodlots.⁴⁸ We subsequently requested that the GNS provide the transaction-specific survey response data underlying the 2015-2016 GNS Private Stumpage Survey Report for 2016, in order to have more specific benchmark information; the GNS submitted its response on January 5, 2018.⁴⁹ Given that the GNS submitted this information four days prior the preliminary determination, we have not considered it in our preliminary analysis related to the "Provision of Stumpage for Less Than Adequate Remuneration (LTAR)" programs in Ontario and Québec. However, we intend to verify this information and consider it in our final determination.

⁴⁴ See Kruger's Letter, "Certain Uncoated Groundwood Paper from Canada: New Factual Information Submission," dated December 8, 2017; GOO Letter, "Countervailing Duty Investigation of Uncoated Groundwood Paper from Canada: Factual Information to Measure the Adequacy of Remuneration," dated December 8, 2017; GOQ Letter, "Certain Uncoated Groundwood Paper from Canada; Government of Québec Submission of Factual Information," dated December 8, 2017; Petitioner's Letter, "Certain Uncoated Groundwood Paper from Canada: Petitioner's Benchmark Data Factual Information Submission," dated December 11, 2017 (Petitioner December 11, 2017 Benchmark Submission); Catalyst's Letter, "Certain Uncoated Groundwood Paper from Canada," dated December 11, 2017 (Catalyst December 11, 2017 Benchmark Submission); Resolute's Letter, "Countervailing Duty Investigation of Certain Uncoated Groundwood Paper from Canada: Submission of Factual Information to Measure the Adequacy of Remuneration," dated December 11, 2017.

⁴⁵ See Petitioner's Letter, "Certain Uncoated Groundwood Paper from Canada: Petitioner's Rebuttal To Catalyst's Benchmark Data Factual Information Submission," dated December 20, 2017; and Catalyst's Letter, "Certain Uncoated Groundwood Paper from Canada: Catalyst's Rebuttal to Petitioner's Benchmark Information," dated December 21, 2017.

⁴⁶ See the GOO's Letter, "Countervailing Duty Investigation of Uncoated Groundwood Paper from Canada: Clarification to Factual Information Concerning the Adequacy of Remuneration," dated December 21, 2017.

⁴⁷ See Memorandum, "Telephone Conversation with Counsel for Interested Party in the Countervailing Duty Investigation of Uncoated Groundwood from Canada," dated December 26, 2017 (GNS Nova Scotia Stumpage Data Request).

⁴⁸ See the GNS's Letter, "Certain Uncoated Groundwood Paper from Canada: Response of the Government of Nova Scotia to the Department's December 15, 2017 Questionnaire," dated December 21, 2017 (GNS Private Stumpage Survey Report). The petitioner also provided a copy of this report on December 11, 2017. See Petitioner December 11, 2017 Benchmark Submission at Exhibit 11.

⁴⁹ See the GNS's January 5, 2018 Private Stumpage Survey Report.

E. Postponement of the Preliminary Determination

On September 21, 2017, the petitioner requested that Commerce postpone the preliminary determination of this investigation.⁵⁰ Commerce granted the petitioner's request and, on October 13, 2017, we postponed the date of the preliminary determination until January 8, 2018, in accordance with section 703(c)(1)(A) of the Act and 19 CFR 351.205(b)(2).⁵¹

F. Period of Investigation

The period of investigation (POI) is January 1, 2016, through December 31, 2016.

G. Alignment

On December 18, 2017, the petitioner requested that Commerce align the date of the CVD final determination with that of the AD final determination. Therefore, in accordance with section 705(a)(1) of the Act and 19 CFR 351.210(b)(4), and based on the petitioner's request,⁵² we are aligning the final CVD determination in this investigation with the final determination in the companion AD investigation of UGW paper from Canada. Consequently, the final CVD determination will be issued on the same date as the final AD determination, which is scheduled to be issued no later than May 22, 2018, unless postponed.

III. SCOPE OF THE INVESTIGATION

The product covered by this investigation is certain uncoated groundwood paper from Canada. A full description of the products covered by this investigation is provided in Appendix I of the preliminary determination published in the *Federal Register*.

IV. INJURY TEST

Because Canada is a "Subsidies Agreement Country" within the meaning of section 701(b) of the Act, the International Trade Commission (ITC) is required to determine whether imports of the subject merchandise from Canada materially injure, or threaten material injury to, a U.S. industry. On September 25, 2017, the ITC determined that there is a reasonable indication that an industry in the United States (U.S.) is threatened with injury by reason of imports of UGW paper from Canada.⁵³

⁵⁰ See Petitioner's September 21, 2017 Request for Postponement.

⁵¹ See *Certain Uncoated Groundwood Paper from Canada: Postponement of Preliminary Determination in the Countervailing Duty Investigation*, 82 FR 48681 (October 19, 2017).

⁵² See Petitioner's December 18, 2017 Request for Alignment.

⁵³ See *Uncoated Groundwood Paper from Canada; Determinations*, 82 FR 45609 (September 29, 2017).

V. SUBSIDIES VALUATION

A. Allocation Period

Commerce normally allocates the benefits from non-recurring subsidies over the average useful life (AUL) of renewable physical assets used in the production of subject merchandise.⁵⁴ Commerce finds the AUL in this proceeding to be 13 years, pursuant to 19 CFR 351.524(d)(2) and the U.S. Internal Revenue Service's Depreciation Range System, as revised.⁵⁵ Commerce notified the respondents of the 13-year AUL period in the initial questionnaire and requested data accordingly. No party in this proceeding has disputed this allocation period.

Furthermore, for non-recurring subsidies, we have applied the "0.5 percent test," as described in 19 CFR 351.524(b)(2). Under this test, we divide the amount of the subsidies approved under a given program in a particular year by the relevant sales value (*e.g.*, total sales or export sales) for the same year. If the amount of the subsidies is less than 0.5 percent of the relevant sales value, then the benefits are allocated to the year of receipt rather than across the AUL period.

B. Bankruptcy Proceedings during the AUL Period

During the AUL period, two of the respondents, Resolute and White Birch, declared bankruptcy and either took part in a U.S. and Canadian court-ordered restructuring (Resolute) or had their assets sold to unaffiliated parties pursuant to an agreement overseen by U.S. and Canadian courts (White Birch). As a result of these actions, both Resolute and White Birch argued that Commerce should not require them to report subsidies received by their predecessor companies prior to the resolution of the bankruptcy proceedings. For the reasons stated below, we preliminarily find that: 1) we will rely on Resolute's information, as reported (see below for further information); and 2) White Birch's predecessor companies received no allocable non-recurring subsidies attributable to the AUL period prior to bankruptcy.⁵⁶ Therefore, we have not further evaluated Resolute's or White Birch's bankruptcy proceeding for purposes of this preliminary determination. We intend to verify the information submitted by Resolute and White Birch, pursuant to 19 CFR 351.307, and further consider these issues for the final determination.

Resolute/AbitibiBowater Inc.

Prior to 2010, AbitibiConsolidated Inc. and Bowater Incorporated combined in a merger of equals as each became a wholly-owned subsidiary of AbitibiBowater Inc, the predecessor of Resolute Forest Products Inc. (Resolute FP).⁵⁷ On December 9, 2010, AbitibiBowater Inc. emerged from bankruptcy, following reorganization pursuant to 1) creditor protection proceeding under Chapter 11 of the United States Bankruptcy Code; and 2) the Companies' Creditors

⁵⁴ See 19 CFR 351.524(b).

⁵⁵ See U.S. Internal Revenue Service Publication 946 (2015), "How to Depreciate Property" at Table B-2: Table of Class Lives and Recovery Periods.

⁵⁶ See White Birch's December 19, 2017 SQR at Exhibit 49.

⁵⁷ Resolute FP is the ultimate owner of Resolute FP Canada. See Resolute November 9, 2017 IQR at 3.

Arrangement Act (Canada).⁵⁸ Pursuant to the Financial Accounting Standards Board (FASB) Accounting Standards Codification (ASC) 852, Resolute was required to enact “fresh start” accounting.⁵⁹ AbitibiBowater Inc. subsequently elected to apply “fresh start” accounting effective December 31, 2010, to coincide with the timing of the normal December accounting period close. In 2012, AbitibiBowater Inc. legally changed its name to Resolute FP.

Resolute argued that, because of the nature of the “fresh start” program, any subsidies received by AbitibiBowater Inc. prior to 2010 are not relevant to this proceeding.⁶⁰ According to Resolute, the “fresh start” program allowed the value of any subsidies received prior to its bankruptcy proceeding to be subsumed and accounted for in the newly calculated asset values in place after the bankruptcy.⁶¹ Resolute noted that its bankruptcy proceeding was approved under the auspices of the bankruptcy courts. Moreover, Resolute stated that, in accordance with FASB standards, it met all conditions necessary for a company to begin “fresh start” accounting, meaning that the bankruptcy court approved newly allocated values of its assets and liabilities.⁶² For this preliminary determination, we relied on the information reported by Resolute, which covers only the period from January 1, 2011, through December 31, 2016.⁶³ Commerce will continue to evaluate this issue for the final determination and intends to verify the information submitted by Resolute, pursuant to 19 CFR 351.307.

White Birch

In October 2017, White Birch informed Commerce that its predecessor company, White Birch Paper Company, declared bankruptcy in 2010, and in connection with the bankruptcy proceeding, the company and its mills were sold at a bankruptcy auction in September 2012.⁶⁴ White Birch argued that, because of this, it was not “necessary to report subsidies for the prior entities that went bankrupt in 2010 and whose assets were sold out of the bankruptcy.”⁶⁵

On November 28, 2017, we instructed White Birch to respond to a supplemental questionnaire with regard to its 2012 change in ownership.⁶⁶ As part of this questionnaire, we required White Birch to report any subsidies received by “all entities and assets that produced the subject merchandise during the entire AUL period.”⁶⁷ White Birch provided this information on

⁵⁸ *Id.* at 6.

⁵⁹ In accordance with FASB ASC 852, if a company emerges from bankruptcy and meets certain conditions, that company can enact “fresh start” accounting, which provides newly allocated values of its assets and liabilities going forward. *See* Resolute December 20, 2017 Non-Stumpage SQR at 2-3 and Exhibit RES-NS-2.

⁶⁰ *Id.* at 7.

⁶¹ *Id.* at 2 to 3.

⁶² *Id.* at 2 to 3 and Exhibit RES-NS-2.

⁶³ Resolute stated that it “does not have records of payments received under these programs before 2011. As explained in previous submissions, Resolute underwent a merger in 2007 and a bankruptcy in 2010 and, in some cases, is unable to locate records for payments received before and during these transactions.” *See* Resolute’s December 18, 2017 Non-Stumpage SQR at 6 to 7.

⁶⁴ *See* White Birch October 6, 2017 AFFR at 3 to 4.

⁶⁵ *See* White Birch October 26, 2017 SAFFR at 6.

⁶⁶ *See* Commerce Letter re: Countervailing Duty Investigation of Certain Uncoated Groundwood Paper from Canada: First Supplemental Questionnaire, dated November 28, 2017.

⁶⁷ *Id.*

December 18, 2017.⁶⁸ In this submission, White Birch stated that any benefits received under “‘other assistance’ programs {during the pre-bankruptcy portion of the AUL period} are below the 0.5 percent threshold and thus would be expensed in the year of receipt pursuant to 19 C.F.R § 351.524(b)(2).”⁶⁹ We analyzed the data provided by White Birch and preliminarily determine that each of the subsidies received by White Birch’s predecessor companies was less than 0.05 percent and, therefore, would have been expensed prior to the POI.. We intend to verify White Birch’s submission, including the value of any subsidies received during the entire AUL period, pursuant to 19 CFR 351.307.

C. Attribution of Subsidies

Cross-Ownership

In accordance with 19 CFR 351.525(b)(6)(i), Commerce normally attributes a subsidy to the products produced by the company that received the subsidy. However, 19 CFR 351.525(b)(6)(ii)-(v) provides additional rules for the attribution of subsidies received by respondents with cross-owned affiliates. Subsidies to the following types of cross-owned affiliates are covered in these additional attribution rules: (ii) producers of the subject merchandise; (iii) holding companies or parent companies; (iv) producers of an input that is primarily dedicated to the production of the downstream product; or (v) an affiliate producing non-subject merchandise that otherwise transfers a subsidy to a respondent.

According to 19 CFR 351.525(b)(6)(vi), cross-ownership exists between two or more corporations where one corporation can use or direct the individual assets of the other corporation(s) in essentially the same ways it can use its own assets. This section of Commerce’s regulations states that this standard will normally be met where there is a majority voting ownership interest between two corporations or through common ownership of two (or more) corporations. The *Preamble*⁷⁰ to Commerce’s regulations further clarifies Commerce’s cross-ownership standard. According to the *Preamble*, relationships captured by the cross-ownership definition include those where:

{T}he interests of two corporations have merged to such a degree that one corporation can use or direct the individual assets (or subsidy benefits) of the other corporation in essentially the same way it can use its own assets (or subsidy benefits) . . . Cross-ownership does not require one corporation to own 100 percent of the other corporation. Normally, cross-ownership will exist where there is a majority voting ownership interest between two corporations or through common ownership of two (or more) corporations. In certain circumstances, a large minority voting interest (for example, 40 percent) or a “golden share” may also result in cross-ownership.⁷¹

⁶⁸ See White Birch December 18, 2017 SQR.

⁶⁹ *Id.* at 3.

⁷⁰ See *Countervailing Duties; Final Rule*, 63 FR 65347 (November 25, 1998) (*Preamble*).

⁷¹ *Id.*, 63 FR at 65401.

Thus, Commerce's regulations make clear that the agency must look at the facts presented in each case in determining whether cross-ownership exists.

The U.S. Court of International Trade (CIT) has upheld Commerce's authority to attribute subsidies based on whether a company could use or direct the subsidy benefits of another company in essentially the same way it could use its own subsidy benefits.⁷²

Catalyst

Catalyst responded to Commerce's questionnaire on behalf of the following affiliated companies:⁷³

- Catalyst Paper, the producer of subject merchandise;
- CPC, the parent company and managing partner of Catalyst Paper and the Catalyst entity selected as a mandatory respondent in this investigation;
- Catalyst Pulp Operations Limited (CPOL), the other general partner of Catalyst Paper;
- Catalyst Pulp and Paper Sales Inc. (CPPSI), the entity to which Catalyst Paper sells subject merchandise and the entity which exports subject merchandise to the United States;
- Pacifica Poplars Ltd. (PPL), an entity that supplied fiber during the 2004-2008 period, prior to the POI;
- Powell River Energy Inc. (PREI), an entity that supplies electricity and provides access to water to Catalyst Paper's Powell River mill and in which CPC held a 50.001 percent interest until March 20, 2013; and
- Catalyst Paper Energy Holdings Inc. (CPEHI), the entity through which CPC held its interest in PREI from March 5, 2010, until March 20, 2013.

Catalyst reported that cross-ownership exists between CPC, CPOL, CPPSI, PPL, PREI, and CPEHI. However, because PPL, PREI, and CPEHI did not receive non-recurring subsidies during the AUL years when their ownership interests may have indicated cross-ownership,⁷⁴ we need not reach a conclusion regarding the cross-ownership of these companies. We find that Catalyst Paper, the producer of subject merchandise, is controlled and is cross-owned with CPC, CPOL, and CPPSI within the definition of 19 CFR 351.525(b)(6)(vi). Because Catalyst Paper is cross-owned with CPC, CPOL, and CPPSI, we are preliminarily attributing subsidies received by Catalyst Paper, CPOL, and CPPSI to CPC, pursuant to 19 CFR 351.525(b)(6)(iii). For this preliminary determination, we have attributed all subsidies received by Catalyst Paper, CPC, CPOL, and CPPSI to the total consolidated sales of pulp and paper by CPC, as reported by Catalyst.⁷⁵

⁷² See *Fabrique de Fer de Charleroi, SA v. United States*, 166 F. Supp. 2d 593, 600-604 (CIT 2001).

⁷³ See Catalyst November 9, 2017 IQR at 1 to 2.

⁷⁴ *Id.*

⁷⁵ *Id.* at Exhibit MAIN-10; the consolidated sales figure is net of intercompany transactions, freight, and Catalyst's U.S. mill sales.

Kruger

Kruger responded to Commerce's questionnaire on behalf of the following affiliated companies:⁷⁶

- KTR, a producer of subject merchandise and the Kruger entity selected as a mandatory respondent in this investigation;
- CBPP, a producer of subject merchandise;
- Kruger Publication Papers Inc. (KPPI), a producer of subject merchandise;
- Kruger Holdings L.P. (KHLP), a holding company for KTR and other affiliates;
- Kruger Energy Bromptonville LP (KEBLP), a supplier of electricity during the POI to the production of UGW paper;
- Kruger Energy Bromptonville Inc. (KEB Inc), a general partner of KEBLP, and a wholly-owned subsidiary of KPPI;
- Kruger Holdings GP Inc. (Kruger Holdings), general partner of Kruger Holdings L.P.
- Kruger Trois-Rivières GP Inc. (KTRGP), general partner of Kruger Trois-Rivières L.P.
- Company X,⁷⁷ a holding company that is the parent company of Corner Brook Pulp and Paper Limited;
- Kruger Inc., a holding company that directly or indirectly owned many operating companies of the Kruger group (including KHLP, KPPI, and Company X) and a producer of UGW paper in 2009 and prior years;
- Hicliff Corporation (Hicliff), the parent company of Kruger Inc.; and
- Ovide Rouillard Inc. (Ovide Rouillard), a supplier of hogfuel to KPPI and KTR used in the production of UGW paper during, and prior to, the POI.

Kruger reported that cross-ownership exists between KTR, Hicliff, KEB Inc., KTRBP, Ovide Rouillard, and Company X. However, because Hicliff, KEB Inc., Ovide Rouillard, KTRGP and Company X, did not receive: 1) subsidies during the POI or, where the companies are no longer affiliated, 2) non-recurring subsidies during the AUL years when their ownership interests may have indicated cross-ownership, we need not reach a conclusion regarding the cross-ownership of these companies.

CBPP, KPPI, and Kruger Inc. (in 2009 and prior years), producers of subject merchandise, are cross-owned with KTR within the definition of 19 CFR 351.525(b)(6)(vi). Therefore, we are preliminarily attributing all subsidies received by these entities to the sales value of the products (net of intercompany transactions) that are produced by CBPP, KPPI, Kruger Inc. (in 2009 and prior years, where applicable), and KTR, pursuant to 19 CFR 351.525(b)(6)(ii).

Further, because KTR, CBPP, and KPPI are controlled by, and are cross-owned, with KHLP, Kruger Holdings, and Kruger Inc. (after 2009), their parent and/or holding companies, we are preliminarily attributing any benefit received from subsidies received to the combined sales of CBPP, KTR, KPPI, and (prior to 2009, where applicable) Kruger Inc. (net of intercompany

⁷⁶ See Kruger November 9, 2017 IQR at 3.

⁷⁷ Kruger claimed business proprietary treatment for the name of this company, and, thus, we cannot disclose it here. As a consequence, we hereinafter refer to it as "Company X."

transactions) and the holding and/or parent company that received the subsidy, pursuant to 19 CFR 351.525(b)(6)(iii).

Finally, because KEBLP is an input supplier for the producers of subject merchandise, and, as we are preliminarily determining pursuant to 19 CFR 351.525(b)(6)(iv), the production of the input product supplied by KEBLP is primarily dedicated to the production of UGW paper,⁷⁸ we are preliminarily attributing subsidies received by KEBLP to the combined sales (net of intercompany transactions) of inputs of energy products and UGW paper sold by CBPP, KTR, KPPI, and (prior to 2009, where applicable) Kruger Inc., pursuant to 19 CFR 351.525(b)(6)(iv).

Resolute

Resolute responded to Commerce's questionnaire on behalf of the following affiliated companies:⁷⁹

- Resolute FP Canada, a producer of 1) subject merchandise; 2) inputs used in making subject merchandise; and 3) hydro-electricity; it is also the Resolute entity selected as a mandatory respondent in this investigation;
- Donohue Malbaie, a producer of newsprint, in which Resolute owns a 51 percent ownership stake;
- Fibrek General Partnership (Fibrek), a supplier of kraft pulp used as an input in making UGW paper;
- Produits Forestiers Mauricie S.E.C. (PFM), a sawmill joint venture in which Resolute Canada owns a majority stake, and a producer of wood chips used as an input in making UGW paper; and
- Resolute Growth, an owner of three sawmills that produce wood chips and bark used in the production of UGW paper. It is wholly owned by Resolute FP Canada's parent company, Resolute FP.

Resolute reported that cross-ownership exists between Resolute FP Canada and Donohue Malbaie and PFM. However, because Donohue Malbaie and PFM did not receive measurable subsidies during the AUL years when their ownership interests may have indicated cross-ownership,⁸⁰ we need not reach a conclusion regarding the cross-ownership of these companies.

Because Fibrek is a wholly-owned subsidiary of Resolute FP Canada, we preliminarily determine that these companies are cross-owned within the meaning of 19 CFR 351.525(b)(6)(vi). During the POI, Resolute indicated that Fibrek supplied Resolute FP Canada with kraft pulp used as an input in its production of subject merchandise.⁸¹ We preliminarily determine that the kraft pulp that Fibrek supplied is primarily dedicated to production of UGW

⁷⁸ See Kruger October 6, 2017 AFFR at 8; see also Kruger November 9, 2017 IQR at 3.

⁷⁹ See Resolute November 9, 2017 IQR at 5 to 14.

⁸⁰ *Id.*

⁸¹ See Resolute October 6, 2017 AFFR at 4.

paper and, thus, we are preliminarily attributing any benefit received from Fibrek to Resolute's consolidated sales, pursuant to 19 CFR 351.525(b)(6)(iv).⁸²

Finally, because Resolute identified Resolute Growth as wholly-owned, directly and indirectly, by Resolute FP Canada,⁸³ we preliminarily determine that these companies are cross-owned within the meaning of 19 CFR 351.525(b)(6)(vi) and are preliminarily attributing subsidies received by Resolute Growth to Resolute's consolidated sales, pursuant to 19 CFR 351.525(b)(6)(iv).

White Birch

White Birch responded to Commerce's questionnaire on behalf of the following affiliated companies:

- White Birch Paper Canada Company NSULC, a manufacturer of subject merchandise and parent company of the three Québec paper mills that produced and exported the subject merchandise to the United States during the POI; it is also the White Birch entity selected as a mandatory respondent in this investigation;
- Papier Masson WB (White Birch) LP, a manufacturer of subject merchandise;
- FF Soucy, a manufacturer of subject merchandise; and
- Stadacona, a manufacturer of subject merchandise.

Because Papier Masson, FF Soucy, and Stadacona are wholly-owned subsidiaries of White Birch, we preliminarily determine that these companies are cross-owned within the meaning of 19 CFR 351.525(b)(6)(vi). Further, because White Birch Paper Canada Company NSULC is a parent company, we are using White Birch Paper Canada Company's consolidated sales to construct the denominator.⁸⁴ Further, we are preliminarily attributing the benefit from subsidies that White Birch received to these consolidated sales, in accordance with 19 CFR 351.525(b)(6)(ii).

D. Denominators

In accordance with 19 CFR 351.525(b)(1)-(5), Commerce considers the basis for the respondents' receipt of benefits under each program when attributing subsidies, *e.g.*, to the respondents' export or total sales. The denominators we used to calculate the countervailable

⁸² See, *e.g.*, *Supercalendered Paper from Canada: Preliminary Results of Countervailing Duty Administrative Review and Rescission, in Part; 2015*, 83 FR 354 (January 3, 2018) (*SC Paper 2015 Administrative Review Prelim*).

⁸³ See Resolute November 9, 2017 IQR at 3 to 4.

⁸⁴ See 19 CFR 351.525(b)(6)(iii).

subsidy rate for the various subsidy programs described below are identified in the Preliminary Calculation Memoranda prepared for these preliminary results.⁸⁵

E. Creditworthiness

Creditworthiness Allegation for Kruger and Legal Framework for Analysis

The petition alleges that CBPP, one of the Kruger cross-owned affiliates, was uncreditworthy at the time of a C\$110,000,000 loan from the GNL.⁸⁶ However, the allegation contained no supporting information.⁸⁷ Section 351.505(a)(6)(i) of Commerce's regulations states:

Normally, the Secretary will not consider the uncreditworthiness of a firm absent a specific allegation by the petitioner that is supported by information establishing a reasonable basis to believe or suspect that the firm is uncreditworthy.

As noted above, on November 29, 2017, the petitioner made a number of new subsidy allegations, some of which involved CBPP.⁸⁸ In that submission, the petitioner again alleged that CBPP was uncreditworthy, and, as support, it cited news reports at the time of the negotiation of the loan, as well as information contained in CBPP's financial statements.⁸⁹ We preliminarily determine that the information provided establishes a reasonable basis to believe or suspect that CBPP was uncreditworthy at the time it received the loan from the GNL.⁹⁰

The examination of creditworthiness is an attempt to determine if the company in question could obtain long-term financing from conventional commercial sources.⁹¹ According to 19 CFR 351.505(a)(4)(i), Commerce will generally consider a firm to be uncreditworthy if, based on information available at the time of the government-provided loan, the firm could not have obtained long-term loans from conventional commercial sources. Additionally, 19 CFR 351.505(a)(4)(i) provides that Commerce will determine uncreditworthiness on a case-by-case basis, and may, in appropriate circumstances, focus its creditworthiness analysis on the project being financed, rather than the company as a whole. The *Preamble* explains that "for loans that are provided to fund a large investment project into new products, processes, or capacity (e.g., a plant expansion or new model or product line, where repayment of a loan is contingent upon the

⁸⁵ See Memorandum, "Countervailing Duty Investigation of Certain Uncoated Groundwood Paper from Canada: Preliminary Determination Calculation Memorandum for Catalyst," (Catalyst Preliminary Calculation Memorandum); see also Memorandum, "Countervailing Duty Investigation of Certain Uncoated Groundwood Paper from Canada: Preliminary Determination Calculation Memorandum for Resolute," (Resolute Preliminary Calculation Memorandum); Memorandum, "Countervailing Duty Investigation of Certain Uncoated Groundwood Paper from Canada: Preliminary Determination Calculation Memorandum for Kruger," (Kruger Preliminary Calculation Memorandum); and Memorandum, "Countervailing Duty Investigation of Certain Uncoated Groundwood Paper from Canada: Preliminary Determination Calculation Memorandum for White Birch," (White Birch Preliminary Calculation Memorandum), dated concurrently with these preliminary results.

⁸⁶ See Petition at 58.

⁸⁷ *Id.*

⁸⁸ See November 29, 2017 NSAs.

⁸⁹ *Id.* at 13 to 16 and Exhibits 1 through 3.

⁹⁰ See November 29 NSAs at 13 to 16 and January 8, 2018 NSA Memorandum at 8.

⁹¹ See 19 CFR 351.505(a)(4).

success of the particular project being funded), our traditional analysis focusing primarily on the creditworthiness of the company as a whole may be inappropriate because the risk associated with a new project may be much higher or lower than the average risk of the company's existing operations."⁹²

In making its creditworthiness determination, according to 19 CFR 351.505(a)(4)(i), Commerce may examine, among other factors, the following four types of information: (1) the receipt by the firm of comparable commercial long-term loans; (2) present and past indicators of the firm's financial health; (3) present and past indicators of the firm's ability to meet its costs and fixed financial obligations with its cash flow; and (4) evidence of the firm's future financial position.

With respect to the first item, pursuant to 19 CFR 351.505(a)(4)(ii), in the case of firms not owned by the government, the receipt by the firm of comparable long-term commercial loans, unaccompanied by a government-provided guarantee (either explicit or implicit), will normally constitute dispositive evidence that the firm is not uncreditworthy. However, according to the *Preamble*, in situations such as where a company has taken out a single commercial bank loan for a relatively small amount, where a loan has unusual aspects, or where we consider a commercial loan to be covered by an implicit government guarantee, we may not view the commercial loan(s) in question to be dispositive of a firm's creditworthiness.⁹³

Analysis of CBPP's Creditworthiness

Comparable Long-Term Commercial Loan

As noted above, Commerce will generally consider a firm to be uncreditworthy if, based on information available at the time of the government-provided loan, the firm could not have obtained long-term loans from conventional commercial sources. Kruger reported that CBPP had a private commercial loan, taken out in the second quarter of 2014. The GNL loan was provided to CBPP two months earlier. Therefore, because the record evidence shows that Kruger was not able to receive a commercial loan before the government provided GNL loan (*i.e.* the commercial loan post-dates the GNL loan), we do not consider the private loan to be dispositive of the firm's being creditworthy. Furthermore, after examining the terms of the commercial loan, we preliminarily find that it was not comparable to the GNL loan, within the meaning of 19 CFR 351.505(a)(4)(ii), because the two loans had substantially different value and terms. Specifically, the commercial loan: 1) was significantly shorter in duration; and 2) had a different rate structure and significantly different collateral requirements.⁹⁴ Lastly, Kruger itself stated that the commercial loan is not comparable to the GNL loan (although this statement was made in the context of appropriate benchmarks).⁹⁵

⁹² See *Preamble*, 63 FR at 65366-67.

⁹³ See *Preamble*, 63 FR at 65367.

⁹⁴ See Memorandum, "Countervailing Duty Investigation of Certain Uncoated Groundwood Paper from Canada: Analysis of the Equityworthiness of Equity Infusions in Certain of Kruger's Cross-Owned Affiliates and the Creditworthiness of Another Cross-Owned Affiliate at the Time of a loan from the Government of Newfoundland and Labrador (GNL)" (Equityworthiness Memo), dated concurrently with this memorandum. This analysis relies on business proprietary information that cannot be discussed in this public memorandum.

⁹⁵ *Id.* at 19.

Other Factors

Because we preliminarily find the commercial loan not comparable, it is not dispositive as to whether CBPP was creditworthy at the time that it received the GNL loan. Therefore, we also examined the remaining three factors enumerated under 19 CFR 351.505(a)(4)(i). In particular, we examined CBPP's consolidated audited financial statements for 2010 through 2013.⁹⁶ We found that each of these financial statements contained a statement from the company's auditors, as well as a footnote, relevant to our analysis.⁹⁷ In addition, we relied on these financial statements to calculate CBPP's current, quick, and interest coverage ratios for the three years preceding the GNL loan. Based on this information, we found that CBPP's current ratio, quick ratio, and interest coverage ratios for the three years preceding the GNL loan and the year the GNL loan was provided were all below an acceptable, creditworthy level.

As Commerce explained in *Solar Cells from the PRC*, a company's current and quick ratios are

highly relevant under 19 CFR 351.505(a)(4)(i)(B)-(C) because they are indicators of a firm's financial health and its ability to meet its costs and fixed financial obligations with cash flow... {and} the meaning of these ratios is clear: either the respondents have liquid funds available to cover upcoming obligations, or they do not.⁹⁸

While the regulations state we will make our determinations on a case by case analysis, we note that in *Solar Cells from the PRC*, Commerce noted that the benchmark for a quick ratio is 1.0, or funds available to cover 100 percent of upcoming obligations, and the benchmark for a current ratio is 2.0.⁹⁹ For the four years examined, we have calculated quick ratios for CBPP significantly below 1.0 and current ratios significantly below 2.0.¹⁰⁰ Finally, we note that CBPP provided no evidence that the GNL considered CBPP's future financial position when setting the terms of the loan.¹⁰¹

The present and past financial health of CBPP, as reflected in various financial indicators calculated from the firm's financial statements and accounts and CBPP's potential inability to meet its costs and fixed financial obligations with its cash flow are inconsistent with that of a creditworthy company.¹⁰² Therefore, we preliminarily determine that CBPP was uncreditworthy at the time it received the loan from the GNL.

⁹⁶ See Kruger December 22, 2017 SQR at Exhibit 1.

⁹⁷ Because Kruger has claimed business proprietary treatment for the information in these financial statements, we are unable to discuss these statements here. For further discussion, see Equityworthiness Memo at 20.

⁹⁸ See *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules Final Affirmative Countervailing Duty Determination and Final Affirmative Critical Circumstances Determination*, 77 FR 63788 (October 17, 2012) (*Solar Cells from the PRC*), and accompanying Issues and Decision Memorandum (IDM) at Comment 17.

⁹⁹ *Id.*

¹⁰⁰ See Equityworthiness Memo at 21.

¹⁰¹ *Id.*

¹⁰² For a complete discussion of the facts underlying this conclusion, see Equityworthiness Memo.

Interest Rate

Therefore, pursuant to 19 CFR 351.505(a)(3)(iii), we derived an “uncreditworthy” interest rate for CBPP. Pursuant to our regulations, we used the probability of default for Caa to C-rated companies in Moody’s study of historical default rates of Canadian corporate bond issuers, and average cumulative default rates for Aaa to Baa-rated companies in Moody’s study of historical default rates of Canadian corporate bond issues (*i.e.*, investment grade companies).¹⁰³ We used a time period of five years for the term of the loan because the Moody’s study data covered up to a five-year time window for default probabilities. For other grants which we allocated and CBPP received in Canadian dollars, we used Bank of Canada official rate data to calculate the uncreditworthy discount rate, and we used an average rate for the year in which the grant was disbursed.¹⁰⁴

F. Equityworthiness

Equityworthiness Determinations for Kruger and Legal Framework for Analysis

During the AUL period, two of Kruger’s cross-owned affiliates received equity infusions from Investissement Quebec (IQ), the financing arm of the GOQ.¹⁰⁵ The first involved a pre-existing debt owed to IQ by KPPI that was exchanged in 2012 for preferred shares in KPPI, and the second related to a 2015 investment in KHL P, a company newly-created in connection with the equity infusion. We indicated that we would investigate the 2012 infusion in the context of debt forgiveness in the January 8, 2018 NSA Initiation Memorandum¹⁰⁶ and the 2015 infusion in the context of an equityworthiness determination in the Initiation Checklist.¹⁰⁷ Our analysis with respect to each of these investments is set forth in the relevant sections below.

Section 771(5)(E)(i) of the Act and 19 CFR 351.507(a)(1) state that, in the case of a government-provided equity infusion, a benefit is conferred if an equity investment decision is inconsistent with the usual investment practice of private investors in the country where the equity infusion was made. Pursuant to 19 CFR 351.507(a)(2), an equity infusion is considered inconsistent with the usual investment practice if the price paid by the government for newly issued shares is greater than the price paid by private investors for the same newly issued shares.

If private investor prices are not available, then pursuant to 19 CFR 351.507(a)(3), Commerce will determine whether the firm funded by the government-provided infusion was equityworthy or unequityworthy at the time of the equity infusion. Under 19 CFR 351.507(a)(4)(i), Commerce will consider a firm to be equityworthy if it determines that, from the perspective of a reasonable private investor examining the firm at the time the government-provided equity infusion was made, the firm showed an ability to generate a reasonable rate of return within a reasonable period of time. Commerce may, in appropriate circumstances, focus its equityworthiness analysis on a project rather than the company as a whole. In making this determination,

¹⁰³ See Memorandum, “Benchmark Information for Uncreditworthiness Rate,” dated January 8, 2018.

¹⁰⁴ *Id.*

¹⁰⁵ For a discussion of IQ as an “authority” under the Act, see page 68 below.

¹⁰⁶ See January 8, 2018 NSA Initiation Memorandum at 9.

¹⁰⁷ See Countervailing Duty Investigation Initiation Checklist (Initiation Checklist), dated August 29, 2017 at 33.

Commerce may examine the following factors, among others: (1) objective analyses of the future financial prospects of the recipient firm or the project as indicated by, *inter alia*, market studies, economic forecasts, and project or loan appraisals prepared prior to the government-provided equity infusion in question; (2) current and past indicators of the recipient firm's financial health calculated from the firm's statements and accounts, adjusted, if appropriate, to conform to generally accepted accounting principles; (3) rates of return on equity in the three years prior to the government infusion; and (4) equity investments in the firm by private investors.

Section 351.507(a)(4)(ii) of Commerce's regulations further stipulates that Commerce will "normally require from the respondents the information and analysis completed prior to the infusion, upon which the government based its decision to provide the equity infusion." Absent the existence or provision of an objective analysis, containing information typically examined by potential private investors considering an equity investment, Commerce will normally determine that the equity infusion provides a countervailable benefit. Commerce will not necessarily make such a determination if the absence of an objective analysis is consistent with actions of a reasonable private investor in the country in question. Further, in determining whether a firm was equityworthy, Commerce will ignore current and prior subsidies received by the firm.

Investissement Québec's 2012 Debt-to-Equity Conversion

In 2012, pursuant to a series of related agreements between IQ, KPPI, and KPPI's parent company Kruger Inc., IQ forgave a debt owed to IQ by KPPI. In exchange for the cancellation of this debt, IQ received preferred shares in KPPI with a nominal value of C\$100,000,000. On the same day, as permitted under the terms of the agreements, IQ converted these shares into preferred shares in Kruger Inc. with the same nominal value. For detailed analysis of this issue, see the Equityworthiness Memo.¹⁰⁸

In the January 8, 2018 NSA Memorandum, we indicated that we would investigate this transaction as debt forgiveness by IQ to Kruger.¹⁰⁹ Therefore, in accordance with 19 CFR 351.508(a), because we determined this was a situation where the entity forgiving the debt received shares in a firm in return for eliminating or reducing the firm's debt obligation, we analyzed this transaction under 19 CFR 351.507 (equity infusions). We then, pursuant to section 351.507(a)(4), proceeded to determine whether KPPI was equityworthy at the time of the equity infusion.

In order to perform our analysis, we obtained information from Kruger and the GOQ regarding the equityworthiness of KPPI at the time of the 2012 debt-to-equity conversion. Our detailed analysis of this information is contained in the Equityworthiness Memo.¹¹⁰ As discussed in that memorandum, and consistent with our prior practice,¹¹¹ we preliminarily find that it is

¹⁰⁸ See Equityworthiness Memo at 6 to 9.

¹⁰⁹ See January 8, 2018 NSA Initiation Memorandum at 9.

¹¹⁰ See Equityworthiness Memo at 6 to 9.

¹¹¹ See, e.g., *Geneva Steel v. U.S.*, 914 F.Supp. 563 (CIT 1996); see also *Final Affirmative Countervailing Duty Determination: Certain Steel Products from Austria*, 58 FR 37217 (July 9, 1993). Commerce found certain corporate bonds were debt and certain preferred shares were equity.

appropriate to treat the preferred shares as equity, rather than debt. For detailed analysis of this issue, see the Equityworthiness Memo.

In light of this preliminary finding, we also examined whether KPPI was equityworthy at the time of the debt-to-equity conversion, in accordance with 19 CFR 351.507(a)(3). We preliminarily find that there is ample record evidence to demonstrate that IQ's equity infusion in KPPI was inconsistent with the practice of private investors, in accordance with 19 CFR 351.507(a)(4).¹¹² As a result, we preliminarily determine that KPPI was not equityworthy at the time of the debt-to-equity conversion. For a discussion of the subsidies found with respect to this conversion, see the "Analysis of Programs," section, below.

IQ's 2015 Equity Infusion in KHLP

In 2015, IQ invested \$106,000,00 in KHLP, in return for 25% of this company. The equity investment was intended, among other things, for the conversion of a paper machine owned by KTR that was producing subject merchandise into a machine which produces non-subject merchandise. As noted above, in the Initiation Checklist, we indicated that we would investigate whether Kruger was equityworthy at the time of this investment.¹¹³ After further evaluation, we preliminarily determine that it is appropriate to examine the equityworthiness of KHLP, the cross-owned affiliate of Kruger that received the equity infusion in 2015. Our detailed analysis of this information is contained in the Equityworthiness Memo.¹¹⁴

As discussed in this memorandum, we preliminarily find that, at the time of IQ's equity infusion in KHLP, KHLP did not show an ability to generate a reasonable rate of return within a reasonable period of time from the perspective of a reasonable private investor, in accordance with 19 CFR 351.507(a)(4). We also preliminarily find that there is ample record evidence to demonstrate that IQ's investment in KHLP was inconsistent with the practice of private investors, also in accordance with 19 CFR 351.507(a)(3).¹¹⁵ As a result, we preliminarily determine that KHLP was not equityworthy at the time of IQ's equity infusion. For a discussion of the subsidies found with respect to this equity infusion, *see* the "Analysis of Programs," section, below.

G. Loan Benchmarks and Interest Rates

Section 771(5)(E)(ii) of the Act provides that the benefit for loans is the "difference between the amount the recipient of the loan pays on the loan and the amount the recipient would pay on a comparable commercial loan that the recipient could actually obtain on the market," indicating that a benchmark must be a market-based rate. In addition, 19 CFR 351.505(a)(3)(i) stipulates that when selecting a comparable commercial loan that the recipient "could actually obtain on the market" Commerce will normally rely on actual loans obtained by the firm. However, when

¹¹² *Id.* at 8.

¹¹³ *See* Countervailing Duty Investigation Initiation Checklist (Initiation Checklist), dated August 29, 2017 at 33.

¹¹⁴ Because Kruger has claimed business proprietary treatment for the information in these financial statements, we are unable to discuss these statements here. For further discussion, *see* Equityworthiness Memo at 9 to 17.

¹¹⁵ *Id.* at 6 to 7.

there are no comparable commercial loans during the period, Commerce “may use a national average interest rate for comparable commercial loans,” pursuant to 19 CFR 351.505(a)(3)(ii). In addition, 19 CFR 351.505(a)(2)(ii) states that Commerce will not consider a loan provided by a government-owned special-purpose bank for purposes of calculating benchmark rates.¹¹⁶ In the absence of reported long-term loan interest rates, we are preliminarily using the below-discussed interest rates as discount rates for purposes of allocating non-recurring benefits over time, pursuant to 19 CFR 351.524(d)(3)(i)(B).¹¹⁷

Short-Term and Long-Term Loans

Based on Catalyst’s, Kruger’s and Resolute’s responses, we preliminarily determine that none of these companies received comparable Canadian dollar-denominated short-term or long-term loans from commercial banks for certain years for which we must calculate benchmark and discount rates. Thus, we do not have loan information from Catalyst, Kruger, or Resolute in the year subsidies were provided. As such loan rates were not available, we are preliminarily using national average interest rates, pursuant to 19 CFR 351.505(a)(3)(ii). Specifically, except where noted below, we used national average interest rates from the International Monetary Fund’s International Financial Statistics (IFS) as benchmark rates for Canadian dollar-denominated short-term and long-term loans.¹¹⁸ We preliminarily find that the IFS rates provide a reasonable representation of both short-term and long-term interest rates for Canadian dollar-denominated loans.

Consistent with 19 CFR 351.524(d)(3)(ii), as discussed above, we preliminarily found CBPP, one of Kruger’s cross-owned companies, uncreditworthy under 19 CFR 351.505(a)(4) during 2014. Therefore, we are preliminarily using the uncreditworthy interest rates calculated pursuant to 19 CFR 351.505(a)(3)(iii) for CBPP for any subsidies received during 2014. For all other programs for Kruger, we are preliminarily using the IFS benchmark borrowing rates in Canadian dollars which are contemporaneous with the time period of the loan, as explained above.

Discount Rates

Consistent with 19 CFR 351.524(d)(3)(i), we used, as our discount rates, the long-term interest rates calculated according to the methodology described above for the year in which the government provided non-recurring subsidies. The interest-rate benchmarks and discount rates used in our preliminary calculations are provided in the preliminary calculation memoranda.

VI. APPLICATION OF FACTS OTHERWISE AVAILABLE AND FACTS OTHERWISE AVAILABLE WITH AN ADVERSE INFERENCE

With respect to the British Columbia Log and Wood Residue Export Restraints, as explained below, we determine that Catalyst failed to fully respond to our questions or provide a reasonable

¹¹⁶ See, e.g., *Certain Frozen Warmwater Shrimp from India: Final Affirmative Countervailing Duty Determination*, 78 FR 50385 (August 19, 2013) (*Shrimp from India*) IDM at “Benchmark and Discount Rates” section.

¹¹⁷ See, e.g., *Certain Pasta from Italy: Final Results of Countervailing Duty Administrative Review; 2012*, 80 FR 11172 (March 2, 2015) at “C. Loan Benchmarks and Discount Rates.”

¹¹⁸ See Catalyst December 11, 2017 Benchmark Submission at Exhibit BENCH-3.

alternative method of providing its delivery costs on a transaction-specific basis in the form and manner requested by Commerce.

Sections 776(a)(1) and (2) of the Act provide that Commerce shall, subject to section 782(d) of the Act, apply “facts otherwise available” if necessary information is not on the record or if an interested party or any other person: (A) withholds information that has been requested; (B) fails to provide information within the deadlines established, or in the form and manner requested by Commerce, subject to subsections (c)(1) and (e) of section 782 of the Act; (C) significantly impedes a proceeding; or (D) provides information that cannot be verified as provided by section 782(i) of the Act.¹¹⁹

Section 776(b) of the Act further provides that Commerce may use an adverse inference in selecting from among the facts otherwise available when a party fails to cooperate by not acting to the best of its ability to comply with a request for information. Further, section 776(b)(2) states that an adverse inference may include reliance on information derived from the petitioner, the final determination from the investigation, a previous administrative review, or other information placed on the record. When selecting facts available with an adverse inference from the possible sources of information, Commerce’s practice 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.”¹²⁰ Commerce’s practice also ensures “that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully.”¹²¹

Section 776(c) of the Act provides that, when Commerce 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.”¹²² It is Commerce’s practice to consider information to be corroborated if it has probative value.¹²³ In analyzing

¹¹⁹ On June 29, 2015, the Trade Preferences Extension Act of 2015, made numerous amendments to the AD and CVD law, including amendments to sections 776(b) and 776(c) of the Act and the addition of section 776(d) of the Act, as summarized below. *See Trade Preferences Extension Act of 2015*, Pub. L. No. 114-27, 129 Stat. 362 (June 29, 2015). The 2015 law does not specify dates of application for those amendments. On August 6, 2015, Commerce published an interpretative rule, in which it announced the applicability dates for each amendment to the Act, except for amendments contained to section 771(7) of the Act, which relate to determinations of material injury by the ITC. *See Dates of Application of Amendments to the Antidumping and Countervailing Duty Laws Made by the Trade Preferences Extension Act of 2015*, 80 FR 46793 (August 6, 2015). Accordingly, the amendments apply to this investigation.

¹²⁰ *See, e.g., Drill Pipe from the People’s Republic of China: Final Affirmative Countervailing Duty Determination, Final Affirmative Critical Circumstances Determination*, 76 FR 1971 (January 11, 2011) (*Drill Pipe from the PRC*); *see also 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).

¹²¹ *See* Statement of Administrative Action accompanying the Uruguay Round Agreements Act, H.R. Doc. 103-316, Vol. I at 870 (1994), reprinted at 1994 U.S.C.C.A.N. 4040, 4199 (SAA) at 870.

¹²² *Id.*

¹²³ *Id.* at 869.

whether information has probative value, it is Commerce’s practice to examine the reliability and relevance of the information to be used.¹²⁴ However, the SAA emphasizes that Commerce need not prove that the selected facts available are the best alternative information.¹²⁵

Finally, under section 776(d) of the Act, Commerce may use any countervailable subsidy rate applied for the same or similar program in a CVD proceeding involving the same country, or, if there is no same or similar program, use a CVD rate for a subsidy program from a proceeding that the administering authority considers reasonable to use, including the highest of such rates. Additionally, when selecting an AFA rate, Commerce is not required for purposes of 776(c), or any other purpose, to estimate what the countervailable subsidy rate would have been if the interested party had cooperated or to demonstrate that the countervailable subsidy rate reflects an “alleged commercial reality” of the interested party.¹²⁶

Because Catalyst was aware of its obligation to respond fully, in the form and manner requested, to Commerce’s questionnaires with regard to reporting its delivery costs on a transaction-specific basis, we preliminarily determine that an adverse inference in selecting from the facts available is appropriate in making an adjustment for Catalyst’s freight expenses. We further describe the facts related to this determination in Section VII.A.2, below.

VII. ANALYSIS OF PROGRAMS

Based upon our analysis of the record and the responses to our questionnaires, we preliminarily determine the following:

A. Programs Preliminarily Determined to Be Countervailable

1. Provision of Stumpage for Less Than Adequate Remuneration (LTAR)¹²⁷

The term stumpage refers to the sales price of standing timber. In this investigation, we are investigating whether the stumpage charged for Crown-origin standing timber by the provincial governments in Ontario and Québec constitute the provision of a good for LTAR.

Ontario’s Stumpage System

The components of Ontario’s Crown-origin standing timber price are: (1) a minimum charge, (2) a residual value charge, (3) a forest renewal charge, and (4) a forestry futures charge.

¹²⁴ *Id.* at 869-870.

¹²⁵ *Id.*

¹²⁶ *See* section 776(d)(3) of the Act.

¹²⁷ In this section, we discuss our preliminary findings with regard to the provision of stumpage for LTAR. We preliminarily determine that none of the mandatory respondents or the voluntary respondent purchased saw logs in British Columbia or New Brunswick during the POI. Therefore, we have not included these provinces in our LTAR subsidy benefit analysis.

The minimum charge is set by the Ministry of Natural Resources (MNRF) each year on April 1.¹²⁸ The minimum charge depends on the species and the destination of the standing timber sold. Seventy-five percent of Crown-origin standing timber receives the higher minimum rate (C\$4.47/m³ for January to March 2016 and C\$4.48/m³ for April to December 2016) and the remaining 25 percent of standing timber—which is comprised of species that are in over-supply, have a lower quality and market value, and/or are harvested primarily for forest improvement purposes—carries a minimum rate of C\$0.59/m³.¹²⁹ Only 1.4 percent of the actual harvest of softwood was assessed at the C\$0.59/m³ rate.¹³⁰

The residual value charge is assessed when the price of the forest product produced with the standing timber exceeds a certain threshold (*e.g.*, if the price that paper mills received for paper products exceeded the 2016 threshold of C\$1438.32 per ton, the residual value would have been charged on timber delivered to paper mills).¹³¹

The forestry renewal charge is paid into either the Forest Renewal Trust or the Special Purpose Account pursuant to Section 48 of the Crown Forest Sustainability Act (CFSA), and is used to reimburse silviculture expenses.¹³² The forestry renewal charge is determined based on tree species group, the forecasted harvest volume, and existing funds.¹³³ During the POI, the weighted average forestry renewal charge for Spruce-Pine-Fir (SPF) species (the species used for UGW paper production in Ontario) was C\$4.19/m³.¹³⁴

The forestry futures charge is paid pursuant to Section 51 of the CFSA and is used to fund forest renewal and protection for situations outside those covered by the forest renewal charge.¹³⁵ The forestry futures charge is set by the MNRF each year on April 1, and is indexed annually using Statistics Canada's Implicit Price Index.¹³⁶ During the POI the forestry futures charge was assessed at C\$0.508 per m³ (C\$0.50 for January to March 2016 and C\$0.51 for April to December 2016).¹³⁷

Québec's Stumpage System

The GOQ reformed its stumpage system in 2010 with the passage of the Sustainable Forest Development Act (SFDA).¹³⁸ Prior to enactment of the SFDA, Québec's stumpage system relied on a comparative pricing system based on annual surveys and a tri-annual census of standing timber sales in private forests to determine the market value of standing timber on Crown land.¹³⁹

¹²⁸ See GOQ November 13, 2017 Stumpage IQR at ON-2.

¹²⁹ *Id.* at ON-80.

¹³⁰ *Id.* at ON-81 to ON-90.

¹³¹ *Id.* at ON-81

¹³² *Id.* at ON-84 to ON-85.

¹³³ *Id.* at ON-84.

¹³⁴ *Id.* at ON-85.

¹³⁵ *Id.* at ON-86 to ON-87.

¹³⁶ *Id.* at ON-86.

¹³⁷ *Id.*

¹³⁸ See GOQ November 13, 2017 Stumpage IQR at QC-S-1.

¹³⁹ *Id.*

The prices collected in the surveys and censuses were used to price standing timber on Crown lands, after making adjustments to account for the species and quality of the standing timber, operating costs, and harvesting costs (*e.g.*, slope and soil conditions).¹⁴⁰ Tenure-holding mills paid stumpage fees for the standing timber they harvested and were responsible for forest planning and silviculture work.¹⁴¹

When the SFDA was enacted, tenure-holding mills were given until January 1, 2012, to apply for a Timber Supply Guarantees (TSG), through which they could secure up to 75 percent of the standing timber volume granted under their old tenure.¹⁴² In return for a guarantee of up to 75 percent of their prior standing timber volume, under the SFDA, TSG-holders must pay an annual royalty to the GOQ equal to 18 percent of their prior year's total stumpage fees.¹⁴³ In addition, TSG-holders must contribute to two forest protection funds: a fire prevention fund and a bug infestation prevention fund.¹⁴⁴ The remaining 25 percent of the volume of standing timber that was held back from TSGs was used to establish the volume of standing timber sold via public auction in Québec.¹⁴⁵ The public auctions are run by Québec's Timber Marketing Bureau (BMMB), which is part of the Ministry of Forest, Wildlife and Parks (MFFP). The BMMB selects the timber blocks to be sold at auction, publishes information on the blocks, holds the auction, and publishes the winning bid.¹⁴⁶ The BMMB applies economic regressions to the auction prices to determine prices for the rest of the standing timber sold from Crown lands, a process referred to as "transposition."¹⁴⁷ The economic regressions, which are publicly disclosed, predict the selling price for Crown-origin standing timber sold via TSGs by using pricing data from blocks of standing timber sold via auctions while making adjustments for factors such as operating conditions, wood quality, and distance to mills.¹⁴⁸ Each year, the BMMB updates the stumpage value per cubic meter for each species and quality after a 20-day period for public comment.

Financial Contribution and Specificity

In Canada, the majority of standing timber that is sold originates from lands owned by the Crown. Each of the Canadian provinces for which the petitioner has alleged the provision of stumpage for LTAR and for which we are preliminarily finding use by a mandatory respondent, *i.e.*, Ontario and Québec, has established programs through which it charges stumpage, as described above. During the POI, Resolute, one of the three mandatory respondents, and White Birch, the voluntary respondent, purchased Crown-origin standing timber from one or more Canadian provinces. Below we discuss our preliminary findings concerning whether the sale of Crown-origin standing timber by the various provincial governments at issue constitutes the provision of a good for LTAR in a manner that constitutes a financial contribution, confers a

¹⁴⁰ *Id.* at QC-S-2.

¹⁴¹ *Id.* at QC-S-38 to QC-S-39.

¹⁴² *Id.* at QC-S-39.

¹⁴³ *Id.* at QC-S-68.

¹⁴⁴ *Id.* at QC-S-72.

¹⁴⁵ *Id.* at QC-S-2, QC-S-3, and Exhibit QC-STUMP-047.

¹⁴⁶ *Id.* at QC-S-3.

¹⁴⁷ *Id.*

¹⁴⁸ *Id.* at QC-S-6 and QC-S-52.

benefit, and is specific under sections 771(5)(D)(iii), 771(5)(E)(iv), and 771(5A) of the Act, respectively.

In the most recent lumber CVD proceeding (hereinafter referred to collectively as *Lumber V*), Commerce determined, consistent with section 771(5)(D)(iii) of the Act, that the Canadian provincial stumpage programs provided a financial contribution, because the provincial governments provided a good to lumber producers, and that good was standing timber. Commerce noted in *Lumber V* that the ordinary meaning of “goods” is broad, encompassing all “property or possessions” and “saleable commodities.”¹⁴⁹ In *Lumber V*, Commerce found that “nothing in the definition of the term ‘goods’ indicates that things that occur naturally on land, such as standing timber, do not constitute ‘goods.’”¹⁵⁰ Commerce further found that, to the contrary, the term specifically includes “. . . growing crops and other identified things to be severed from real property.”¹⁵¹ In *Lumber V*, Commerce also determined that an examination of the provincial stumpage systems demonstrated that the primary purpose of the tenures was to provide lumber producers with standing timber. Thus, Commerce determined that, regardless of whether the provinces were supplying standing timber or making it available through a right of access, they were providing standing timber.¹⁵²

In the current investigation, we find that no information on the record of this investigation justifying a different conclusion. Therefore, we find that the provincial stumpage programs constitute a financial contribution in the form of a good, and that the provinces are providing the good, *i.e.*, standing timber, to producers of UGW paper. Therefore, consistent with our findings in *Lumber V*, we continue to find that the provision of standing timber constitutes a financial contribution provided to producers of UGW paper within the meaning of section 771(5)(D)(iii) of the Act.

With respect to whether the provision of stumpage is specific, the SAA provides explicit instructions with respect to the analysis of specificity under section 771(5A)(D) of the Act.¹⁵³ As stated in the SAA, the specificity test is to function as an initial screening mechanism to winnow out only those foreign subsidies which are truly broadly available and widely used throughout an economy.¹⁵⁴ The SAA also states that in determining whether the number of industries using a subsidy is large or small, Commerce can take into account the number of industries in the

¹⁴⁹ See *Certain Softwood Lumber Products Preliminary Affirmative Countervailing Duty Determination, and Alignment of Final Determination With Final Antidumping Duty Determination*, 82 FR 19657 (April 28, 2017) (*Lumber V Prelim*), and accompanying Preliminary Decision Memorandum (PDM) at 25; unchanged in *Certain Softwood Lumber Products Final Affirmative Countervailing Duty Determination, and Final Negative Determination of Critical Circumstances*, 82 FR 51814 (November 8, 2017) (*Lumber V Final*); see also *Notice of Preliminary Results of Countervailing Duty Review: Certain Softwood Lumber from Canada*, 69 FR 33204, 33213 (June 14, 2004) (*Lumber IV Prelim*), unchanged in *Notice of Final Results of Countervailing Duty Administrative Review and Rescission of Certain Company-Specific Reviews: Certain Softwood Lumber Products from Canada*, 69 FR 75917 (December 20, 2004) (*Lumber IV Final*).

¹⁵⁰ *Id.*

¹⁵¹ *Id.*

¹⁵² *Id.*

¹⁵³ See SAA.

¹⁵⁴ *Id.* at 929.

economy in question.¹⁵⁵ Therefore, under the specificity test as set forth by the SAA, a subsidy program would be found to be specific under section 771(5A)(D) of the Act unless the program was widely used throughout the economy.

In *Lumber V*, Commerce also determined that provincial stumpage subsidy programs were used by a “limited number of certain enterprises” and, thus, were specific, in accordance with section 771(5A)(D)(iii)(I) of the Act. More particularly, Commerce found that stumpage subsidy programs were used by a single group of industries, comprised of pulp and paper mills, and the sawmills and remanufacturers that produce the softwood lumber in each of the Canadian provinces under examination (*i.e.*, Ontario and Québec).¹⁵⁶ Consistent with *Lumber V*, and based on the evidence on the record of this investigation, we preliminarily determine that the stumpage programs at issue are specific within the meaning of section 771(5A)(D)(iii)(I) of the Act.¹⁵⁷

Benefit

The provision of stumpage provides a benefit within the meaning of section 771(5)(E)(iv) of the Act to the extent that the provincial government received less than adequate remuneration from the sale of standing timber when measured against an appropriate benchmark for stumpage. Under 19 CFR 351.511(a)(2), Commerce sets forth the basis for identifying benchmarks to determine whether a government good or service is provided for LTAR. These potential benchmarks are listed in hierarchical order by preference: (1) a market-determined price from actual transactions within the country under investigation, including imports (Tier 1); (2) world market prices that would be available to purchasers in the country under investigation (Tier 2); or (3) assessment of whether the government price is consistent with market principles (Tier 3). This hierarchy reflects a logical preference for achieving the objectives of the statute. In addition, as provided in 19 CFR 351.511(a)(2)(i), we take into consideration product similarity, quantity sold, imported or auctioned, and other factors affecting comparability.

The most direct means of determining whether the government received adequate remuneration is a comparison with private transactions for a comparable good or service in the investigated country (*i.e.*, using a tier-one benchmark). We base this on an observed market price for a good, in the country under investigation, from a private supplier (or, in some cases, from a competitive government auction) located either within the country or outside the country (the latter transaction would be in the form of an import). As provided in our regulations, the preferred benchmark in the hierarchy is an observed market price from actual transactions within the country under investigation. This is because such prices generally would be expected to reflect more closely the commercial environment of the purchaser under investigation.¹⁵⁸

Based on the hierarchy, we must first determine whether there are market-determined prices from actual sales transactions that can be used to determine whether the provincial governments

¹⁵⁵ *Id.* at 931.

¹⁵⁶ See *Lumber V Prelim PDM* at 25; unchanged in *Lumber V Final*; see also *Lumber IV Prelim*, 69 FR at 33213, and *Lumber IV Final IDM* at 8 to 9.

¹⁵⁷ See GOO November 13, 2017 Stumpage IQR at ON-6 to ON-8; see also GOQ November 13, 2017 Stumpage IQR at QC-S-12 to QC-S-13.

¹⁵⁸ See *Preamble*, 63 FR at 65377.

sold stumpage to the respondents for LTAR. Notwithstanding the regulatory preference for the use of prices stemming from actual transactions in the country, where Commerce finds that the government provides the majority or, in certain circumstances, a substantial portion of the market for a good or service, it may consider prices for such goods and services in the country to be significantly distorted and not an appropriate basis of comparison for determining whether there is a benefit. This is because, where the government's role as provider of the good or service is so predominant, it, in effect, determines the prices for private sellers of the same or similar goods or services, such that comparing the government prices to private prices would amount to comparing the financial contribution to itself.¹⁵⁹

In the current investigation, the provincial governments have proposed the use of actual private or auction-based stumpage prices from within their respective provinces for use as a market-based, tier-one benchmark price, as described under 19 CFR 351.511(a)(2)(i). Concerning 19 CFR 351.511(a)(2)(i), the *Preamble* states that Commerce may use actual private or government-run competitive auction prices provided they are comparable and represent a significant portion of the good sold. In the case of government-run auctions, Commerce will further consider whether they are open to all prospective buyers, protect confidentiality, and are based solely on price.¹⁶⁰ The *Preamble* also states that Commerce will not use Tier-1 benchmark prices, such as prices from private parties or government-run auctions, in instances in which it is reasonable to conclude that Tier-1 prices are significantly distorted as a result of the government's involvement in the market. The *Preamble* indicates that we will normally assume that government distortion is minimal unless the government's sale of the good accounts for a majority or, in certain circumstances, a substantial portion of the market.¹⁶¹

As part of our preliminary analysis, we have also identified certain policies and practices that inhibit the operation of market forces for both government-run auctions as well as tenure systems that rely on private prices to serve as the basis for pricing Crown-origin standing timber. Further, in our preliminary analysis, we have evaluated whether the pricing of standing timber is set by reference to prices established in an open, competitive, independently functioning market.

Below we discuss our findings regarding whether distortion is present in the stumpage market of each of the Canadian provinces under examination in this investigation.

Analysis of Proposed Tier-1 Benchmarks

In this investigation, the GOO provided certain survey reports and economic analyses showing that the Ontario private market for saw logs may serve as an appropriate market benchmark price to measure whether the GOO sells Crown-origin standing timber for LTAR.¹⁶² The GOO provided stumpage prices stemming from the sale of Crown-origin standing timber in government-run auctions in their respective provinces for purposes of a Tier-1 benchmark.¹⁶³

¹⁵⁹ *Id.*; see also *Notice of Final Affirmative Countervailing Duty Determination and Final Negative Critical Circumstances Determination: Certain Softwood Lumber Products from Canada*, 67 FR 15545 (April 2, 2002), and accompanying IDM at 38 to 39.

¹⁶⁰ See *Preamble*, 63 FR at 65377.

¹⁶¹ *Id.*

¹⁶² See GOO November 13, 2017 Stumpage IQR at Exhibits ON-PRIV-1 to ON-PRIV-4.

¹⁶³ See GOO November 13, 2017 Stumpage IQR at Exhibit QC-STUMP-007.

Below we evaluate whether market conditions in each of the provinces permit the use of the proposed Tier-1 prices.

Ontario

We preliminarily determine that the GOO continues to grant multi-year, non-transferable tenure rights and that the GOO continues to administratively-set its stumpage fees. Thus, the market is comprised of the provision of a good at government-set prices to companies that have been granted multi-year tenure rights by the GOO. Further, as discussed below, there are additional aspects of the stumpage system in Ontario that lead us to conclude that there are no useable Tier-1 prices within the province.

According to information from the GOO, for FY 2015-2016, the Crown forest accounted for 93.3 percent of the harvest volume in the province, while the harvest volume from non-Crown lands (which the GOO defines as standing timber sourced from lands other than provincial Crown lands) accounted for the remaining 6.7 percent.¹⁶⁴ Thus, we find that the volume of Crown-origin standing timber in the Ontario harvest constitutes a “significant portion of the good sold” as discussed in the *Preamble*.¹⁶⁵ Information from the GOO also indicates that, although numerous companies were allocated timber from Crown sources, the consumption of Crown-standing timber is heavily concentrated among a small number of tenure-holding companies.¹⁶⁶ Sorting the allocation data in descending order by volume indicates that the ten largest tenure-holding corporations accounted for approximately 91 percent of the allocated Crown-origin standing timber volume in FY 2015-2016, while sorting the harvest data in descending order by volume indicates that the ten largest tenure-holding corporations accounted for 77.4 percent of the Crown-origin standing timber harvested during FY 2015-2016.¹⁶⁷ The concentration of the Crown harvest among a small number of companies gives these companies substantial market power over sellers of non-Crown-origin standing timber.

In addition, of the top ten companies that were allocated Crown-origin standing timber during FY 2015-2016, five companies were permitted to purchase Crown-origin standing timber in excess of their allocated volume.¹⁶⁸ Further, the volume of Crown-origin standing timber purchased in excess of allocation volume was 24.7 percent of the total Crown harvest.¹⁶⁹ The ability of the majority of tenure-holders in Ontario to purchase significant amounts of standing timber in excess of their allocated volume reduces the need of those tenure-holders to source from non-Crown sources, such as the private market. Furthermore, because those tenure-holders could rely on Crown-origin standing timber for their supply, private woodlot owners would be forced to price their standing timber at or below the Crown stumpage price, or risk not selling their standing timber.

¹⁶⁴ See GOO November 13, 2017 Stumpage IQR at Exhibit ON-STATS-2. The GOO does not collect harvest volumes from federal and private sources separate in the ordinary course of business, and thus was only able to provide an aggregate harvest volume that combines harvests from these two sources; see also Market Memorandum, Ontario Attachment, Table ON-STUMP-1.

¹⁶⁵ See *Preamble*, 63 FR 65377-78.

¹⁶⁶ See GOO November 13, 2017 Stumpage IQR at Table 2; see also Market Memorandum, Ontario Attachment 4.

¹⁶⁷ *Id.*

¹⁶⁸ *Id.*

¹⁶⁹ *Id.*

The GOO submitted survey prices for standing timber purchased on private lands, along with a study suggesting that these prices may serve as a tier-one benchmark price. However, given that the volume of private-origin standing timber is extremely small relative to the volume of standing timber harvested from Crown lands, the fact that the market for standing timber in Ontario is dominated by a small number of Crown tenure-holding companies, and evidence indicating that tenure-holding companies may harvest Crown-origin standing timber in excess of their allocated volumes, we preliminarily determine that the direction of the causal link is such that private prices in Ontario would largely track the prices the GOO charges for stumpage on Crown lands. For these reasons, we preliminarily determine that private stumpage prices are not market-determined, and therefore we will not use them as a Tier-1 benchmark.¹⁷⁰

Québec

In Québec, 72 percent of the stumpage harvest during FY 2015-2016 came from Crown land.¹⁷¹ In addition, we find that appurtenancy requirements exist for holders of TSGs, in that the Crown volumes allocated under a TSG are tied to particular sawmills.¹⁷² However, both sawmill and non-sawmill operators may participate in Crown-origin standing timber auctions.¹⁷³ Thus, appurtenancy requirements exist with regard to volumes of Crown-origin standing timber directly allocated to TSG-holders, but we preliminarily determine that they do not exist with regard to firms that participate in the auctions of Crown-origin standing timber.

Under 19 CFR 351.511, Tier-1 benchmark prices could include, in certain circumstances, actual sales from competitively-run government auctions. The circumstances where such prices would be appropriate are where the government sells a significant portion of the good through competitive bid procedures that are open to everyone, that protect confidentiality, and that are based solely on price.¹⁷⁴ With regard to the auction system in place in Québec, we preliminarily determine that the GOQ makes information on proposed sales and winning auction bids publicly available, allows sawmills and non-sawmills (in and out of Québec) to participate in the auction, and has implemented auction procedures that are designed to prevent collusive behavior (*e.g.*, selecting winners based on the first bid rather than permitting bids to be conducted in rounds, and not disclosing information on the identities and bids of unsuccessful bidders).¹⁷⁵

However, for the reasons discussed below we preliminarily determine that auction prices for Crown-origin standing timber in Québec track the prices charged for Crown-origin standing timber that is allocated to TSG-holding sawmills and, thus, the auction prices for Crown-origin

¹⁷⁰ See, *e.g.*, *Lumber V Prelim* PDM at 31, unchanged in *Lumber V Final*.

¹⁷¹ See GOQ November 13, 2017 Stumpage IQR at Exhibit QC-STUMP-004, Table 5; see also Market Memorandum, Québec Attachment, Table 5.1. This percentage underestimates the actual harvest from Crown land since this percentage was calculated from a figure that, in addition to harvest from land within Québec, also included imports of logs from the United States and other Canadian Provinces.

¹⁷² See GOQ November 13, 2017 Stumpage IQR at Exhibit QC-STUMP-042, page 1 of the manual, which states that TSGs are granted “to any person or entity operating or planning to operate a timber processing plant.”

¹⁷³ *Id.* at QC-S-4.

¹⁷⁴ See *Preamble*, 63 FR at 65377.

¹⁷⁵ See GOQ November 13, 2017 Stumpage IQR at QC-S-4, QC-S-6 and Exhibit QC-STUMP-096.

standing timber are not viable Tier-1 benchmarks. In FY 2015-2016, the breakdown of the stumpage harvest was as follows: 57 percent direct sales of Crown-origin standing timber via TSGs, 15 percent sales via auction of Crown-origin standing timber, 16 percent sales of private-origin standing timber, and 12 percent log imports from the United States and other Canadian Provinces.¹⁷⁶

The GOQ reported TSG-allocated Crown volume and standing timber consumption volumes on a sawmill-specific basis.¹⁷⁷ The GOQ also provided auction data that identify the quantity and value that each winning bid paid during the POI. Data in the GOQ's response allow us to aggregate the sawmill data based on the sawmills' corporate addresses.¹⁷⁸ We find that aggregating the sawmill data by corporation is most useful to our analysis, because sawmills act as members of corporate families rather than as stand-alone entities.¹⁷⁹ An analysis of the aggregated data indicates that the consumption of TSG-allocated Crown-origin standing timber is concentrated among a small number of corporations. The data further indicate that the same corporations dominate both the consumption of TSG-allocated Crown-origin standing timber and the purchase of auctioned Crown-origin standing timber. For example, sorting the GOQ's reported log processing data in descending order by volume reveals that, for FY 2015-2016, the 10 largest TSG-holding corporations accounted for 71.23 percent of timber acquired via tenure.¹⁸⁰ These same 10 corporations accounted for 71.20 percent of the softwood sawlog auction volume acquired during 2015.¹⁸¹

Not only do TSG-holding corporations dominate the auction system, but also, auction volumes, in the aggregate, account for a relatively small percentage of these corporations' log supply. In our preliminary analysis, we have evaluated whether the auction system operates independently of the Crown-origin standing timber allocation system by examining the extent to which TSG-holding producers are *not* also active in the auction system. The information discussed above indicates that the largest TSG-holding corporations are not only active in the auction system, but are the dominant buyers of auctioned Crown-origin standing timber. Québec's goal is to ensure that 25 percent of TSG-holding sawmills' annual Crown consumption comes from the Crown auction. According to the GOQ, the 25 percent threshold is sufficient to establish a robust and representative auction market that may serve as a reference market for purposes of setting stumpage prices for Crown-origin standing timber directly allocated to TSG-holders.¹⁸² However, actual consumption data for TSG-holding sawmills indicate that, for FY 2015-2016, the GOQ's goal was achieved in only four out of 15 administrative regions, and those four

¹⁷⁶ *Id.* at Exhibit QC-STUMP-004, Table 5; *see also* Market Memorandum, Québec Attachment, Table 5.1.

¹⁷⁷ *Id.* at Exhibit QC-STUMP-013, Table 18.

¹⁷⁸ *Id.* at Exhibit QC-STUMP-012, Table 17.

¹⁷⁹ We determine our finding in this regard is warranted given that the GOQ tracks the corporate addresses of TSG holding sawmills (*e.g., Id.*) and sections 92 and 93 of the SFDA permits transfers of Crown-origin standing timber between affiliated sawmills. As noted below, we find significant the fact that POI transfers of Crown-origin standing timber could occur between affiliated sawmills.

¹⁸⁰ *See* GOQ November 13, 2017 Stumpage IQR at Exhibit QC-STUMP-012, Table 17; *see also* Market Memorandum, Québec Attachment, Table 17.2.

¹⁸¹ *See* GOQ November 13, 2017 Stumpage IQR at Exhibit QC-STUMP-012, Table 12 and Table 17; *see also* Market Memorandum, Québec Attachment, Table 12.1 and Table 17.2.

¹⁸² *See* GOQ November 13, 2017 Stumpage IQR at QC-S-2 to QC-S-6, and QC-S-52.

regions accounted for less than half of Crown volume consumed by TSG-holding corporations.¹⁸³ Similarly, in aggregate, TSG-holding sawmills access only 20.7 percent of their Crown supply from the auction.¹⁸⁴ Thus, Québec is not meeting its own consumption goals with regard to auction-origin standing timber acquired by tenure-holding corporations. Further, 28.8 percent of the softwood sawlog volume that is put up for auction in FY 2015-2016 did not sell.¹⁸⁵

Additionally, pursuant to sections 92 and 93 of the SFDA, TSG-holders in Québec are permitted to shift a portion of allocated Crown standing timber volumes to other sawmills. Using data from FY 2015-2016 from the GOQ reveals that sawmills transferred approximately 686,530 cubic meters of TSG-allocated Crown-origin standing timber under sections 92 and 93 during 2015-2016, which amounted to 7.7 percent of the volume of softwood saw logs sold via auctions.¹⁸⁶ Accordingly, we preliminarily find that the ability of corporations to shift tenure allocations among sawmills reduces the need of TSG-holding corporations to source from non-Crown sources such as the auction and private market.

As discussed above, we find that the GOQ's auction system reflects several competitive aspects. However, we also preliminarily find that: (1) the overall consumption of non-auction Crown-origin standing timber continues to be large relative to other sources; (2) the GOQ is not reaching its own consumption goals for timber sold via auction; (3) a significant volume of standing timber offered at auction did not sell during the POI; (4) a small number of TSG-holding corporations dominate the consumption of Crown-origin standing timber (both directly allocated via TSGs, and sold via auction); and (5) the SFDA enables TSG-holding corporations to shift their allocations of Crown-origin standing timber between affiliated and unaffiliated sawmills which, in turn, reduces their need to acquire standing timber in the auction or from non-Crown sources. These findings lead us to preliminarily determine that the prices paid for Crown-origin standing timber allocated directly to TSG-holding corporations affects the prices paid in the auction system. As a result, we preliminarily determine that the GOQ's auction prices are not market-based, and therefore, are not suitable as a tier-one benchmark.¹⁸⁷

Private Stumpage Prices in Nova Scotia May Serve as a Tier-1 Benchmark in Québec and Ontario

In *Lumber IV* and *Lumber V*, Commerce found that the stumpage market in Nova Scotia was not distorted and, as a result, used stumpage prices from private-origin standing timber in its calculation of a tier-one benchmark price to measure whether various provincial governments

¹⁸³ *Id.* at Exhibit QC-STUMP-012, Table 4 and Table 20; *see also* Market Memorandum, Québec Attachment, Table 17.3.

¹⁸⁴ *Id.*

¹⁸⁵ *See* GOQ November 13, 2017 Stumpage IQR at Exhibit QC-STUMP-012, Table 10; *see also* Market Memorandum, Québec Attachment, Table 10.1.

¹⁸⁶ *See* GOQ November 13, 2017 Stumpage IQR at QC-S-90 to QC-S-91, QC-S-94 and Exhibit QC-STUMP-012, Table 10; *see also* Market Memorandum, Québec Attachment, Table 10.1.

¹⁸⁷ The GOQ also provided pricing information for sales of private forest for use as a possible benchmark in this investigation. However, we are not addressing whether those sales could serve as a possible benchmark for sales of Crown-origin standing timber in the province because the vast majority of standing timber is sold via auction in Québec. *See* Market Memorandum, Québec Attachments.

sold stumpage for LTAR.¹⁸⁸ In *SC Paper from Canada – Final Expedited Review I*, Commerce again determined that stumpage prices for private-origin standing timber in Nova Scotia may serve as a Tier-1 benchmark.¹⁸⁹ Moreover, in the current investigation, the petitioner did not allege that the GNS sells Crown-origin stumpage for LTAR. To the contrary, the petitioner advocated for Commerce to use the prices paid for private stumpage in Nova Scotia as a Tier-1 benchmark for the Canadian provinces that are under investigation.¹⁹⁰

Based on the review of the stumpage system in Nova Scotia in *Lumber IV*, *Lumber V*, and in the *SC Paper from Canada – Final Expedited Review I*, we preliminarily determine that the sale of Crown-origin standing timber in Nova Scotia does not have a distortive impact on the province’s private stumpage market. Accordingly, we preliminarily determine that stumpage prices for private-origin standing timber in Nova Scotia may serve as a tier-one benchmark, provided that such data are available and that the standing timber in Nova Scotia are comparable with standing timber in the Canadian province at issue.

Private-Origin Stumpage Prices Contained in the Report on Prices for Standing Timber Sales from Nova Scotia Private Woodlots Are Suitable for Use as a Tier-1 Benchmark Source

As noted in the “Potential Benchmark Data” section above, in December 2017, the GNS provided the 2015-2016 GNS Private Stumpage Survey Report, which contains aggregate data on standing timber sales from Nova Scotia private woodlots during the period April 1, 2015, through March 31, 2016.¹⁹¹ On January 5, 2018, at our request, the GNS provided the 2016 transaction-specific survey response data underlying the 2015-2016 GNS Private Stumpage Survey Report.¹⁹² Given that the GNS submitted this information four days prior to the preliminary determination, we have not considered it in our preliminary stumpage analysis. However, we intend to consider this information in our final determination.

The GNS Private Stumpage Survey Report contains private-origin stumpage prices for Nova Scotia that the Nova Scotia Department of Natural Resources (NSDNR) collects in the ordinary course of business, and uses as the basis for setting Crown stumpage rates in the province.¹⁹³ This document was commissioned by the GNS and prepared by Deloitte.¹⁹⁴ In preparing this report, Deloitte collected detailed information pertaining to purchases by Registered Buyers (*i.e.*, both mills and independent wood contractors located across Nova Scotia) of private stumpage

¹⁸⁸ See, e.g., *Notice of Preliminary Results of Countervailing Duty Administrative Review: Certain Softwood Lumber Products from Canada*, 70 FR 33088 at 33103 (June 7, 2005) (*Lumber IV Prelim*), unchanged in *Notice of Final Results of Countervailing Duty Administrative Review: Certain Softwood Lumber Products from Canada*, 70 FR 73448 (December 12, 2005) (*Lumber IV Final*), and accompanying IDM at 10; see also *Lumber V Prelim PDM* at 46, unchanged in *Lumber V Final*.

¹⁸⁹ See *Supercalendered Paper from Canada: Final Results of Countervailing Duty Expedited Review*, 82 FR 18896 (April 24, 2017) (*SC Paper Expedited Review Final*), and accompanying IDM at Comment 23.

¹⁹⁰ See Petitioner’s December 11, 2017 Benchmark Submission at Exhibit 11.

¹⁹¹ See GNS December 21, 2017 SQR at Exhibit NS-STUMP-1

¹⁹² See the GNS’s January 5, 2018 Private Stumpage Survey Report Data (GNS January 5, 2018 Private Stumpage Survey Report Data) at Exhibit NS-STUMP2-1.

¹⁹³ See GNS December 21, 2017 SQR at Exhibit NS-STUMP-1.

¹⁹⁴ *Id.*

from independent private woodlot owners in Nova Scotia during the period April 1, 2015, through March 31, 2016. With respect to the data collection and validation, the GNS Private Stumpage Survey Report states:

After testing, validating, and formatting the raw survey data, the final sample volume reported by Deloitte was 407,773 m³ of softwood sawable stumpage purchased across all three regions of the Province.

This volume of stumpage was purchased through over 5,544 individual transactions during the specified time period. Expressed on a volume basis, NSDNR calculates that the survey covered more than 36 percent of the total volume of private stumpage transactions in Nova Scotia for softwood sawable products during the period from April 1, 2015 through March 31, 2016.¹⁹⁵

The GNS Private Stumpage Survey Report contains unit prices for private-origin standing timber for following log-type and species combinations:¹⁹⁶

Log Type	Species
Softwood Sawlog	SPF
Softwood Sawlog	Eastern White Pine
Softwood Sawlog	Hemlock
Softwood Sawlog	Red Pine
Softwood Sawlog	Hemlock/Red Pine/Other
Softwood Studwood & Lathwood	SPF
Softwood Sawables Combined ¹⁹⁷	SPF
Softwood Sawables Combined	Eastern White Pine
Softwood Sawables Combined	Hemlock
Softwood Sawables Combined	Red Pine
Softwood Sawables Combined	Hemlock/Red Pine/Other

We find that the private stumpage prices in the GNS Private Stumpage Survey Report, which was conducted by the GNS in the ordinary course of business, and the disaggregated unit prices on which the report was based, contain a sizable number of observations, reflect prices throughout the province, and reflect private stumpage prices for a variety of species and log types. In particular, the GNS Private Stumpage Survey Report includes the prices paid for private-origin saw logs as well as studwood/lathwood logs in the SPF category, which, as described below, is the primary and most commercially significant species reported in the SPF groupings for Ontario and Québec. Therefore, we preliminarily determine that the GNS Private Stumpage Survey Report constitutes a reliable data source that is sufficiently representative of the private stumpage market in Nova Scotia to serve as a Tier-1 benchmark.

¹⁹⁵ *Id.*

¹⁹⁶ *Id.*

¹⁹⁷ The log-type category reflects softwood sawlogs and softwood studwood/lathwood.

Standing Timber in Nova Scotia is Comparable to Standing Timber in Québec and Ontario

Next, we must determine whether the standing timber that grows in Nova Scotia is sufficiently comparable to the standing timber that grows on Crown lands in Québec and Ontario.

In the second administrative review of *Lumber IV*, and the *Lumber V* investigation, Commerce determined that the Nova Scotia prices upon which it relied for benchmarking purposes contained prices for the general standing timber species category of eastern SPF. We found that the species included in eastern SPF were also the primary and most commercially significant species reported in the species groupings for Québec and Ontario.¹⁹⁸ We also found in *Lumber IV* and *Lumber V*, that although there is some minor variation of the relative concentration of individual species across provinces, this does not affect comparability for benchmark purposes.¹⁹⁹ We further found that the provinces themselves do not generally differentiate between the SPF species; rather, the provincial governments tend to group all eastern SPF species into one category for data collection and pricing.²⁰⁰ And, in *Lumber IV* and *Lumber V*, we found that SPF species east of British Columbia were interchangeable and that the average diameter at breast height (DBH) of SPF standing timber in the Maritimes was comparable to those in, for purposes of this investigation, Ontario and Québec.²⁰¹

In the current investigation, we find that SPF species continue to be the dominant species that grow in the provinces that are east of British Columbia. For example, SPF species' share of the Crown-origin standing timber harvest volume is 98.84 percent for Québec²⁰² and 86.84 percent for Ontario.²⁰³ Data supplied by one of the three mandatory respondents and the sole voluntary respondent (*i.e.*, Resolute and White Birch, respectively) also indicate that SPF species represent the majority of the companies' respective Crown timber harvest.²⁰⁴

Concerning DBH, the GNS Private Stumpage Survey Report demonstrated that the DBH for SPF standing timber on private land is 15.90 cm.²⁰⁵ In the Initial Questionnaire, Commerce

¹⁹⁸ SPF species are the primary and most commercially significant species reported in the species groupings for Ontario and Québec, accounting for over 90 percent of the entire standing timber harvest across these provinces. See, *e.g.*, *Lumber IV Prelim*, 70 FR at 33103-04, and *Lumber IV Final*, 70 FR at 73448, and the accompanying IDM at Comments 21 and 25; see also *Lumber V Prelim PDM* at 44, unchanged in *Lumber V Final*.

¹⁹⁹ *Id.*

²⁰⁰ See *e.g.*, *Lumber IV Prelim*, 70 FR at 33104, unchanged in *Lumber IV Final IDM* at Comment 25; see also *Lumber V, Preliminary Determination PDM* at 44, unchanged in *Lumber V Final*.

²⁰¹ See *Lumber IV Prelim*, 70 FR at 33104; and *Lumber IV Final IDM* at Comment 21, where, in the context of the comparability issue, Commerce stated that Eastern SPF trees, by which Commerce meant SPF trees that grow from the Maritimes to Alberta, “. . . are comparable across their entire growing range as demonstrated by tree diameter, which is one of the most important characteristics in terms of lumber use.” See also *Lumber V Prelim PDM* at 44-45, unchanged in *Lumber V Final*.

²⁰² We note that in Québec the GOQ also includes Larch into its SPF species category.

²⁰³ We note that in Ontario the GOO also includes Larch/Tamarack in its SPF species category. We also note that, in this percentage calculation, we included chips and sawlogs.

²⁰⁴ See Preliminary Calculation Memoranda for Resolute and White Birch, which identify the species of Crown-origin standing timber acquired during the POI.

²⁰⁵ See GNS December 21, 2017 SQR at Exhibit NS-STUMP-3.

instructed the provincial governments to provide DBH information for the standing timber that grows on Crown lands in each respective province.²⁰⁶ Information on the record indicates that in Québec the DBH of Spruce-Pine-Fir-Larch (SPFL) standing timber species ranges from 11 cm to 25 cm,²⁰⁷ while in Ontario the average DBH of SPF trees harvested during 2016 is 15.99 cm.²⁰⁸

Based on Commerce's findings in the second administrative review of *Lumber IV*, the *Lumber V* investigation, and on the updated DBH and species information on the record of the current investigation, we find that SPF species are the primary species that are harvested on private lands in Nova Scotia and on Crown lands in Québec and Ontario. We also find that the average DBH of SPF standing timber in the provinces east of British Columbia are comparable to the average DBH of SPF standing timber that grows in Nova Scotia. Further, information available on the record of the current investigation indicates that, although comparable, the DBH of SPF standing timber in Nova Scotia is equal to or smaller than the DBH of Crown-origin standing timber in Québec and Ontario and, therefore, the use of private-origin stumpage prices from Nova Scotia represents a conservative benchmark.

On this basis, we preliminarily determine that prices for standing timber in Nova Scotia reflected in the GNS Private Stumpage Survey Report are comparable to the Crown-origin standing timber in Québec and Ontario. Accordingly, consistent with 19 CFR 351.511(a)(2)(i), we have compared the prices charged for private-origin standing timber in Nova Scotia to the prices charged for Crown-origin standing timber in Québec and Ontario, as described in greater detail below, in order to determine whether the Crown-origin standing timber was sold for LTAR.

Tenure Adjustments

Below, we provide descriptions of how we calculated the Nova Scotia benchmarks used to determine whether the GOO and GOQ sold Crown-origin standing timber to the mandatory respondents for LTAR. We also discuss how we conducted the benefit calculation in each province at issue.

Concerning the provision of standing timber for LTAR benefit calculation, Commerce has analyzed whether to add certain "adjustments," or costs, that the respondent firms argue are associated with, or required under, their various tenure arrangements. The current record allows us to examine accurately each individual respondent's arrangement under its tenure agreement and assess the relationship between the tenure arrangement and the stumpage price paid. We preliminarily determine that the stumpage prices reported by the respondents do not include various costs or "adjustments," and that, rather, these costs are related to their long-term tenure rights under various tenure arrangements.

In *SC Paper from Canada Expedited Review*, Commerce stated the following regarding whether to add such adjustments to the stumpage prices paid:

²⁰⁶ See Commerce Letter re: Stumpage Questionnaire, dated September 28, 2017 at 8, 42, and 55.

²⁰⁷ See GOQ November 13, 2017 Stumpage IQR at QC-S-28.

²⁰⁸ See GOO November 13, 2017 Stumpage IQR at Exhibit ON-GEN-7-A

. . . an adjustment to the administratively-set stumpage price for these silviculture and LMF activities, *whether obligated or non-obligated under the Irving tenure licenses*, is not appropriate because these prices are related to Irving’s long-term tenure rights granted to it by the {GNB}.²⁰⁹

As in *SC Paper from Canada Expedited Review*, we are examining the stumpage price paid by our respondent companies, Resolute and White Birch, in Canada. And, thus, consistent with Commerce’s findings in the *SC Paper from Canada Expedited Review*, in our preliminary calculations we have not added tenure adjustments (*e.g.*, silviculture expenses, annual fees, etc.), regardless of whether they are obligated or legally-required, to the effective stumpage price paid for Crown-origin standing timber because these fees are related to the mandatory respondents’ long-term tenure rights. Similarly, we have also not added to the Nova Scotia benchmark the C\$3.00/m³ fee that is charged by the GNS to Registered Buyers who purchase more than 5,000 m³ of primary forest products in a year.²¹⁰ We will consider these adjustments further for purposes of the final determination.

Net Subsidy Rate Methodology

In the information-collection phase of this investigation, Commerce requested that the respondents report stumpage purchases by all mills (*e.g.*, sawmills, pulpmills). Therefore, in our calculation of the respondents’ net subsidy rates for this program, we have relied on the respondents’ mill purchases of Crown-origin standing timber during the POI as the numerator.²¹¹ The denominator used in our calculation is the respondents’ total combined sales, less intercompany sales, during the POI.

Calculation of Nova Scotia Benchmark

As indicated above, we are using data from the GNS Private Stumpage Survey Report for purposes of calculating a benchmark against which to compare the respondents’ purchases of Crown-origin standing timber. Specifically, we have applied this benchmark to the respondent firms’ respective purchases of Crown-origin standing timber in Québec and Ontario based on species-specific prices.

The GNS Private Stumpage Survey Report solicited species-specific unit prices for private-origin standing timber in Nova Scotia during the FY 2015-2016. The private stumpage prices contained in the published version of the GNS Private Stumpage Survey Report were limited to annual unit prices, per species/species group (*e.g.*, SPF, Red Pine, etc.).²¹² In December 2017, we requested that the GNS also provide transaction-specific prices for private stumpage per species and species group.²¹³ However, because we did not receive this information in time for consideration in the preliminary determination, we have relied upon the relevant weighted-

²⁰⁹ See *SC Paper from Canada Expedited Review Final IDM* at Comment 24, emphasis added.

²¹⁰ See, *e.g.*, GNS December 21, 2017 SQR at Exhibit NS-STUMP-1.

²¹¹ See, *e.g.*, the Initial Stumpage Questionnaire issued to respondents at Section III and accompanying “Stumpage Data Templates” at Table 1, instructing them to report their mills’ purchase of Crown-origin timber.

²¹² See GNS December 21, 2017 SQR at Exhibit NS-STUMP-1.

²¹³ See GNS Nova Scotia Stumpage Data Request.

average FY 2015-2016 species-specific unit prices for private-origin standing timber in the GNS Private Stumpage Survey Report for purposes of the standing timber benchmark for Ontario and Québec. Specifically, we are relying on the provincial private stumpage weighted-average FY 2015-2016 price for untrimmed SPF softwood sawlogs (*i.e.*, C\$29.89 per cubic meter) for the species spruce, pine, and fir reported by the respondents, the weighted-average FY 2015-2016 price for red pine (*i.e.*, C\$14.64 per cubic meter) for the species red pine, and the average of all non-SPF softwood prices for cedar (*i.e.*, C\$15.54 per cubic meter).²¹⁴

Both Resolute and White Birch also reported purchases of hardwood and pulpwood (*i.e.*, grades C through M)²¹⁵, and Resolute reported purchases of biomass and wood chips. Because currently there is no benchmark information contained on the record of this investigation for these products, we are unable to determine the actual net subsidy received for them. Therefore, we have assumed that Resolute and White Birch received stumpage benefits related to biomass, hardwood, pulpwood, and wood chips at the same level at which they received benefits on softwood.²¹⁶ Specifically, we developed benchmarks for these products by calculating a ratio of the respondents' reported prices for the purchases of SPF softwood sawlogs to their prices for the purchase of hardwood, pulpwood, and wood chips, and applying those product-specific ratios to the benchmark for SPF softwood sawlogs.

We intend to revisit this methodology for purposes of the final determination, in light of the more appropriate private stumpage benchmark information submitted by the GNS on January 5, 2018.²¹⁷

Benefit and Net Subsidy Rate Calculation for Purchases of Crown-Origin Standing Timber in Québec

As explained above, we conducted the LTAR benefit analysis for Resolute and White Birch, the only respondent companies to purchase Crown-origin stumpage in Québec, using Nova Scotia prices from the GNS Private Stumpage Survey Report. We find that the GOQ's standing timber billing system features monthly adjustments that apply retroactively to previous invoices.²¹⁸ As a result, the species-specific volumes and values reported on the monthly invoices do not represent the actual volume and value purchased in the month. Therefore, Commerce has determined that aggregating Resolute's and White Birch's POI purchases by species is a reasonable approach to addressing the inaccuracies that would result from relying on the volume and value as reported on a transaction-specific or monthly basis. We will continue to examine the GOQ's invoicing system and how to best incorporate aspects of that system in our benefit analysis for the final determination.

Thus, using the annualized data from each of the respondents' mills, we matched the respondents' Crown-origin purchases of softwood sawlogs, by species, with Nova Scotia's

²¹⁴ See GNS December 21, 2017 SQR at Exhibit NS-STUMP-1, Appendix B.

²¹⁵ See Resolute November 13, 2017 Stumpage IQR at QC-S-11.

²¹⁶ White Birch did not purchase biomass or wood chips from the Crown. See White Birch November 13, 2017 Stumpage IQR at Exhibit STUMP-2.

²¹⁷ See GNS January 5, 2018 Private Stumpage Survey Report Data at Exhibit NS-STUMP2-1.

²¹⁸ See Resolute Preliminary Calculation Memorandum, which contains transactions for the company's purchases of Crown-origin standing timber during the POI.

weighted-average annual private stumpage prices for the appropriate species group, as noted above, from the 2015-2016 GNS Private Stumpage Survey Report. We then multiplied the unit benefit (*i.e.*, the difference between the benchmark price and the purchase price) by the corresponding volume of Crown-origin softwood sawlogs, by species, purchased. Next, we summed the benefits for each of the respondents' mills to arrive at a softwood-sawlog benefit. We then added the benefits for hardwood, pulpwood, and woodchips, as appropriate, computed as noted above, to the softwood benefits, and divided this total by the respondents' total sales during the POI. In this manner, we preliminarily calculated a net subsidy rate of 1.40 percent *ad valorem* for Resolute and a net subsidy rate of 0.08 percent *ad valorem* for White Birch.

Benefit and Net Subsidy Rate Calculation for Purchases of Crown-Origin Standing Timber in Ontario

As explained above, we conducted the LTAR benefit analysis for Resolute, the only respondent company to purchase Crown-origin stumpage in Ontario, using Nova Scotia prices from the GNS Private Stumpage Survey Report. We find that the GOO's standing timber billing system does not incorporate rolling monthly adjustments that apply retroactively to previous invoices.²¹⁹ However, because we did not have adequate time to review the monthly prices derived from the GNS Private Stumpage Survey Report on the record,²²⁰ we have similarly determined that aggregating Resolute's POI purchases by product is a reasonable approach. We will continue to examine the GOO's invoicing system and how to best incorporate aspects of that system in our benefit analysis for the final determination.

We computed Resolute's total stumpage benefit for all Crown-origin purchases using the same methodology noted in the "Benefit and Net Subsidy Rate Calculation for Purchases of Crown-Origin Standing Timber in Québec" section above. In this manner, we preliminarily calculated a net subsidy rate of 1.13 percent *ad valorem* for Resolute.

2. British Columbia Log and Wood Residue Export Restraints

The petitioner contends that the GBC and the GOC impose restraints on exports of logs and wood residue from British Columbia (BC) and that these prohibitions on exports provide a countervailable subsidy. In the *Lumber V Final* and in *SC Paper Expedited Review Final*,²²¹ Commerce investigated BC export restraints of logs and found that the export permitting process does restrain exports and provided a countervailable benefit to the respondents. Catalyst reported purchases of logs and wood residue in British Columbia during the POI from unaffiliated third private parties.

Logs harvested in British Columbia fall under either provincial or Federal jurisdiction. Under both jurisdictions, there are laws and regulations requiring an exporter to obtain an exemption

²¹⁹ See Resolute Preliminary Calculation Memorandum, which contains the company's stumpage transactions for Crown-origin standing timber during the POI.

²²⁰ See GNS January 5, 2018 Private Stumpage Survey Report Data at Exhibit NS-STUMP2-1.

²²¹ See *SC Paper Expedited Review Final* IDM at Comments 11 through 22 and *Lumber V Final* IDM at Comments 44 through 47.

and an export permit in order to export logs outside of British Columbia. Additionally, exporters of wood residue (wood chips, slabs, edgings, shavings, sawdust, and hog fuel) must obtain an export exemption from the GBC (all residue in British Columbia is under provincial jurisdiction) before export.²²²

Exports of logs and wood residue under provincial jurisdiction are regulated under the British Columbia Forest Act (BC Forest Act).²²³ The BC Forest Act states that timber and wood residue harvested from land under provincial jurisdiction “must be (a) used in British Columbia, or (b) manufactured in British Columbia into wood products to the extent of manufacture specified by the regulation.”²²⁴ As stipulated in Part 10 of the BC Forest Act, there are three criteria for exporting logs or wood residue from provincial jurisdiction; however, the primary criterion applied during the POI was that the logs or wood residue are surplus to domestic manufacturers.²²⁵ The purpose of the surplus test is to ensure that there is an adequate domestic supply of logs or wood residue to satisfy the needs of domestic lumber and paper mills before an export exemption is granted.²²⁶

Exemptions can be obtained to export under the surplus criterion through either a Ministerial Order or an Order in Council (OIC).²²⁷ Under a Ministerial Order, a company submits an application to the GBC and the logs or wood residue covered by the application are listed in a weekly advertising list published by the GBC to publicize to British Columbia mill operators the availability of the logs or wood residue. Mill operators can place bids on the listings. If no bid is received for a particular listing, then the listing is considered to be surplus to the needs of domestic manufacturers and a Ministerial Order is automatically granted.²²⁸

If a bid is received on a listing, the bid is evaluated by the Timber Export Advisory Committee (TEAC) or the Chip Consumers Export Advisory Committee (CCEAC) to determine whether the submitted offer is fair.²²⁹ The TEAC/CCEAC makes a recommendation to the GBC regarding whether the committee feels that the price offered is fair or if the listing that has received an offer is surplus to the needs of domestic manufacturers. On the basis of this recommendation, the

²²² See GBC November 13, 2017 Log Export IQR at 7 to 10.

²²³ See GBC November 13, 2017 Log Export IQR at Exhibits LEP-10 (effective after April 2014) and LEP-11 (effective before April 2014).

²²⁴ *Id.* at Section 127.

²²⁵ See GBC November 13, 2017 Log Export IQR at 19-24. The other two criteria are: (1) the logs or wood residue cannot be processed or transported economically in British Columbia; and (2) exporting the logs or wood residue would improve the utilization of the wood harvested. No applications were made under the “economical” criteria during the POI, and, while two applications were made under the “utilization” criteria, no permit requests were received and no volume exported under the “utilization” criteria during the POI. Additionally, in the supercalendered paper expedited review, the GBC officials explained that only the “surplus test” was used during the period, because it is the simplest method for exporting logs and wood residue from the province. See GBC December 20, 2017 SQR at Exhibit BC-SUPP1-7 at 5 to 6 and *SC Paper Expedited Review Final IDM* at Comment 12.

²²⁶ See GBC December 20, 2017 SQR at Exhibit BC-SUPP1-7 (GBC SC Paper Verification Report) at 7.

²²⁷ See GBC November 13, 2017 Log Export IQR at 19 to 25.

²²⁸ *Id.* at 21. In April 2016, the list moved from bi-weekly to weekly publication.

²²⁹ *Id.* at 13 and 21. The CCEAC represents chip consumer interests and the TEAC members include active buyers and sellers of logs.

GBC makes a determination regarding whether to grant a Ministerial Order for export or to deny the application.²³⁰ The process can take from six to ten weeks from application to granting an exemption when a bid has been received that requires evaluation by the TEAC/CCEAC.²³¹

Exporters of logs and wood residue can also apply for an exemption through a blanket or company-specific OIC. Under a blanket OIC, the GBC permits a certain volume of logs or wood residue from a given area to be exported without the application of the surplus test. While the approval process for a blanket OIC takes longer than for a Ministerial Order, a blanket OIC is usually valid for a period of five years.²³² A blanket OIC is used for administrative efficiency when a large number of similar, but relatively small, applications might be expected. In addition to any special conditions, a blanket OIC specifies the particular geographic region covered and persons entitled to claim such an exemption.²³³

Exports of logs under provincial jurisdiction in British Columbia are subject to in-lieu of manufacturing fees. These fees range from a set fee of C\$1 per cubic meter to approximately 15 percent of the value of that log on the Vancouver Log Market.²³⁴ Exports of logs from certain coastal areas are subject to an additional multiplication factor of the fee.²³⁵ The fees vary based on the location, species and grade of the log.²³⁶

All exports of logs in Canada require an export permit under the federal Export and Import Permits Act (EIPA).²³⁷ Exports of logs under federal jurisdiction in British Columbia are subject to an almost identical process to the Ministerial Order surplus test described above for logs under provincial jurisdiction,²³⁸ as detailed in Global Affairs Canada's Notice to Exporters No. 102.²³⁹

²³⁰ *Id.*

²³¹ See GBC December 20, 2017 SQR at Exhibit BC-SUPP1-8 at Verification Exhibit 7.

²³² *Id.* (citing SC Paper Verification Report at 8); see also GBC November 13, 2017 Log Export IQR at 13.

²³³ See GBC November 13, 2017 Log Export IQR at 25. Additionally, the GBC states that, at the verification conducted by Commerce in the supercalendered paper proceeding, GBC officials explained that blanket OICs have been approved in areas where there are no log processing operations and applications for exemptions under Ministerial Orders from that area had always been granted. When asked why, under a particular blanket OIC, the GBC lowered the percentage of harvest allowed for export without the application of the surplus test, GBC officials speculated that it may have been because new timber processing facilities opened in the area. Company-specific OICs allow companies to apply for an export exemption for standing timber in the British Columbia (BC) interior, but are used very infrequently. See GBC December 20, 2017 SQR at Exhibit BC-SUPP1-7 (GBC SC Paper Verification Report) at 7-8). Other than establishment of one additional OIC for the geographic area defined as Meager Creek, the GBC did not note any significant changes to OICs during the POI. See GBC December 20, 2017 SQR at 10.

²³⁴ See GBC November 13, 2017 Log Export IQR at 36 to 37.

²³⁵ *Id.* at 37 to 40.

²³⁶ Additionally, at the supercalendered paper verification, GBC officials explained that the province began applying the multiplication factor in 2013 for exports from certain regions of the BC coast in reaction to higher demand for BC logs from China. See GBC December 20, 2017 SQR at Exhibit BC-SUPP1-7 (GBC SC Paper Verification Report) at 9.

²³⁷ See GBC November 13, 2017 Log Export IQR at 8, 28, and Exhibit LEP-4. Even logs under provincial jurisdiction in British Columbia that receive a provincial exemption to export under a Ministerial Order or an OIC must also obtain an export permit under the EIPA.

²³⁸ Logs under federal jurisdiction that are harvested from Indian Reserves, treaty settlement lands, and self-government lands do not have to meet the surplus test. *Id.* at 18.

²³⁹ See GBC November 13, 2017 Log Export IQR at Exhibit GOC-LEP-4.

British Columbia is the only province in Canada in which exports of federal jurisdiction logs are subject to a surplus test.²⁴⁰ Companies submit an application to the Export Controls Division of the Department of Foreign Affairs, Trade and Development (DFATD), which then has the GBC list these logs on the same weekly advertising list discussed above. If an offer from a domestic operator is received, the offer is reviewed by the Federal Timber Export Advisory Committee (FTEAC). The FTEAC makes a recommendation to DFATD regarding whether the logs are considered to be surplus and should be granted an export permit.²⁴¹ If no bid is received for the logs, they are considered to be surplus and are granted an export permit. There is no fee-in-lieu of manufacture on logs harvested on lands under federal jurisdiction.

Consistent with *Lumber V Final* and *SC Paper Expedited Review Final*,²⁴² we preliminarily determine that the record evidence with respect to the BC log and wood residue restraint demonstrates that there is a financial contribution by means of entrustment or direction, pursuant to section 771(5)(B)(iii) of the Act, because the evidence establishes that the nature of the governments' actions is to require that harvesters of BC timber supply that timber to BC consumers. The BC Forest Act explicitly states that logs cannot be exported unless the logs or wood residue are determined to be surplus to the requirements of timber processing facilities in British Columbia. Although the EIPA does not reference the required finding of surplus for logs harvested on Crown lands under federal jurisdiction, for most such logs, the process for seeking export is identical in that it requires a determination that the logs are surplus to the requirements of BC mill operators using the same listing required for provincial-jurisdiction logs to obtain an export permit. Therefore, under the BC and federal export permit processes, logs and wood residue must first be offered to consumers in British Columbia, and may only be exported if there are no customers in British Columbia that want to purchase the logs. Thus, the nature of the actions undertaken by the GBC and the GOC require harvesters of BC timber to sell to, and satisfy the demands of, BC consumers, with only surplus logs available for export. These requirements establish entrustment or direction of private log and wood residue suppliers by both the GBC and the GOC within the meaning of section 771(5)(B)(iii) of the Act, and the provision of a financial contribution in the form of the provision of logs and wood residue, in accordance with section 771(5)(D)(iii) of the Act.

The GBC maintains that there is no restraint on the export of logs from the province. Rather there is a process that potential exporters must follow to be authorized to export, and most applications to export logs from both federal and provincial jurisdiction were granted. As discussed above, the lengthy and burdensome export exemption process discourages log suppliers from considering the opportunities that may exist in the export market by significantly encumbering their ability to export, especially where there may be uncertainty as to whether their logs may be found to be surplus to the requirements of mills in British Columbia. Moreover, this process restricts the ability of log suppliers to enter into long-term supply contracts with foreign purchasers. The cumulative impact of these legal restrictions on the export of timber has resulted in only a small volume of the logs in British Columbia being exported during the POI.

²⁴⁰ *Id.*

²⁴¹ *Id.* at 17 and 49 to 51. The FTEAC is comprised of the same membership as the provincial TEAC with the addition of a Federal Official.

²⁴² See *SC Paper Expedited Review Final* IDM at Comments 11 through 22 and *Lumber V Final* IDM at Comments 44 through 47.

We preliminarily find that the provincial log and wood residue restraints are *de jure* specific, consistent with section 771(5A)(D)(i) of the Act because, under the BC Forest Act, they are limited to an enterprise or industry or group thereof. We preliminarily find that the federal log export restraint is *de facto* specific, consistent with section 771(5A)(D)(iii)(I) of the Act because, through the permitting and listing process described above, it is limited to an enterprise or industry or group thereof. Moreover, the provincial and federal export restraints provide a benefit in accordance with section 771(5)(E)(iv) of the Act, to extent that the prices paid by Catalyst to unaffiliated private forestry/harvesting companies for Catalyst's purchases of logs are for LTAR.

Commerce's regulations at section 351.511(a)(2) set forth the basis for identifying benchmarks to determine whether a government good or service is provided for LTAR. These potential benchmarks are listed in hierarchical order by preference: (1) market prices from actual transactions within the country under investigation; (2) world market prices that would be available to purchasers in the country under investigation; or (3) an assessment of whether the government price is consistent with market principles. This hierarchy reflects a logical preference for achieving the objectives of the statute. In addition, as provided in 19 CFR 351.511(a)(2)(i), we have considered product similarity; quantity sold, imported or auctioned; and other factors affecting comparability.

The most direct means of determining whether the logs provided to Catalyst conferred a benefit is a comparison with private transactions for a comparable good or service in the country, *i.e.*, using a Tier 1 benchmark. We base this on an observed market price for the good, in the country under investigation, from a private supplier (or, in some cases, from a competitive government auction) located either within the country or outside the country (with the latter transaction in the form of an import). Our preference for Tier 1 is based on the expectation that such prices would generally reflect most closely the commercial environment of the purchaser under investigation.²⁴³

Catalyst made purchases of four different products in British Columbia during the POI for which we must measure the adequacy of remuneration: logs, chips, sawdust and hog fuel.²⁴⁴ All purchases of logs and wood residue in British Columbia are subject to the GBC's and the GOC's log export restraint as described above. Because the provincial and federal governments have distorted the BC market for logs and wood residue by restricting the export of those products, we cannot use Tier-1 prices as a benchmark to measure the adequacy of remuneration.²⁴⁵ Prices of BC-sourced logs and wood residue, as well as the imported prices of wood chips and sawdust provided by Catalyst, cannot be used to measure the adequacy of remuneration because these prices would constitute a Tier-1 benchmark. Because we cannot use prices within British Columbia, including import prices, as a benchmark, we have resorted to the next alternative in the hierarchy under 19 CFR 351.511(a)(2), which is a Tier-2 world market price.²⁴⁶

²⁴³ See *Preamble*, 63 FR at 65377.

²⁴⁴ See Catalyst November 13, 2017 IQR at 7 to 8 and Exhibit WOOD-2.

²⁴⁵ See *Preamble*, 63 FR at 65377.

²⁴⁶ *Id.*

To construct benchmarks that match the species and grades of logs purchased by Catalyst in British Columbia, we are using publicly-available data provided by Catalyst for monthly delivered prices of logs in Washington and Oregon.²⁴⁷ The construction of a log benchmark consisting of data from the U.S. Pacific Northwest (PNW) is consistent with Commerce's prior findings that the lumber species in the PNW are sufficiently similar those in British Columbia.²⁴⁸ We converted the unit measures for volume and currency to ensure that the Washington and Oregon prices are on the same basis as Catalyst's purchases of logs.

Catalyst's BC log purchases are reported on an ex-works basis; to adjust these purchases to include delivery costs, we requested in our initial stumpage questionnaire that Catalyst provide its delivery costs on a transaction-specific basis.²⁴⁹ In its initial response, Catalyst claimed that it was unable to provide such costs because it could not tie specific wood purchases to specific delivery fees on a transaction-specific basis, and instead provided average per-unit transaction costs for the POI, which it maintains in the ordinary course of business.²⁵⁰ Commerce then sent a supplemental questionnaire, noting Catalyst's failure to provide the information in the form and manner in which it was requested, and asked that Catalyst substantiate in narrative form its provided average per unit transaction cost. We further requested that Catalyst provide invoices and calculations for three randomly selected control numbers in Catalyst's log database to demonstrate (*i.e.*, substantiate its claim) that the average per unit transaction cost provided is a reasonably accurate measure of the delivery costs, or that Catalyst revise its log database in the most specific manner possible.²⁵¹ In its response to this supplemental questionnaire, Catalyst provided complete documentation for the three selected transactions.²⁵² Catalyst reported that for one of the transactions, it had "never incurred any delivery charges," and for another transaction, it provided a towing rate that was a fraction of the reported total average per unit transaction cost; and for the third transaction it had never been invoiced by the trucking company, so had not paid the freight charge.²⁵³ Catalyst did not explain why these additional reported costs differed so greatly from the average per unit transaction cost originally reported. Further, despite having provided delivery information for the three requested invoices, Catalyst stated that "it is not possible to provide transaction-specific delivery costs for its log purchases all the way to Catalyst's mills," and declined to provide more specific transaction-specific or invoice-specific freight information.²⁵⁴

As such, we find that Catalyst failed to fully respond to our questions or provide a reasonable alternative method regarding its delivery costs on a transaction-specific basis in the form and

²⁴⁷ See Catalyst December 11, 2017 Benchmark Submission at Exhibits BENCH-4 and BENCH-5.

²⁴⁸ See, e.g., *Lumber V Prelim* PDM at "U.S. Log Prices are the Most Appropriate Benchmark," unchanged in *Lumber V Final*.

²⁴⁹ See Commerce Letter re: Stumpage Questionnaire, dated September 28, 2017 at Section III, page 5, and accompanying Excel File BC.Company.Stumpage.DataTemplate.xlsx.

²⁵⁰ See Catalyst November 11, 2017 IQR at 8 to 10 and Exhibit WOOD-3.

²⁵¹ See Commerce Letter re: Countervailing Duty Investigation of Certain Uncoated Groundwood Paper from Canada: Second Supplemental Questionnaire, dated December 8, 2017 at 5 to 6.

²⁵² See Catalyst December 20, 2017 SQR at 19-22 and Exhibit WOOD-31.

²⁵³ *Id.*

²⁵⁴ *Id.* at 22.

manner requested by Commerce. Furthermore, we find that Catalyst has not substantiated its claims 1) regarding the average per unit transaction cost originally reported and 2) that it was unable to provide more accurate information, considering the company was able to do for the three transactions, which Commerce randomly chose. Therefore, Commerce preliminarily determines pursuant to section 776(a)(2)(A) and (B) of the Act, selecting from the facts available on the record is warranted. Further, because Catalyst failed to cooperate by not acting to the best of its ability in responding to Commerce's request for delivery costs reported on a transaction-specific basis, and by failing to substantiate its claims, pursuant to section 782(d) and section 776(b) of the Act, we are selecting from facts otherwise available on the record with an adverse inference and not making an adjustment for freight to Catalyst's reported log purchases for the preliminary determination.²⁵⁵

For a benchmark for measuring the adequacy of remuneration for wood chips, we are using publicly available U.S. export data from the U.S. Bureau of the Census for wood chips exported from the PNW to countries other than Canada²⁵⁶ as the starting point, converted from U.S. dollars to Canadian dollars. We excluded Canada because, as explained above, we have preliminarily determined not to use Tier 1 benchmark prices, *i.e.*, imports into Canada, because the market for such imports is distorted. To adjust this price data to include delivery costs, we are using the delivery costs that Catalyst reported for its own Washington State imports of wood chips.²⁵⁷

No party provided usable, public benchmark data for hog fuel or sawdust; therefore, consistent with *SC Paper Expedited Review Final*, we have developed benchmarks for hog fuel and sawdust by calculating a ratio of Catalyst prices for the purchases of hog fuel and of saw dust to Catalyst prices for the purchase of wood chips, and applying that ratio to the benchmark for wood chips.²⁵⁸

Full details of the benchmark calculations for each product can be found in the Catalyst Preliminary Calculation Memorandum.²⁵⁹ To calculate the benefit, we compared the price paid by Catalyst for its BC purchases of logs, chips, sawdust, and hog fuel to the relevant benchmark price. We summed all of the positive differences between the benchmark price and the price that Catalyst paid. We then divided this total benefit by Catalyst's total sales to calculate a net countervailable subsidy rate of 3.66 percent *ad valorem* for this program.

²⁵⁵ See Catalyst Preliminary Calculation Memorandum at Attachments 11 and 12. Additionally, for the one control number which Catalyst provided documentation substantiating the expenses, we are using the actual expense incurred for that transaction.

²⁵⁶ See Catalyst December 20, 2017 Benchmark Submission at Exhibit BENCH-12.

²⁵⁷ See Catalyst December 20, 2017 SQR at Exhibit WOOD-5 (Revised).

²⁵⁸ See *SC Paper Expedited Review Final* IDM at Comments 16 and 22; *see also*, Catalyst December 20, 2017 SQR at Exhibit MAIN-16 (at the April 17, 2017 Final Results Calculation for Catalyst Paper in the SC Paper Expedited Review and May 24, 2017 Amended Final Results Calculations for Catalyst in the SC Paper Expedited Review) and Catalyst Preliminary Calculation Memorandum at Attachment 15.

²⁵⁹ See Catalyst Preliminary Calculation Memorandum.

Tax Programs

Commerce initiated on certain tax programs. Additionally, the respondents self-reported additional tax incentives, for which their respective governments also provided program information. Based on the record evidence, we preliminarily determine that the tax programs discussed below constitute a financial contribution in the form of revenue foregone, within the meaning of section 771(5)(D)(ii) of the Act. We further preliminarily find that these programs are specific under section 771(5A) of the Act for the reasons discussed below. Finally, we preliminarily determine that the tax incentives confer benefits under section 771(5)(E) of the Act and 19 CFR 351.509 in the amounts preliminarily determined within each program discussion below. To calculate the net countervailable subsidy rate for a program used by a respondent, we applied the attribution rules as discussed in the “Attribution of Subsidies” section above. Additionally, unless otherwise stated, we preliminarily determine that the following programs are not tied to sales made to a particular market or product, and, thus, we have calculated the net subsidy rate using a total sales denominator. Below we provide a description of each tax program by province, the basis for specificity, and the preliminarily calculated subsidy rate for each respondent that used the program.

Federal Tax Programs

3. Federal Accelerated Capital Cost Allowance (ACCA) for Class 29 Assets

Class 29 assets are machinery used in manufacturing and processing operations. Under this program, Class 29 assets can be fully depreciated at an accelerated rate, over three years, and the amount of depreciation can be claimed as a deduction to reduce the taxpayer’s taxable income. Canada’s Income Tax Act (ITA) provides for deductions from taxable income for the capital cost of property.²⁶⁰ Canada’s Income Tax Regulation (ITR) further specifies that tax deductions for depreciation of Class 29 assets are permissible deductions under the ITA,²⁶¹ however, the ITR’s definition of manufacturing and processing explicitly excludes certain industries from benefitting from this deduction.²⁶² Kruger and White Birch reported that they used the accelerated depreciation to reduce their taxable income under this program during the POI.²⁶³

Accordingly, we preliminarily determine that the ACCA Class 29 assets program is *de jure* specific within the meaning of section 771(5A)(D)(i) of the Act, because, as a matter of law, eligibility for this tax program is expressly limited to certain industries, *i.e.*, those industries not specifically excluded by ITR’s definition of manufacturing and processing. We preliminarily determine that there is a financial contribution in the form of revenue foregone, within the meaning of section 771(5)(D)(ii) of the Act. We preliminarily determine that the tax credit provides a benefit in the amount of the difference between the tax the company paid and the tax the company would have paid absent the tax credit, as provided in 19 CFR 351.509(a)(1). In the absence of the Class 29 provision, the manufacturing or processing assets acquired would

²⁶⁰ See GOC November 9, 2017 IQR at GOC-VI-1.

²⁶¹ *Id.*

²⁶² *Id.* at GOC-VI-9.

²⁶³ See Kruger November 9, 2017 IQR at 50; see also White Birch November 9, 2017 at Exhibit A-1.

otherwise have been included in Class 43, which is subject to normal, *i.e.*, nonaccelerated, depreciation.²⁶⁴ Accordingly, the benefit conferred is the tax savings of the difference between the deduction calculated using the Class 29 accelerated rate of depreciation and the deduction calculated using the Class 43 standard rate of depreciation.

In accordance with 19 CFR 351.524(c)(1), we are treating this subsidy as a recurring subsidy, and to calculate the tax savings on this difference, we multiplied the difference in the deductions by the effective corporate tax rate of 15 percent²⁶⁵ plus the provincial tax rate.²⁶⁶ We then divided the calculated benefit by each company's respective total sales. On this basis, we preliminarily calculate a net countervailable subsidy of 0.05 percent *ad valorem* for Kruger²⁶⁷ and 0.08 percent *ad valorem* for White Birch.

British Columbia Tax Programs

4. Powell River City Tax Exemption Program

In 2014, the City of Powell River passed Bylaw 2394 establishing “a revitalization tax exemption program” for a term of three years (*i.e.*, for calendar years 2015 through 2017).²⁶⁸ This bylaw specified that this program applied exclusively to Class 4 major industrial property located within the revitalization area. The GBC specified in its questionnaire response that Catalyst was the only participant in this program.²⁶⁹ The 2014 bylaw provided tax certainty for Catalyst by maintaining, through 2017, the property tax amount payable by Catalyst at roughly \$2.75 million per year.²⁷⁰ Commerce previously countervailed this program in *SC Paper Expedited Review Final*.²⁷¹

Under section 771(5)(D)(ii) of the Act, the financial contribution from a tax program is the amount of forgone revenue that is otherwise due. Under the 2014 agreement, by capping Catalyst's property tax at a specified ceiling amount for the years 2015 through 2017, the tax that Catalyst paid was substantially lower than the tax Catalyst would have paid in the absence of the revitalization area tax program. As a result, we preliminarily find that there is a financial contribution in the form of revenue foregone under section 771(5)(D)(ii) of the Act during the POI. Because this action was taken solely with regard to Catalyst, we find it to be specific to Catalyst under section 771(5A)(D)(i) of the Act.²⁷² We preliminarily find that a benefit exists

²⁶⁴ *Id.* at GOC-VI-1.

²⁶⁵ *Id.* at GOC-VI-7.

²⁶⁶ See White Birch November 9, 2017 IQR at Exhibit A-1; and Kruger November 9, 2017 IQR at 50.

²⁶⁷ To calculate this figure, we used the benefit information supplied by Kruger. However, Kruger's calculation appears not to account for the “half-year rule” (*i.e.*, the GOC rule related to different treatment of capital equipment in the year of acquisition). Because the record is missing information to correct this omission, we intend to request that Kruger provide it after this preliminary determination. We will consider this additional information for the purposes of the final determination.

²⁶⁸ See GBC November 9, 2017 IQR at BC Volume III.

²⁶⁹ *Id.*

²⁷⁰ Additionally, we note that the tax program was also specific to properties located within a certain revitalization area in the City of Powell River. *Id.*

²⁷¹ See *SC Paper Expedited Review Final* IDM at 9 and Comment 3.

²⁷² *Id.*

pursuant to 19 CFR 351.509(b) to the extent taxes are not collected. Catalyst's property tax bill from the City of Powell River specifies the difference between what would have been owed in the absence of the tax program, and the amount that Catalyst actually paid (*i.e.*, the tax savings accruing to Catalyst).²⁷³ We divided this amount by Catalyst's total sales. On this basis, we preliminarily determine the net countervailable subsidy to be 0.20 percent *ad valorem* during the POI.²⁷⁴

5. School Tax Credit for Class 4 Major Industrial Properties

The GBC establishes school tax rates applicable to taxable property value in each of the eight non-residential property classes within the province.²⁷⁵ For calendar year 2016, the school tax rates were set by Order-in-Council No. 267;²⁷⁶ each non-residential property class has one applicable school tax rate. Also for 2016, the GBC subsequently adjusted the school tax rate of \$5.40 per \$1,000 of taxable value, as indicated in the Order-in-Council, to \$2.16 per \$1,000 of taxable value for all Class 4 Major Industry properties, pursuant to the Provincial Industrial Property Tax Credit.²⁷⁷ Catalyst owned Class 4 major industrial property in BC during the POI, and benefited from the school tax credit it received from the GBC on these properties.²⁷⁸

Under section 771(5)(D)(ii) of the Act, the financial contribution from a tax program is the amount of foregone revenue that is otherwise due. Under the Order-in-Council No. 267, by providing a reduced tax rate to Class 4 Major Industry properties, the tax paid by Catalyst on its Class 4 major industrial properties was reduced; in fact, each of Catalyst's Class 4 property tax bills show a "School Tax Credit" amount.²⁷⁹ As a result, we preliminarily find that there is revenue foregone by the GBC under section 771(5)(D)(ii) of the Act during the POI. Under section 771(5A)(D)(i) of the Act, this tax credit is *de jure* specific because Section 20 of the *Assessment Act* delineates the types of properties that qualify as Class 4 major industries; Class 4 major industries are limited to certain heavy industries.²⁸⁰ Catalyst's Class 4 property taxes for 2016 specify the amount of credit received for each property (*i.e.*, the tax savings accruing to Catalyst). We preliminarily find that a benefit exists pursuant to 19 CFR 351.509(b) to the extent taxes are not collected. Because this is a recurring subsidy, in accordance with 19 CFR 351.509(c) and 524(a) and (c)(1), we summed Catalyst's school tax credits for all of its Class 4 major industrial properties due in 2016, and divided this amount by Catalyst's total sales. On

²⁷³ See Catalyst November 9, 2017 IQR at Appendix IV.C.6 and Exhibit PR-10.

²⁷⁴ See Catalyst Preliminary Calculation Memorandum.

²⁷⁵ See GBC December 20, 2017 SQR at Appendix B and Exhibit BC-SUPP1-11 at Sections 119 and 120 of the *School Act*.

²⁷⁶ *Id.* at Exhibit BC-SUPP1-12.

²⁷⁷ *Id.* at Exhibit BC-SUPP1-13. All Class 4 Major Industry property in BC qualifies for the \$2.16 per \$1,000 of taxable value rate, pursuant to Section 131.2 of the *School Act*. *Id.* at Exhibit BC-SUPP1-11.

²⁷⁸ See Catalyst December 12, 2017 SQR at Appendix SQ1-15 and Exhibit MAIN-13.

²⁷⁹ *Id.* at Exhibit MAIN-13.

²⁸⁰ See GBC December 20, 2017 SQR at Appendix B and Exhibit BC-SUPP1-5 at Section 20 of the *Assessment Act*. As a manufacturer of UGW paper, Catalyst falls under, the category "manufacturing of pulp, paper, or linerboard." Additionally, according to the GBC, we also note that pulp and paper Class 4 properties accounted for a significant percentage of the total school taxes paid by Class 4 properties in BC in 2016. *Id.* at Appendix B-7 to B-8.

this basis, we preliminarily determine the net countervailable subsidy to be 0.11 percent *ad valorem* during the POI for Catalyst.²⁸¹

6. Lower Tax Rates for Coloured Fuel / BC Coloured Fuel Certification

The *Motor Fuel Tax Act* of British Columbia permits the GBC to charge different tax rates for clear and colored fuel.²⁸² Colored fuel is taxed at a lower rate than clear fuel; however, certain conditions must be met in order to purchase colored fuel.²⁸³ In particular, purchasers must complete a Coloured Fuel Certification (FIN-430) certifying that they are eligible to purchase colored fuel and selecting on the form the reasons why, as colored fuel may only be used for certain authorized purposes.²⁸⁴ The authorized uses for colored fuel are primarily limited to off-highway applications under BC's *Motor Fuel Tax Act*.²⁸⁵ The form FIN 430 must be provided to any suppliers of colored fuel before making a purchase.²⁸⁶ Companies may then purchase colored fuel at the reduced motor fuel tax rate.²⁸⁷

Consistent with Commerce's determination in the *Lumber V Final*,²⁸⁸ we preliminarily determine that this program is *de jure* specific under section 771(5A)(D)(i) of the Act, because access to the lower fuel tax rates are expressly limited by law to companies engaging in off-highway applications of motor fuel; that this program constitutes a financial contribution in the form of revenue foregone, within the meaning of section 771(5)(D)(ii) of the Act; and that the tax savings confer a benefit pursuant to 19 CFR 351.510(a)(1). Catalyst reported using this program during the POI.²⁸⁹ Because this is a recurring subsidy under 19 CFR 351.524(c)(1), to calculate the benefit for Catalyst, we divided the benefit reported by Catalyst's total sales. On that basis, we preliminarily calculate a net countervailable subsidy of 0.03 percent *ad valorem* for Catalyst.²⁹⁰

Newfoundland and Labrador Tax Programs

7. Newfoundland and Labrador Scientific Research and Development Tax Credit

The GNL provides a tax credit on companies' eligible research and development expenditures.²⁹¹ During the POI, the tax credit was available at a standard rate of 15 percent of the cost of these expenditures.²⁹² There is no application to receive this tax credit; rather it is claimed on Form

²⁸¹ See Catalyst Preliminary Calculation Memorandum.

²⁸² "'Clear' fuel refers to standard gasoline and diesel. 'Coloured' fuel is gasoline or diesel to which a specific dye has been added in order to distinguish it from standard fuel." See GBC November 9, 2017 IQR at BC Volume IV.

²⁸³ *Id.*

²⁸⁴ *Id.*

²⁸⁵ *Id.* at BC-IV-2.

²⁸⁶ *Id.* at BC-IV-3.

²⁸⁷ *Id.*

²⁸⁸ See *Lumber V Final* IDM at Comment 74.

²⁸⁹ See Catalyst November 9, 2017 IQR at Appendix IV.C.7.

²⁹⁰ See Catalyst Preliminary Calculation Memorandum.

²⁹¹ See GNL November 9, 2017 IQR at Exhibits NL-NLRD-1 and NL-NLRD-3.

²⁹² *Id.*

T661 of the tax payer's federal tax return.²⁹³ Kruger claimed a credit under this program in its 2015 tax year annual returns filed during the POI.²⁹⁴

The GNL reported that there were a limited number of industries and a limited number of companies within those industries received the tax credit in the POI.²⁹⁵ Because the actual recipients are limited in number on an enterprise basis, we preliminarily determine that this program is *de facto* specific, in accordance with section 771(5A)(D)(iii)(I) of the Act. The tax credit received by Kruger conferred a benefit equal to the amount of the tax savings pursuant to 19 CFR 351.509(a)(1). We preliminarily determine that there is a financial contribution in the form of revenue forgone, pursuant to section 771(5)(D)(ii) of the Act. Because this is a recurring subsidy under 19 CFR 351.524(c), we divided the amount of the tax credit received during the POI by the total sales of the UGW paper producers during the POI, in accordance with 19 CFR 351.524(a). On this basis, we preliminarily calculated a net countervailable subsidy rate of 0.01 percent *ad valorem* for Kruger.

8. Waiver of Managed Forest Land Tax

The Managed Land Tax is a requirement under the Forestry Act and the Forest Land Management and Taxation Regulations when a parcel of land, or part of a parcel, is declared "managed."²⁹⁶ The rate is calculated on an annual basis and was \$1.42 per hectare in 2016. The GNL entered into agreements dating back to 2009 to waive the payment of the annual managed land tax payable on CBPP tenure.²⁹⁷ Kruger states that the GNL waived its Managed Land Tax assessed in 2015 and payable in 2016.²⁹⁸

The GNL reported that it entered an individual agreement with CBPP in 2009 to waive payment of the annual tax.²⁹⁹ We preliminarily determine that the waiver of tax is specific under section 771(5A)(D)(i) of the Act, because the waiver was only given to CBPP under its individual agreement with the GNL. We preliminarily determine that there is a financial contribution in the form of revenue foregone, pursuant to section 771(5)(D)(ii) of the Act. The tax credit received by Kruger conferred a benefit equal to the amount of the tax savings pursuant to 19 CFR 351.509(a)(1). Because this is a recurring subsidy under 19 CFR 351.524(c), we divided the amount of the tax credit received during the POI by the UGW producers' total sales during the POI, in accordance with 19 CFR 351.524(a). On this basis, we preliminarily calculate net countervailable subsidy rates of 0.33 percent *ad valorem* for Kruger.

²⁹³ *Id.* at Exhibit NL-NLRD-1.

²⁹⁴ *Id.*; *see also* Kruger November 9, 2017 IQR at 91.

²⁹⁵ Because the GNL claimed business proprietary treatment for the specific data on which this statement is based, we are unable to discuss it further here. *See* GNL November 9, 2017 IQR at Exhibit NL-NLRD-11.

²⁹⁶ *See* Kruger December 18, 2017 SQR at 63.

²⁹⁷ *See* GNL November 9, 2017 IQR at 5.

²⁹⁸ *See* Kruger November 9, 2017 IQR at Exhibit OAT-1.

²⁹⁹ *See* GNL November 9, 2017 IQR at Exhibit NL-MFLT-1.

9. Credits for the Construction and Major Repair of Public Access Roads and Bridges in Forest Areas

In the *Lumber V Final*, Commerce determined that this program provides a refundable tax credit that constitutes a financial contribution in the form of revenue forgone, within the meaning of section 771(5)(D)(ii) of the Act, and provides a benefit in the amount of the tax credit used to reduce taxes payable under 19 CFR 351.509(a)(1).^{300 301} We also found that this program is *de jure* specific under section 771(5A)(D)(i) of the Act because eligibility is limited to applicants that hold a qualification certificate issued by the MFFP and have a forest management agreement, a timber supply and forest management agreement, or forest management contract with MFFP.³⁰² Further, we preliminarily find that Revenu Québec, the administrator of these credit payments, is an agency of the Québec government.³⁰³ No additional information or evidence was provided in this investigation that warrants the reconsideration of this finding. Therefore, we preliminarily continue finding that this program provides a countervailable subsidy.

Resolute reported receiving credits under this program during the POI.³⁰⁴ Because this program is recurring under 19 CFR 351.524(c)(1), we divided the sum of the tax savings by Resolute's total sales during the POI, in accordance with 19 CFR 351.524(a), to arrive at a total countervailable subsidy rate.

On this basis, we preliminarily determine the countervailable subsidy rate to be 0.11 percent *ad valorem* for Resolute.³⁰⁵

10. Québec Scientific Research and Development Tax Credit

The GOQ provides a tax credit on companies' eligible research and development expenditures, including salaries and wages for research and development work.³⁰⁶ During the POI, the tax credit was available at a standard rate of 14 percent of the cost of these expenditures for large corporations and 30 percent for small and medium-sized businesses.³⁰⁷ To receive the benefit, eligible companies must fill out Form RD-1029.7.³⁰⁸ Kruger and Resolute reported that they

³⁰⁰ The GOQ states that taxpayers claim this credit when filing the corporation income tax return. See GOQ November 9, 2017 IQR at GOQ-RQ-34.

³⁰¹ See *Lumber V Prelim* PDM at 82-83, unchanged in *Lumber V Final*; see also *SC Paper 2015 Administrative Review Prelim* PDM at 42, where Commerce preliminarily found that this program provides a countervailable subsidy.

³⁰² *Id.*; see also GOQ November 9, 2017 IQR at GOQ-RQ-40.

³⁰³ See GOQ November 9, 2017 IQR at GOQ-RQ-33.

³⁰⁴ See Resolute November 9, 2017 IQR at 100.

³⁰⁵ See Resolute Preliminary Calculation Memorandum.

³⁰⁶ See GOQ November 9, 2017 IQR at GOQ-RQ-59

³⁰⁷ *Id.*

³⁰⁸ *Id.* at Exhibit QC-RQ-C02-13.

received a tax credit under this program in their 2015 tax year annual returns filed during the POI.³⁰⁹

The GOQ reported that there were a limited number of industries and companies that received the tax credit in the POI.³¹⁰ Because the actual recipients are limited in number, we preliminarily determine that this program is *de facto* specific, in accordance with section 771(5A)(D)(iii)(I) of the Act. We preliminarily find that there is a financial contribution in the form of revenue foregone pursuant to section 771(5)(D)(ii). The tax credit received by Kruger and Resolute conferred a benefit equal to the amount of the tax savings pursuant to 19 CFR 351.509(a)(1). Because this is a recurring subsidy under 19 CFR 351.524(c), for each company, we divided the amount of the tax credit received during the POI by the appropriate denominator³¹¹ and Resolute's total sales during the POI, in accordance with 19 CFR 351.524(a). On this basis, we preliminarily calculate net countervailable subsidy rates of 0.02 percent *ad valorem* for Kruger and 0.03 percent *ad valorem* for Resolute.

11. Québec Tax Credit for the Acquisition of Manufacturing and Processing Equipment in Québec

The GOQ provides a tax credit for investment in manufacturing or processing equipment. According to the GOQ, this credit was implemented in order to stimulate investments in such equipment and to support certain regions with struggling economies.³¹² To qualify for the tax credit, property must, among other things, be manufacturing or processing equipment, be hardware used primarily for manufacturing or processing, or have been acquired after March 20, 2012, for purposes of smelting, refining, or hydrometallurgy activities related to ore extracted from a mineral resource located in Canada.³¹³ Where the qualified property was acquired after December 2, 2014, the tax credit for investment is calculated on the portion of eligible expenses that exceeds \$12,500. The basic rate of the tax credit for investment is four percent. The rate is increased where the property is acquired to be used primarily in a resource region and based on the size of the business that acquires it.³¹⁴

We preliminarily determine that the tax credits provided under this program constitute financial contributions in the form of revenue foregone by GOQ under section 771(5)(D)(ii) of the Act, and this program provides a benefit to the recipient in the amount of the difference between the taxes it paid on the qualified property and the amount of taxes that it would have paid in the absence of this program, pursuant to 19 CFR 351.509(a)(1). We also preliminarily determine that the tax credit is *de jure* specific, within the meaning of section 771(5A)(D)(i) of the Act because the recipients are limited to companies who purchase qualified manufacturing and processing equipment.³¹⁵ Therefore, we preliminarily find this program countervailable.

³⁰⁹ *Id.* at Exhibit NL-NLRD-1; *see also* Kruger November 9, 2017 IQR at 91; and Resolute November 9, 2017 IQR at 103.

³¹⁰ *See* GOQ December 22, 2017 SQR at GQ-SUPP-9 and Exhibit QC-SUPP-PT1-RQ-1.

³¹¹ *See* Kruger Preliminary Calculation Memo.

³¹² *See* GOQ November 9, 2017 IQR at GOQ-RQ-2.

³¹³ *Id.*

³¹⁴ *Id.*

³¹⁵ *Id.* at Exhibit QC-RQ-C85-25.

Consistent with our normal practice, we consider the benefits under this program to be non-recurring, as provided in 19 CFR 351.524(b) and 351.524(c)(2)(iii), because they are tied to the company's capital assets.³¹⁶ We performed the "0.5 percent test" on the foregone taxes and have expensed the benefit in the year of receipt because the amount of taxes forgone did not pass the test, in accordance with 19 CFR 351.524(b)(2). Therefore, we divided the amount of the benefit received in the POI by White Birch by its total sales during the POI. On this basis, we preliminarily determine that White Birch received a countervailable subsidy rate of 0.01 percent *ad valorem* under this program.³¹⁷

Grant Programs

Commerce initiated on certain grant programs alleged by the petitioners. Additionally, the respondents self-reported additional grants, for which their respective governments also provided program information. Based on the record evidence, we preliminarily determine that the grants described below constitute financial contributions in the form of a direct transfer of funds from the government to a respondent, within the meaning of section 771(5)(D)(i) of the Act. We further find that the following programs are specific under section 771(5A) of the Act. Finally, we also preliminarily determine that the grants confer benefits under section 771(5)(E) of the Act and 19 CFR 351.504(a) in the amounts preliminarily determined within each program discussion below.

To calculate the net countervailable subsidy rate for a program used by a respondent, we applied the attribution rules as discussed in the "Attribution of Subsidies" section above. Additionally, unless otherwise stated, we preliminarily determine that the following programs are not tied to sales made to a particular market or product, and, thus, we have calculated the net subsidy rate using a total sales denominator. Below we provide a description of each grant program, the basis for specificity, and the preliminarily calculated subsidy rate for each respondent that used the program.

Federal Grants

12. The Federal Pulp and Paper Green Transformation Program (FPPGTP)

The GOC reported that Catalyst and Resolute received grants during the POI under the FPPGTP.³¹⁸ The purpose of the program was to improve the environmental performance of Canada's pulp and paper industry. The program is authorized by the national government and administered by Natural Resources Canada (NRCan). Under the program, participant companies that register and submit the required application materials receive a credit in the amount C\$0.16

³¹⁶ See, e.g., *Pasta from Turkey: Preliminary Results of Countervailing Duty Administrative Review; 2014*, 81 FR 52825 (August 10, 2016) and accompanying PDM at "Investment Encouragement Program (IEP): Customs Duty and VAT Exemptions," unchanged in *Pasta from Turkey: Final Results of Countervailing Duty Administrative Review; 2014*, 81 FR 90775 (December 15, 2016).

³¹⁷ See White Birch Preliminary Calculation Memorandum.

³¹⁸ See GOC November 9, 2017 IQR at GOC-IV-2 to GOC-IV-3.

per liter of black liquor (a by-product of pulp-making) produced during the period January 1, 2009, through December 31, 2009, up to a C\$1 billion cap for the total program.³¹⁹ Following the credit application process, companies receive a confirmation of the value of the credits generated, and the total credit value. Companies can then submit project proposals for funding consideration.³²⁰ Eligible projects must be capital investments in a Canadian pulp and paper mill that are directly related to the mill's industrial process and result in demonstrable improvements in environmental performance. Additionally, the project must be located at a pulp and paper mill in Canada.³²¹ This program ended on March 31, 2012; project expenses incurred by participating companies after that date are not funded by the program.³²²

Consistent with our finding in the countervailing duty investigation of *SC Paper from Canada*,³²³ we preliminarily determine that grants from the GOC under the FPPGTP constitute a financial contribution in the form of a direct transfer of funds from the government, and bestow a benefit in the amount of the grant within the meaning of sections 771(5)(D)(i) and 771(5)(E) of the Act and 19 CFR 351.504(a). We also preliminarily determine that this program is specific under section 771(5A)(D)(i) of the Act, because the grants provided under the program are limited to the pulp and paper industry.

Commerce's regulations at section 351.525(b)(5)(i) state that generally, "(i)f a subsidy is tied to the production or sale of a particular product, the Secretary will attribute the subsidy only to that product." In making this determination, Commerce analyzes the purpose of the subsidy based on information available at the time of bestowal.³²⁴ A subsidy is tied only when the intended use is known to the subsidy provider (in this case, the GOC) and so acknowledged prior to, or concurrent with, the bestowal of the subsidy.³²⁵ For example, in determining whether a loan is tied to a particular product, Commerce examines the loan approval documents; to determine whether a grant is tied to a particular product, Commerce examines the grant approval documents. In the case of the grant program at issue, the grant applicant's guide clearly states that the intent of the program was to improve the environmental performance of Canada's pulp and paper industry, and credits were only to be granted to Canadian pulp and paper companies. Additionally, in order to be eligible for the program, "projects must be capital investments at a Canadian pulp and paper mill that are directly related to the mill's industrial process and result in demonstrable improvements in environmental performance."³²⁶ Further, costs associated with other types of projects (specifically, costs associated with the production or export of softwood lumber products) are ineligible for the program.³²⁷ Therefore, based on the record evidence, the purpose of this grant program was known and available prior to the approval and bestowal of the benefit, and we preliminarily determine that these grants are tied to the production of only pulp

³¹⁹ *Id.* at GOC-IV-1.

³²⁰ *Id.* at GOC-IV-9.

³²¹ *Id.* at GOC-IV-14.

³²² *Id.* at GOC-IV-5.

³²³ See *Supercalendered Paper from Canada: Final Affirmative Countervailing Duty Determination*, 80 FR 63535 (October 20, 2015) (*SC Paper from Canada*), and accompanying IDM at 26 to 27.

³²⁴ See *Preamble*, 63 FR at 65403.

³²⁵ *Id.*

³²⁶ See GOC November 9, 2017 IQR, Volume IV at Exhibit GOC-PPGTP-1, at 4.

³²⁷ *Id.* at Exhibit GOC-PPGTP-1, at 7.

and paper products. Therefore, as required by 19 CFR 351.525(b)(5), we are attributing the benefits from these grants to the sales of the specific products that benefit from the grant (*i.e.*, pulp and paper products), rather than to Catalyst's or Resolute's total sales.

Because respondents did not receive these benefits on an on-going basis, we are treating this subsidy as a non-recurring grant. Catalyst and Resolute reported the amount of funds received from the GOC, and we conducted the "0.5 percent test," pursuant to 19 CFR 351.524(b)(2), on the amount of credit approved by the GOC based on Catalyst's and Resolute's black liquor production in the corresponding year.³²⁸ We found that the amount of credits is greater than 0.5 percent of Catalyst's and Resolute's sales of pulp and paper in the year of approval. Thus, we allocated the disbursements received during the AUL period using the discount rate discussed above in the section "Loan Interest Rate Benchmarks and Discount Rates," to determine the amount attributable to the POI. We then added these benefits allocated to the POI and divided these totals by Catalyst's and Resolute's total sales of pulp and paper during the POI, consistent with 19 CFR 351.525(b)(6)(iv). On this basis, we preliminarily determine Catalyst's countervailable subsidy for the FPPGTP to be 0.19 percent *ad valorem*,³²⁹ and we preliminarily determine the countervailable subsidy rate to be 0.39 percent *ad valorem* for Resolute.³³⁰

In its initial questionnaire response, Resolute argued that benefits received by Fibrek were received prior to its acquisition by Resolute and are extinguished by Resolute's purchase, which, according to Resolute, was at arm's length and for fair market value.³³¹ To support this argument, Resolute provided a complete response to the change in ownership appendix.³³²

For purposes of determining whether the benefits received by Fibrek under FPPGTP are extinguished as a result of the change in ownership, we have relied upon the *Notice of Final Modification* and *Pasta from Italy* in evaluating Resolute's argument,³³³ as well as Commerce's preliminary finding in *SC Paper 2015 Administrative Review Prelim*.³³⁴ As stipulated in the *Notice of Final Modification*, the "baseline presumption" is that non-recurring, allocable subsidies continue to benefit the subsidy recipient throughout the allocation period.³³⁵ However, an interested party may rebut this baseline presumption by demonstrating that a change in ownership occurred in which the former owner sold all or substantially all of a company or its

³²⁸ See Catalyst November 9, 2017 IQR at Appendix IV.A.2; and Resolute November 9, 2017 IQR at 34.

³²⁹ See Catalyst Preliminary Calculation Memorandum.

³³⁰ See Resolute Preliminary Calculation Memorandum.

³³¹ See, *e.g.*, Resolute November 9, 2017 IQR at 29. We further note that Resolute made similar arguments in the *SC Paper 2015 Administrative Review Prelim*. In that case, Commerce preliminarily found that the subsidies received by Fibrek were not extinguished by Resolute's purchase. See *SC Paper 2015 Administrative Review Prelim* PDM at 17 to 21.

³³² See Resolute November 9, 2017 IQR at Exhibit RES-NS-1.

³³³ See *Notice of Final Modification of Agency Practice Under Section 123 of the Uruguay Round Agreements Act Section 123 Modification*, 68 FR 37125 (June 23, 2003) (*Notice of Final Modification*). The *Notice of Final Modification* explicitly addresses full privatization, but Commerce later determined to apply this methodology to private-to-private sales. See, *e.g.*, *Certain Pasta from Italy: Preliminary Results and Partial Rescission of the Eighth Countervailing Duty Administrative Review*, 70 FR 17971 at 17972 (April 8, 2005) (*Pasta from Italy*).

³³⁴ See *SC Paper 2015 Administrative Review Prelim* PDM at 17 to 21.

³³⁵ See *Notice of Final Modification*, 68 FR at 37127.

assets, and that the sale was at arm's length and for fair market value.³³⁶ Further, in accordance with the *Notice of Final Modification* and *Pasta from Italy*, if the evidence presented does not demonstrate that the change in ownership was at arm's length and for fair market value, the baseline presumption will not be rebutted and we will find that the pre-change-in-ownership benefits were not extinguished.³³⁷

As Commerce preliminarily found in *SC Paper 2015 Administrative Review Prelim*, and after a careful review of the information on the record regarding Resolute's purchase of Fibrek, we similarly determine that the purchase of Fibrek by Resolute was not a transaction at arm's-length for fair market value. Therefore, for purposes of these preliminary results, we find the subsidy received by Fibrek under this program was not extinguished by Resolute's purchase, and it continues to provide a countervailable benefit to Fibrek, which is attributable to Resolute under 19 CFR 351.525(b)(6)(iv).

In considering whether the transaction is an arm's length transaction, the *Notice of Final Modification* and *Pasta from Italy* point to the SAA, which defines an arm's-length transaction as a transaction between *unrelated* parties, each acting in its own interest, or between related parties such that the terms of the transaction are those that would exist if the transaction had been negotiated between unrelated parties.³³⁸ We find that Resolute's purchase of Fibrek meets neither of these definitions.

First, we find that Resolute and Fibrek were not unrelated parties at the time of the acquisition. Specifically, the record evidence demonstrates that, during this time, shares of both companies were held by Fairfax Financial Holdings Limited (Fairfax). Specifically, at the time of the acquisition, Fairfax was the largest shareholder in Fibrek, at 25.9 percent,³³⁹ while also holding a significant volume, 18 percent, of Resolute's shares.³⁴⁰ Also, at the time of the acquisition, a director and board member at Resolute was also serving as vice president and chief legal officer of Fairfax.³⁴¹ Further, the record shows that Steelhead Navigator Master, L.P. was another common shareholder of Fibrek.³⁴² As such, we find that Resolute and Fibrek were not unrelated parties at the time of Resolute's acquisition of Fibrek.

Further, as in Commerce's preliminary finding in *SC Paper 2015 Administrative Review Prelim*, the record here shows that, prior to making the formal offer to purchase Fibrek, Resolute first negotiated and agreed upon a share price with Fairfax.³⁴³ Specifically, prior to Resolute's offer to Fibrek, discussions occurred between senior officials at both Fairfax and Resolute regarding the acquisition of Fibrek and the potential terms for this acquisition. Most notably, these two companies agreed upon the final share price (C\$1.00 per share) between themselves.³⁴⁴ As such,

³³⁶ *Id.*

³³⁷ *Id.*

³³⁸ *Id.*; see also *Pasta from Italy*, 70 FR at 17972.

³³⁹ See Resolute November 9, 2017 IQR at Exhibit RES-NS-1.

³⁴⁰ *Id.* at Exhibit RES-NS-1; see also Resolute November 13, 2017 Stumpage IQR at Exhibit RES-FIB-A-3.

³⁴¹ *Id.*

³⁴² *Id.*

³⁴³ See, e.g., Resolute November 13, 2017 Stumpage IQR at Exhibit RES-FIB-A-3; see also *SC Paper 2015 Administrative Review Prelim* PDM at 17 to 21.

³⁴⁴ *Id.*

we find that the transaction was not negotiated as if the parties were unrelated. This finding is supported by the fact that the price paid, discussed further below, was not at market value. Thus, we find that this transaction and the terms between Resolute and Fairfax were not negotiated at arm's length, *i.e.*, as if they were unrelated parties.

In addition to finding the transaction not at arm's-length, we also find that the price paid does not represent the fair market value. While there is no statutory definition of fair market value, nor is there any discussion in the SAA, we have relied upon the *Notice of Final Modification* and *Pasta from Italy*, which provide relevant guidance. Specifically, both documents state that “in analyzing whether the transaction was for fair market value, the basic question is whether the full amount that the company or its assets was actually worth under the prevailing market conditions was paid. In making this determination, we normally will examine whether the seller acted in a manner consistent with the normal sales practices of private, commercial sellers in that country.”³⁴⁵ Further, the *Notice of Final Modification* provides a non-exhaustive list of factors that Commerce may consider. One of these factors is whether the highest bid price was accepted.³⁴⁶

Using the guidance above, and consistent with *SC Paper 2015 Administrative Review Prelim*, we preliminarily find that the record information indicates that Resolute's purchase of Fibrek was not at fair market value.³⁴⁷ We also preliminarily find that the transaction is not consistent with the normal sales practice of private, commercial sellers, because the price agreed upon to purchase Fibrek's shares is significantly below the fair market value of these shares.

Fibrek shareholders agreed to Resolute's offer to pay the equivalent of C\$1.00 per Fibrek share when acquiring the company.³⁴⁸ However, as Commerce preliminarily found in *SC Paper 2015 Review Prelim*, there are a number of indications that the fair value of Fibrek's stock was higher than this agreed-upon price.³⁴⁹ First, the record shows that the final amount of cash consideration offered by a separate competitive bidder (*i.e.*, Mercer International Inc. and its affiliates) was higher per Fibrek share (*i.e.*, C\$1.40) than Resolute's offer per Fibrek share.³⁵⁰ Moreover, the Fibrek board, in order to avoid Resolute's takeover, considered plans to include the issuance of special warrants, adopt a share rights plan (*i.e.*, implementing a “poison pill”), and sought regulator- and court- intervention.³⁵¹

³⁴⁵ See *Notice of Final Modification*, 68 FR at 37127.

³⁴⁶ *Id.*

³⁴⁷ See *SC Paper 2015 Administrative Review Prelim* PDM at 17 to 21.

³⁴⁸ Under the offer to purchase and subsequent plan of agreement, Fibrek shareholders were offered three choices for compensation. The first option was the “cash only” option, in which Fibrek shareholders were paid C\$1.00 per share. The second option was the “shares only” option, in which Fibrek shareholders received 0.0632 shares of Resolute stock for each share of Fibrek stock. The final option was the “cash and share” option in which shareholders were paid C\$0.55 in cash plus 0.0284 shares of Resolute stock for each share of Fibrek stock. See Resolute November 9, 2017 IQR at Exhibit RES-NS-1. At time of the offer, Resolute's share price on the Toronto Stock Exchange was C\$15.82 per share. *Id.* As such, the “shares only” and “cash and share” options were the equivalent of C\$1.00 per share. $(0.0632 * 15.82 = 0.999824$ (shares only); $0.55 + (0.0284 * 15.82) = 0.999288$ (cash and shares)).

³⁴⁹ See *SC Paper 2015 Administrative Review Prelim* PDM at 19.

³⁵⁰ *Id.*

³⁵¹ *Id.*

Despite these events, Resolute's offer of C\$1.00 per share was ultimately accepted as the winning offer; and Resolute did not provide any evidence or argument explaining why the highest offer was not accepted.³⁵² Because the price paid was less than what was offered by another bidder, without further explanation, we find that this transaction is not consistent with the practices of a private seller, which would be to maximize the price paid per share.³⁵³

Therefore, based on the record evidence which is also consistent with *SC Paper 2015 Administrative Review Prelim*, and for the reasons discussed above, we find that Resolute has not provided sufficient evidence to rebut our baseline presumption that non-recurring subsidies continue to benefit the recipient following the change in ownership. As such, we are continuing to attribute to Resolute the benefits received by Fibrek under this program.

British Columbia Grants

13. Canada-BC Job Grant Program

Catalyst reported receiving funds under this grant program during the POI.³⁵⁴ This program is part of a joint effort between the GOC and its provinces and territories, in which the GOC provides federal funding to provincial or territorial governments for the purposes of increasing labor market participation of groups that are under-represented in Canada's labor force and enhancing the employability and skills of Canada's labor force.³⁵⁵ The BC aspect of the program was launched in October 2014 pursuant to the Canada-BC Job Fund Agreement, and it is administered by the Ministry of Advanced Education, Skills and Training.³⁵⁶ The GBC designed the program, and the GOC contributes two-thirds of the eligible training costs, up to a maximum amount of \$10,000 per participant, per fiscal year, and up to \$15,000 if the participant is unemployed.³⁵⁷

Based on the record evidence we preliminarily find this program to be countervailable which is also consistent with Commerce's determination in the *Lumber V Final* regarding the Canada-New Brunswick job grant program. We preliminarily determine that the Canada-BC Job Grant Program is specific under section 771(5A)(D)(iv) of the Act,³⁵⁸ because the funds provided by the GOC are limited to the province of British Columbia pursuant to the terms of the Canada-British Columbia Job Fund Agreement.³⁵⁹ We preliminarily determine that this program is recurring, in accordance with 19 CFR 351.524(c)(1). To calculate the benefit to Catalyst, and in accordance with 19 CFR 351.524(a) and 19 CFR 351.525(b)(6)(i), we divided the grant received

³⁵² *Id.*

³⁵³ See *SC Paper 2015 Administrative Review Prelim* PDM at 17 to 21. Further, Commerce notes that publicly available information indicates that both Resolute and Fairfax are being investigated for the possibility of illegal insider trading in connection with the offer to purchase Fibrek. *Id.*

³⁵⁴ See Catalyst November 9, 2017 IQR at Appendix IV.C.1.

³⁵⁵ See GBC November 9, 2017 IQR at BC Volume I.

³⁵⁶ *Id.*

³⁵⁷ *Id.*

³⁵⁸ See *Lumber V Final* IDM at Comment 56.

³⁵⁹ See GBC November 9, 2017 IQR at Exhibit JG-1. Additionally, the GBC indicated that the program contained regional and industry restrictions as well. *Id.* at BC-I-7.

by Catalyst by its total sales during the POI, to preliminarily determine that Catalyst received a countervailable subsidy rate of 0.01 percent *ad valorem* under this program.³⁶⁰

14. BC Hydro Power Smart Program

BC Hydro operates the BC Hydro Power Smart program to comply with British Columbia's Clean Energy Act.³⁶¹ Catalyst reported that it received funds under the BC Hydro Power Smart Program.³⁶² BC Hydro is a provincial Crown corporation, and it generates, purchases, distributes, and sells the vast majority of BC's electricity. In 1989, BC Hydro started the Power Smart program. Power Smart funds are disbursed among programs for each of its three categories of customers: residential, commercial, and industrial. Within the industrial category are the subcategories Power Smart Partners-Transmission (PSP-Transmission), for customers that are connected to the BC Hydro system at above 60 kilovolts (kV), and Power Smart Partners-Distribution (PSP-Distribution), for customers that are connected to the BC Hydro system at 60kV and below. PSP-Transmission provides funding for energy studies and projects encouraging energy efficiency.³⁶³ In the *Lumber V Final*, Commerce found the Incentives subprogram, Industrial Energy Managers subprogram, and Load Curtailment subprogram to be *de jure* specific under section 771(5A)(D)(i) of the Act.³⁶⁴ Additionally, in the Supercalendered Paper expedited review, Commerce found the Thermomechanical Pulp (TMP) Program to be specific to TMP mills, and the Industrial Energy Managers subprogram, to be *de jure* specific under section 771(5A)(D)(i) of the Act.³⁶⁵

A. BC Hydro Power Smart: Industrial Energy Managers Program

Under the Industrial Energy Manager subprogram, BC Hydro provides funding in the form of wage subsidies to PSP-Transmission customers to fund an employee dedicated to the position of Energy Manager who works to identify energy conservation opportunities, as well as funding for equipment for each energy manager.³⁶⁶ Catalyst received wage subsidies and funding for energy managers during the POI.³⁶⁷ In the Supercalendered Paper expedited review, we found that eligibility for this program is restricted to industrial users that consume more than 10 gigawatt-hours (GwH) of electricity.³⁶⁸ Because this program expressly limits access to the wage subsidies to industrial customers that use more than 10 GwH of electricity per year, we

³⁶⁰ See Catalyst Preliminary Calculation Memorandum.

³⁶¹ See GBC November 9, 2017 IQR at Volume II.

³⁶² See Catalyst November 9, 2017 IQR at Appendices IV.C.2 (Industrial Energy Managers Program), IV.C.3 (Thermomechanical Pulp Program), IV.C.4 (Load Curtailment), IV.C.5 (Incentives).

³⁶³ See GBC November 9, 2017 IQR at BC Volume II.

³⁶⁴ See *Lumber V Final* IDM at Comment 60.

³⁶⁵ See *Supercalendered Paper from Canada: Preliminary Results of Countervailing Duty Expedited Review*, 81 FR 85520 (November 28, 2016) (*SC Paper Expedited Review Prelim*) PDM at 6. BC Hydro Power Smart Program," unchanged in *SC Paper Expedited Review Final* IDM at Comment 8.

³⁶⁶ See GBC November 9, 2017 IQR at Volume II.

³⁶⁷ See Catalyst November 9, 2017 IQR at Appendix IV.C.2.

³⁶⁸ See *SC Paper Expedited Review Prelim* PDM at "6. BC Hydro Power Smart Program," unchanged in *SC Paper Expedited Review Final* IDM at Comment 8; see also GBC December 20, 2017 SQR at page BC-SUPP1-7 and Exhibit BC-SUPP1-7 at 17.

preliminarily determine that the BC Hydro Power Smart Industrial Energy Managers subprogram is *de jure* specific within the meaning of section 771(5A)(D)(i) of the Act.

We preliminarily determine that the funds Catalyst received under the BC Hydro Power Smart Industrial Energy Managers subprogram from the GBC constitute a financial contribution in the form of a direct transfer of funds from the government, pursuant to section 771(5)(D)(i) of the Act, and that this subprogram bestows a benefit in the amount of the grants, pursuant to section 771(5)(D)(i) of the Act and 19 CFR 351.504(a). Because this assistance is available only to industrial customers who use more than 10 Gwh annually, it is available to a limited number of users and, thus, we preliminarily find this program to be *de jure* specific, in accordance with section 771(5A)(D)(i) of the Act.

In accordance with 19 CFR 351.524(a), we find that the grant provided under the Energy Managers subprogram provides a recurring benefit. Therefore, we calculated the countervailable subsidy rate by dividing the amount of the grant received under this program during the POI by Catalyst's total sales during the POI, as described above in the "Attribution of Subsidies" section. On this basis, we preliminarily determine that Catalyst received a net countervailable subsidy of 0.02 percent *ad valorem* under this program.³⁶⁹

B. BC Hydro Power Smart: TMP Program

The BC Hydro Power Smart TMP subprogram is open to PSP-T customers who operate TMP facilities and is designed to facilitate energy efficiency and load displacement.³⁷⁰ Catalyst applied for funding under this program to install its G13 steam turbine generator at Powell River in 2014, and it received payments under this program in 2015 and 2016.³⁷¹ Additionally, Catalyst applied, and received approval, for BC Hydro to pay for five engineering studies during 2015 and 2016 under the TMP subprogram.³⁷²

We preliminarily determine that the funds Catalyst received under the BC Hydro Power Smart TMP subprogram from the GBC constitute a financial contribution in the form of a direct transfer of funds from the government, pursuant to section 771(5)(D)(i) of the Act, and that this subprogram bestows a benefit in the amount of the grants, pursuant to section 771(5)(D)(i) of the Act and 19 CFR 351.504(a). We preliminarily determine that this subprogram is specific under section 771(5A)(D)(i) of the Act, because the program limits eligibility to operators of TMP mills.

In accordance with 19 CFR 351.524(b), we find that the grants provided under the TMP subprogram provide non-recurring benefits. Therefore, we conducted the "0.5 percent test" pursuant to 19 CFR 351.524(b) on the amounts of the grants approved by BC Hydro over Catalyst's total sales in the years of the agreements. Because the approved amount for the G13

³⁶⁹ See Catalyst Preliminary Calculation Memorandum.

³⁷⁰ See GBC November 9, 2017 IQR at Volume II.

³⁷¹ See Catalyst November 9, 2017 IQR at Appendix IV.C.3 and GBC November 9, 2017 IQR at Exhibit BC-BCH-23-BP.

³⁷² See Catalyst November 9, 2017 IQR at Appendix IV.C.3; Catalyst December 12, 2017 SQR at 8-9; GBC November 9, 2017 IQR at Exhibit BC-BCH-23-BP; and GBC December 20, 2017 SQR at BC-SUPP1-4.

steam turbine did pass the “0.5 percent test,” we allocated the grant disbursements as received, in accordance with 19 CFR 351.524(d). Additionally, because the approved amounts for the engineering studies did not pass the “0.5 percent test,” we expensed the engineering study grants in the year of receipt of the payments for each engineering study grant. We summed the benefits for the TMP subprogram and calculated the countervailable subsidy rate by dividing the total amount of the grants received under this program during the POI by Catalyst’s total sales during the POI, as described above in the “Attribution of Subsidies” section. On this basis, we preliminarily determine that Catalyst received a net countervailable subsidy of 0.20 percent *ad valorem* under this program.³⁷³

C. BC Hydro Power Smart: Load Curtailment

The BC Hydro Power Smart Load Curtailment program allows industrial customers to qualify for a variety of grants as incentives to lower their electricity usage.³⁷⁴ From November 2015 to March 2016, and November 2016 to March 2017, BC Hydro undertook a pilot program to determine whether large industrial customers could curtail their load during times when the demand on BC Hydro’s electricity system was at its peak.³⁷⁵ Under the Load Curtailment pilot subprogram, BC Hydro paid customers on a monthly basis based on the number of megawatts (MWs) bid by the company to be curtailed at a fixed dollar per MW price.³⁷⁶ Because this program expressly limits access to this subsidy to industrial customers that are served at the transmission service rate with a minimum bid of 5 MW of load,³⁷⁷ we preliminarily determine that the BC Hydro Power Smart Load Curtailment subprogram is *de jure* specific within the meaning of section 771(5A)(D)(i) of the Act.

We preliminarily determine that the funds received under the BC Hydro Power Smart Load Curtailment subprogram from the GBC constitute a financial contribution in the form of a direct transfer of funds from the government, pursuant to section 771(5)(D)(i) of the Act, and that this subprogram bestows a benefit in the amount of the grants, pursuant to section 771(5)(D)(i) of the Act and 19 CFR 351.504(a). Catalyst reported receiving grants under this program during the POI.³⁷⁸ Because we preliminary find that this program provides recurring benefits, to calculate the benefit, we divided the payments received during the POI by the total consolidated sales of Catalyst, as described in the “Attribution of Subsidies” section of this memorandum, for the POI. On that basis, we preliminarily calculate a net countervailable subsidy of 0.38 percent *ad valorem* for Catalyst.³⁷⁹

D. BC Hydro Power Smart: Incentives

Under the BC Hydro Power Smart Incentives subprogram, BC Hydro provides funding to support capital projects that achieve greater energy efficiency or displace the electrical load

³⁷³ See Catalyst Preliminary Calculation Memorandum.

³⁷⁴ See GBC November 9, 2017 IQR at Appendix II.

³⁷⁵ *Id.*

³⁷⁶ *Id.*

³⁷⁷ *Id.* at Appendix II, page BC II-8 and at Exhibit BC-BH-10.

³⁷⁸ See Catalyst November 9, 2017 IQR at Appendix IV.C.4.

³⁷⁹ See Catalyst Preliminary Calculation Memorandum.

purchased from BC Hydro.³⁸⁰ This program expressly limits access to the subsidy to industrial customers who consume more than one Gwh of electricity annually,³⁸¹ as such, we preliminarily determine that the BC Hydro Power Smart Incentives subprogram is *de jure* specific under section 771(5A)(D)(i) of the Act.

We preliminarily determine that the funds received under the BC Hydro Power Smart Incentives subprogram from the GBC constitute a financial contribution in the form of a direct transfer of funds from the government, pursuant to section 771(5)(D)(i) of the Act, and that this subprogram bestows a benefit in the amount of the grants, pursuant to section 771(5)(D)(i) of the Act and 19 CFR 351.504(a). Catalyst reported receiving grants under this program during the AUL period.³⁸² The grants Catalyst received were pursuant to one-time approvals for project funding; funds were disbursed at intervals when the company demonstrated spending for the approved project.³⁸³ Because Catalyst did not receive these benefits on an on-going basis, we are treating this subsidy as a non-recurring grant. Therefore, we performed the “0.5 percent test,” as described in 19 CFR 351.524(b)(2). The total amount of approved funding was less than 0.5 percent of Catalyst’s sales in the year of approval; however, Catalyst received funds during the POI. Pursuant 19 CFR 351.525(b)(6)(i), we divided the benefit received by Catalyst in the POI by its total sales in the POI, for a net countervailable subsidy rate of 0.06 percent *ad valorem* for Catalyst.³⁸⁴

Newfoundland and Labrador Grants

15. Labour Market Partnership (LMP)

The GNL provides a grant to eligible companies and organizations to develop and implement labor market strategies and activities to assist companies with labor adjustments such as downsizing, upsizing, new development, relocation, impact of new technologies, labor shortages, shortage of year-round job opportunities, and lack of community and organizational capacity for human resource planning.³⁸⁵ The GNL explained that each company’s “proposal/application under the LMP is assessed on its own merits. During the POI (January 1, 2016 through December 31, 2016) the following five industries were supported as they were deemed to have labour market issues: (1) Health Care and Social Assistance, (2) Professional, Scientific and Technical Services, (3) Utilities, (4) Mining, Quarrying and Oil and Gas Extraction, and (5) Accommodation and Food Service.” The GNL contributes 50 percent or less of the eligible training costs and over 50 percent if the employer is unable to avoid lay-offs but willing to invest in training for affect employees.³⁸⁶

³⁸⁰ See GBC November 9, 2017 IQR at Appendix II.

³⁸¹ *Id.* at Exhibit BC-BH-3.

³⁸² See Catalyst November 9, 2017 IQR at Appendix IV.C.5.

³⁸³ *Id.* at II-7.

³⁸⁴ See Catalyst Preliminary Calculation Memorandum.

³⁸⁵ See GNL November 9, 2017 IQR at Exhibit NL-LMP-1.

³⁸⁶ *Id.*

We preliminarily determine that the LMP is specific under section 771(5A)(D)(iii)(II) of the Act, because Kruger received a disproportionately large amount of funds when compared to other recipients.³⁸⁷ Kruger reported receiving funds under this grant program during the AUL period.³⁸⁸ Because Kruger did not receive these benefits on an on-going basis, we are treating this subsidy as a non-recurring grant, consistent with 19 CFR 351.524(b)(2). To calculate the benefit, we performed the “0.5 percent test” by dividing the total amount of the grant approved by the total sales of Kruger’s UGW paper producers during that same year. Because the resulting ratio exceeded 0.5 percent of the UGW paper producer’s total sales, we allocated a portion of the benefit to the POI using Commerce’s standard allocation formula.³⁸⁹ We used the 13-year AUL period described in the “Allocation Period” section above, when conducting the allocation calculation. In accordance with 19 CFR 351.524(a) and 19 CFR 351.525(b)(6)(i), we divided the grant received by Kruger by its UGW producers’ total sales during the POI, to preliminarily determine that Kruger received a countervailable subsidy rate of 0.08 percent *ad valorem* under this program.³⁹⁰

16. Maintenance of Competitive Position Grant

The GNL entered into a one-time, stand-alone agreement with CBPP during the 2010-11 fiscal year to provide grant payments for the fiscal years 2010-11 and 2011-12 to CBPP. In exchange for the funding, CBPP fulfilled certain requirements described in the grant made by the GNL. The GNL entered into this agreement pursuant to its authority under the Forestry Act, the Financial Administration Act, and the Executive Council Act.³⁹¹ We preliminarily determine that the grant is specific under section 771(5A)(D)(i) of the Act, because the grant was only given to CBPP under this program. The grant constitutes a financial contribution in the form of direct transfer of funds under section 771(5)(D)(i) of the Act and that this subprogram bestows a benefit in the amount of the grants, pursuant to section 771(5)(D)(i) of the Act and 19 CFR 351.504(a).

As of the end of the 2011-12 fiscal year, the funds provided by the GNL were fully distributed. Because Kruger did not receive these benefits on an on-going basis, we are treating this subsidy as a non-recurring grant. To calculate the benefit, we performed the “0.5 percent test” by dividing the total amount of the grant approved by the total sales of the UGW paper producers during that same year. Because the resulting ratio exceeded 0.5 percent of the UGW paper producers’ total sales, we allocated a portion of the benefit to the POI using Commerce’s standard allocation formula.³⁹² We used the 13-year AUL period described in the “Allocation Period” section above, when conducting the allocation calculation. On this basis, we preliminarily determine the countervailable subsidy rate for Kruger under this program to be 0.18 percent *ad valorem*.

³⁸⁷ *Id.*; see also Kruger November 9, 2017 IQR at Exhibit LMP-1.

³⁸⁸ See Kruger November 9, 2017 IQR at 164 to 165.

³⁸⁹ See 19 CFR 351.524(d)(1).

³⁹⁰ See Catalyst Preliminary Calculation Memorandum.

³⁹¹ See GNL January 5, 2018 SQR at Exhibit NL-MCP-1.

³⁹² See 19 CFR 351.524(d)(1).

17. Forest Insect Control and Survey Assistance

Under the Forestry Act, the GNL Minister responsible for forestry has the authority to undertake all reasonable measures to provide for effective protection of the forests, whether on Crown land, public land, or privately-owned land. The Minister has entered into annual and multi-year forest insect and disease control agreements with forest companies with land tenure in the Province. During the period of FY 2009 to 2016, the GNL waived CBPP's cost share payments for all insect and disease control and monitoring costs on CBPP's tenure.³⁹³

The GNL reported that it entered an individual agreement with CBPP to waive payment of the CBPP's cost share obligation.³⁹⁴ We preliminarily determine that there is a financial contribution in the form of revenue forgone, pursuant to section 771(5)(D)(ii) of the Act, and that this program bestows a benefit in the form of a grant, pursuant to section 771(5)(D)(i) of the Act and 19 CFR 351.504(a). We also preliminarily determine that the assistance is specific under section 771(5A)(D)(i) of the Act, because the waiver of payment was only given to CBPP under its individual agreement with the GNL. Because CBPP received these benefits on an on-going basis, we are treating this subsidy as a recurring grant under 19 CFR 351.524(c). Therefore, we divided the amount of the payments waived during the POI by the UGW producers' total sales during the POI, in accordance with 19 CFR 351.524(a). On this basis, we preliminarily calculate a net countervailable subsidy rate of 0.06 percent *ad valorem* for Kruger.

18. Productive Forest Lands Inventory Program

The GNL instituted the Forest Inventory Program in 1974 by the GNL to provide a continuous, management level forest inventory in the province.³⁹⁵ This program provided timber volumes and other statistics for management planning; maintained up-to-date maps of forests; enabled planning and development of provincial resources; initiated special studies on growth, cull, decay, etc.; and benchmarked existing forest characteristics to examine change over time. In 1996, the Newfoundland and Labrador Forest Service's forest inventory program was given savings and revenue targets under the GNL Program Review initiative.³⁹⁶ As part of this initiative, CBPP entered into agreements in 2006 and 2012 to share the cost of the Forest Inventory Program and was given access to GNL's forest industry inventory data.³⁹⁷

The GNL reported that it waived all payments under the agreement that CBPP was contractually obligated to pay from 2006 to 2016 under its agreements with the GNL.³⁹⁸ We preliminarily determine that there is a financial contribution, in the form of revenue forgone, pursuant to section 771(5)(D)(ii) of the Act. We also preliminarily determine that the waiver of payment is

³⁹³ See GNL November 9, 2017 IQR at 6.

³⁹⁴ *Id.* at 7.

³⁹⁵ See GNL January 5, 2018 SQR at Exhibit NL-FINV-1.

³⁹⁶ *Id.*

³⁹⁷ *Id.*

³⁹⁸ *Id.*

de jure specific under section 771(5A)(D)(i) of the Act, because the waiver was only given to CBPP under its individual agreement with the GNL.

In accordance with 19 CFR 351.524(b), we find that the grants provided under this program provide non-recurring benefits in the amount of the payment waived. Therefore, we conducted the “0.5 percent test” pursuant to 19 CFR 351.524(b) on the amounts of the grants approved by the GNL over the UGW paper producers’ total sales in the year the payment was waived. Because the waived amount did not pass the “0.5 percent test,” we expensed the waived payments in the year each payment was due, in accordance with 19 CFR 351.524(d). Because one of the waived payments was during the POI, we divided waived payment received during the POI by the UGW producers’ total sales during the POI, in accordance with 19 CFR 351.524(a). On this basis, we preliminarily calculate net countervailable subsidy rates of 0.07 percent *ad valorem* for Kruger.

Ontario Grants

19. Ontario Northern Industrial Electricity Rate Program

During the POI, Resolute’s Thunder Bay mill received grants under the Ontario Northern Industrial Electricity Rate (NIER) program.³⁹⁹ Established on April 1, 2013, this program is administered by the GOO Ministry of Northern Development & Mines.⁴⁰⁰ The purpose of the program is to assist Northern Ontario’s largest qualifying industrial electricity consumers which commit to developing and implementing an energy management plan to manage their energy usage and improve energy efficiency and sustainability. Specifically, participants receive a rebate of two cents per kilowatt hour (KWH), capped at 2011-2012 consumption levels or C\$20 million, whichever is lower.⁴⁰¹ Companies eligible for assistance are industrial facilities located in Northern Ontario.⁴⁰² On June 20, 2017, the GOO announced that this program will continue indefinitely, with a continued total investment of up to \$120 million per year.⁴⁰³ Companies which have been accepted into the program are not required to reapply and can expect to receive rebates in variable amounts based on the amount of eligible electricity consumed, not subject to the Ministry of Northern Development & Mines’ discretion.⁴⁰⁴

We preliminarily determine that the electricity rebates that Resolute received from the GOO constitute a financial contribution, in the form of a direct transfer of funds from the government, within the meaning of sections 771(5)(D)(i) and 771(5)(E) of the Act. We also preliminarily determine that this program is specific under section 771(5A)(D)(iv) of the Act because the rebates provided under the program are limited to companies located in a certain designated geographical region (*i.e.*, Northern Ontario, defined as being within the collective territorial Districts of Kenora, Rainy River, Thunder Bay, Cochrane, Algoma, Sudbury, Timiskaming, Nipissing, Manitoulin, and Parry Sound),⁴⁰⁵ within the jurisdiction of the authority providing the

³⁹⁹ See Resolute’s November 9, 2017 IQR at 85.

⁴⁰⁰ *Id.*; see also GOO November 9, 2017 IQR at 44-45.

⁴⁰¹ See GOO November 9, 2017 IQR at 24.

⁴⁰² *Id.* at Exhibit ON-NIER-1.

⁴⁰³ *Id.* at 39.

⁴⁰⁴ *Id.* at 43 and Exhibit ON-NIER 1.

⁴⁰⁵ See Resolute November 9, 2017 IQR at 82.

subsidy. Finally, we preliminarily determine that a benefit exists under 19 CFR 351.504(a), equal to the amount of the grant.

In accordance with 19 CFR 351.524(c)(2), we find that the electricity rebates provided under the program constitute recurring benefits. Therefore, we calculated the countervailable subsidy rate by dividing the amount of rebates received under this program during the POI by Resolute's total sales during the POI. On this basis, we preliminarily determine that Resolute received a net countervailable subsidy of 0.18 percent *ad valorem* under this program.

20. Independent Electricity System Operator (IESO) Demand Response

IESO is a government-designated independent system operator that operates Ontario's electricity grid, administers the region's wholesale electricity markets, and provides reliability planning for the region's bulk electricity system.⁴⁰⁶ IESO was created and its activities are governed by the Electricity Act of 1998.⁴⁰⁷ IESO is an agency of the Ontario Ministry of Energy.⁴⁰⁸ The Chief Executive Officer and board of directors of the IESO is appointed by the Minister of Energy.⁴⁰⁹ Considering that IESO is an agency under the state, the government appoints its board of directors and executive leadership, and its sole mission is to carry out the energy policy of the GOO, we preliminarily find that IESO constitutes an "authority" within the meaning of section 771(5)(B) of the Act.

IESO fully administers the Demand Response (DR) Program,⁴¹⁰ whereby firms alter their electricity consumption patterns in exchange for availability payments. Resolute reported that it sells its availability to curtail its electricity consumption at the DR Auction, and it received funds from IESO during the POI in compensation for altering its electricity consumption patterns upon IESO's request.⁴¹¹ According to the GOO, the purpose of the procurement of DR capacity is to ensure the reliability planning for the region's bulk electricity system by reducing the overall regional demand for electricity in response to IESO's reliability mandate.⁴¹²

We preliminarily determine that IESO is providing a financial contribution under section 771(5)(D)(iv) of the Act in the form of a direct transfer of funds to Resolute. Further, consistent with *Silicon Metal from Australia*, we also preliminarily find that payments of curtailment from a public entity constitutes a financial contribution in the form of direct transfer of funds from a public entity, pursuant to sections 771(5)(B) and 771(5)(D)(i) of the Act.⁴¹³

⁴⁰⁶ See GOO December 1, 2017 NSA IQR at 32.

⁴⁰⁷ *Id.* at Exhibit ON-NSA-10.

⁴⁰⁸ See October 17, 2017 NSAs at Exhibit 16.

⁴⁰⁹ See GOO December 1, 2017 NSA IQR at Exhibit ON-NSA-10.

⁴¹⁰ *Id.*

⁴¹¹ *Id.* at 30-31.

⁴¹² We further note that, according to the GOO, this program mitigates the need for new generation resources that would otherwise be needed to satisfy such demand. *Id.* at 31 to 32.

⁴¹³ See *Silicon Metal from Australia: Preliminary Affirmative Countervailing Duty Determination*, 82 FR 37843 (August 14, 2017) (*Silicon Metal from Australia*), and accompanying PDM at 6.

IESO reported that a total of seven program participants, of which Resolute is one, received payments and charges under the DR program during the POI.⁴¹⁴ We preliminarily determine that this program is *de facto* specific under section 771(5A)(D)(iii)(I) of the Act, because record evidence demonstrates that the actual number of recipients is limited in number. We also preliminarily determine that a benefit exists under 19 CFR 351.504(a), equal to the full amount of the curtailment payments.⁴¹⁵

To calculate the benefit, we divided the amount of the payments transferred to Resolute through IESO under the DR program by Resolute's total sales during the POI. On this basis, we preliminarily determine that Resolute received a countervailable subsidy rate of 0.07 percent *ad valorem* under this program.

21. The GOO's Provision of IESO Industrial Electricity Incentives

Resolute reports that Resolute Growth's Atikokan and Ignace sawmills received rebates from IESO during the POI for credits earned in 2015 and 2016 for meeting various contractual obligations to conserve energy, including energy operating, management, and metering plans.⁴¹⁶ As noted above, we find that IESO is an "authority" within the meaning of section 771(5)(B) of the Act.

We preliminarily find that there is a financial contribution, within the meaning of section 771(5)(D)(i) of the Act, in the form of a direct transfer of funds under this program, and that this program provides a benefit to the recipient in the amount of the funds received, pursuant to 19 CFR 351.504(a). Further, we preliminarily find that this program is *de jure* specific under section 771(5A)(D)(i) of the Act because the recipients are limited to large industrial customers, including Resolute who is eligible based on its classification as North America Industry Classification System code 321110 Sawmills and Wood Preservation.⁴¹⁷

To calculate the benefit, we divided the amount of the benefit received by Resolute by its total sales during the POI. On this basis, we preliminarily determine that Resolute received a countervailable subsidy of 0.07 percent *ad valorem* under this program.⁴¹⁸

Québec Grants

22. Hydro-Québec Interruptible Electricity Option

In the *Lumber V Final*, we found that Hydro-Québec is an authority within the meaning of section 771(5)(B) of the Act because it is a state-owned utility, whose sole shareholder is the Québec government.⁴¹⁹ Hydro-Québec is mandated to supply power and to pursue energy

⁴¹⁴ See GOO December 1, 2017 NSA IQR at 45.

⁴¹⁵ See *Silicon Metal from Australia* PDM.

⁴¹⁶ See Resolute November 9, 2017 IQR at 90.

⁴¹⁷ See November 29 New Subsidy Allegation at Exhibit 21 (citing Resolute Industrial Electricity Incentive Contract, at 63).

⁴¹⁸ See Resolute Preliminary Calculation Memorandum.

⁴¹⁹ See *Lumber V Final* IDM at Comments 52 through 55; see also *Lumber V Prelim* PDM at 85.

conversion and conservation; as part of this mandate, it operates the Hydro-Québec Interruptible Electricity Option,⁴²⁰ which is designed to help Hydro-Québec meet increased power requirements during the winter period (*i.e.*, December 1 to March 31).⁴²¹ Based on record evidence we continue to find Hydro- Québec as a government authority.⁴²² All participants in this program must be able to curtail power on demand, or risk penalties assessed by Hydro-Québec. According to the GOQ, power curtailment allows Hydro-Québec to “free{ } the connections with nearby networks, reducing the need for short-term markets and making it possible to act within two hours to ensure reliable management of the power capacity balance.”⁴²³ As payment for complying with Hydro-Québec interruption notices, the participants receive certain fixed and variable credits for the winter period. Kruger, Resolute, and White Birch reported receiving grants under this program during the POI.

During 2015-2016 and 2016-2017, this program relied on 31 and 25 interruptible-energy-option customers, respectively.⁴²⁴ In order to be eligible for this program, customers must apply to Hydro-Québec and propose a quantity of interruptible power with which to commit, meet, and comply with interruption notices.⁴²⁵ This program is available to all Medium-Power Customers, Large-Power Customers on Rate L (industrial), and Rate LG Customers; however, no Medium-Power Customers participated during the POI.⁴²⁶ Because this program limits access to this subsidy to industrial users with the technical capacity to curtail power on notice of interruption, we preliminarily determine that the Hydro- Québec Interruptible Electricity Option subprogram is *de jure* specific in accordance with section 771(5A)(D)(i) of the Act because the recipients are limited to industrial customers. Further we also preliminarily determine that the program is *de facto* specific in accordance with section 771(5A)(D)(iii)(II) of the Act, because it is predominantly used by the pulp and paper industry.⁴²⁷

We preliminarily determine there is a financial contribution, in the form of a direct transfer of funds, within the meaning of section 771(5)(D)(i) of the Act. In accordance with 19 CFR 351.525(b)(6)(v), we find that the Hydro- Québec Interruptible Electricity Option program confers a benefit in the amount of electricity credits received by Kruger, Resolute, and White Birch.

To calculate the benefit, we divided the payments received by the total sales of each respective company, as described in the “Attribution of Subsidies” section of this memorandum, for the POI. On that basis, we preliminarily calculate a countervailable subsidy of 0.44 percent *ad valorem* for Kruger, 0.07 percent *ad valorem* for Resolute, and 0.48 percent *ad valorem* for White Birch.

23. Debt to Equity Conversion for KPPI

⁴²⁰ See GOQ November 9, 2017 IQR at Exhibit QC-BIO-18; and GOQ December 1, 2017 NSAR at GOQ-NSA-7.

⁴²¹ See GOQ December 1, 2017 NSAR at GOQ-NSA-8.

⁴²² See GOQ November 8, 2017 IQR at GOQ-BIO-7 and Exhibit QC-BIO-3.

⁴²³ See GOQ November 9, 2017 IQR at GOQ-OTHER-10 and Exhibit QC-OTHER-INT-1

⁴²⁴ *Id.* at Exhibit QC-OTHER-INT-2.

⁴²⁵ See GOQ December 1, 2017 NSAR at GOQ-NSA-9.

⁴²⁶ *Id.* at GOQ-NSA-11 and GOQ-NSA-15.

⁴²⁷ *Id.* at GOQ-NSA-11.

As noted in the “Equityworthiness” section, above, in 2012, IQ, acting under authority granted by Decree 52-2012 of the GOQ, forgave debt owed by KPPI, one of Kruger’s cross-owned affiliates, in exchange for preferred shares in KPPI with a nominal value of C\$100 million. On the same day, as permitted under the terms of related agreements between IQ, KPPI, and KPPI’s parent company Kruger Inc., IQ converted these shares into preferred shares in Kruger Inc. with the same nominal value and characteristics.

IQ was established by an act of the Québec government and the GOQ is its sole shareholder.⁴²⁸ The Act Respecting IQ stipulates that, among other things: 1) “The Company is a mandatory of the State;” 2) “The mission of the Company is to contribute to the economic development of Québec in accordance with the economic policy of the Government. Its goal is to stimulate the growth of investments and support employment in all regions of Québec;” 3) “In pursuing its mission, the Company... carries out any mandate it is given by this Act or the Government;” 4) “When the Government gives it the mandate to do so, {IQ} must grant and administer any one-time financial assistance the Government determines for the completion of projects that are of major economic significance for Québec;” 5) “The Company must carry out any other mandate given to it by the government;” 6) “The government appoints the members of the board of directors...;” 7) “The Government appoints the chair of the board of directors...;” and 8) “On the recommendation of the board of directors, the Government appoints the president and chief executive officer...”⁴²⁹ Considering that IQ is a mandatory of the state, its sole mission is to contribute to the economic development of Québec, the government appoints its board of directors and executive leadership, and it must grant and administer financial assistance as directed by the government, we preliminarily find that IQ constitutes an “authority” within the meaning of section 771(5)(B) of the Act.

We preliminarily find that the equity infusion, IQ’s forgiveness of KPPI’s debt in exchange for preferred shares, constitutes a financial contribution in the form of a direct transfer of funds from an authority under section 771(5)(D)(i) of the Act, and is *de jure* specific, within the meaning of section 771(5A)(D)(i) of the Act, because it was a cash infusion given to KPPI, and limited to that company pursuant to a government decree. Regarding the benefit provided to Kruger with respect to this equity infusion, as discussed in the “Equityworthiness” section, above, we preliminarily find that KPPI was not equityworthy at the time of the infusion, and, thus, this infusion constitutes a benefit, within the meaning of section 771(5)(E)(i) of the Act, to KPPI. This preliminary finding is based on Commerce’s conclusion that IQ’s investment decision was inconsistent with the usual investment practice of private investors.⁴³⁰

To calculate the benefit, because the equity infusion was directly tied to KPPI, we performed the “0.5 percent test” by dividing the benefit received by total 2012 sales of the UGW paper producers (which includes KPPI). Because the resulting ratio exceeded 0.5 percent, we allocated a portion of the benefit to the POI using Commerce’s standard allocation formula.⁴³¹ We used the 13-year AUL period described in the “Allocation Period” section, above, when conducting

⁴²⁸ See GOQ November 9, 2017 at GOQ-IQ-7.

⁴²⁹ *Id.* at Exhibit QC-IQIP-5.

⁴³⁰ See Kruger Preliminary Calculation Memorandum.

⁴³¹ See 19 CFR 351.524(d)(1).

the allocation calculation. Because the funds received under the equity infusion were given to KPPI, we used the UGW paper producers total sales total sales as the denominator, consistent with 19 CFR 351.525(b)(6)(ii). On this basis, we preliminarily determine the countervailable subsidy rate for Kruger under this program to be 3.16 percent *ad valorem*.⁴³²

24. Equity Infusion into KHLP

As noted in the “Equityworthiness” section, above, in 2015, KHLP, one of Kruger’s cross-owned affiliates, received an equity infusion from IQ in the amount of C\$106,000,000. IQ’s investment was made under authority granted by Decree 743-2015 of the GOQ.⁴³³ The purpose of the investment was two-fold: 1) to provide funds to convert a paper machine of the Trois-Rivières plant (prior to its formal establishment as KTR); and 2) to reorganize the activities of this plant with those of another affiliated company, Krupack LP (Krupack), under KHLP.⁴³⁴ The decree also states that “the project of Kruger Inc. is a significant economic interest for Québec,” and that “whenever the government entrusts an assignment to it, IQ must grant and administer the punctual financial aid which it determines for the performance of projects which represent a significant economic interest for Québec.”⁴³⁵ The terms of the investment were further defined and modified by a subscription agreement,⁴³⁶ shareholders agreement,⁴³⁷ limited partnership agreement,⁴³⁸ and right of first opportunity agreement,⁴³⁹ all dated December 3, 2015.

As set forth above, we preliminarily find that IQ constitutes an “authority” within the meaning of section 771(5)(B) of the Act. We also preliminarily find that the equity infusion constitutes a financial contribution in the form of a direct transfer of funds from an authority under section 771(5)(D)(i) of the Act, and it is *de jure* specific, within the meaning of section 771(5A)(D)(i) of the Act, because it was a cash infusion given to KHLP, and limited to that company pursuant to a government decree.

As discussed in the “Equityworthiness” section, above, we preliminarily find that KHLP was unequityworthy at the time of the infusion. Further, we preliminarily find that, a benefit, within the meaning of section 771(5)(E)(i) of the Act, was conferred on the recipient, KHLP, in the form of an equity infusion because IQ’s investment decision was inconsistent with the usual investment practice of private investors.⁴⁴⁰ We also preliminarily determine that a benefit exists with regard to the full equity investment of C\$106 million.⁴⁴¹

To calculate the benefit, we performed the “0.5 percent test” by dividing the benefit received by KHLP by the total sales of the UGW paper producers and Krupack. Because the resulting ratio

⁴³² See Preliminary Calculation Memorandum at Attachment 8.

⁴³³ *Id.*

⁴³⁴ *Id.*

⁴³⁵ See GOQ November 9, 2017 IQR at Exhibit QC-IQIP-1.

⁴³⁶ *Id.* at Exhibit QC-IQIP-4.

⁴³⁷ *Id.* at Exhibit QC-IQIP-14.

⁴³⁸ *Id.* at Exhibit QC-IQIP-13.

⁴³⁹ *Id.* at Exhibit QC-IQIP-15.

⁴⁴⁰ See Equityworthiness Memo at 17.

⁴⁴¹ *Id.*

exceeded 0.5 percent of total sales, we allocated a portion of the benefit to the POI using Commerce’s standard allocation formula.⁴⁴² We used the 13-year AUL period described in the “Allocation Period” section, above, when conducting the allocation calculation. Because the funds received under equity infusion to KHLP were passed through to KTR and Krupack, we used the UGW paper producers’, as well as Krupack’s, total sales as the denominator, consistent with 19 CFR 351.525(b)(6)(iii). On this basis, we preliminarily determine the countervailable subsidy rate for Kruger under this program to be 1.31 percent *ad valorem*.⁴⁴³

25. Partial Cut Investment Program (PCIP)⁴⁴⁴

In Québec, the MFFP mandates that certain areas be harvested by applying a partial cut requirement GOQ mandate (*i.e.*, removing less than 50 percent of the volume of a stand).⁴⁴⁵ The PCIP reimburses harvesters for up to 90 percent of the increased costs associated with this mandate.⁴⁴⁶ The PCIP is intended for the forestry sector. Eligibility for the program is limited to TSG holders; buyers on the open market; local forest delegates; forestry companies; and holders of forestry permits stipulated in section 73 of the SFDA.⁴⁴⁷ Resolute reported receiving a payment during the POI in the form of a reimbursement under the PCIP.⁴⁴⁸

We preliminarily determine that this program provides a financial contribution, within the meaning of sections 771(5)(D)(i), in the form of a direct transfer of funds from the government, and that a benefit exists under 19 CFR 351.504(a), equal to the amount of the grant.⁴⁴⁹ In the *Lumber V Final*, Commerce found that the PCIP is *de jure* specific under section 771(5A)(D)(i) of the Act because recipients are limited on an industry basis to the forestry sector.⁴⁵⁰ No additional information or evidence was provided in this investigation that warrants the reconsideration of this finding.⁴⁵¹ Therefore, based on record evidence we preliminarily continue to find that this program provides a countervailable subsidy.

Resolute reported receiving a payment in the form of a reimbursement under the PCIP during the POI. Therefore, we calculated the countervailable subsidy rate by dividing the amount of rebates received under this program during the POI by Resolute’s total sales during the POI. On this basis, we preliminarily determine the countervailable subsidy to be 0.03 percent *ad valorem* for Resolute.⁴⁵²

⁴⁴² See 19 CFR 351.524(d)(1).

⁴⁴³ See Kruger Preliminary Calculation Memorandum.

⁴⁴⁴ We initiated this program as Investment Program for Treated Partial Forests in Québec.

⁴⁴⁵ See GOQ November 9, 2017 IQR at QC-PCIP-1.

⁴⁴⁶ *Id.*

⁴⁴⁷ *Id.* at Exhibit QC-PCIP-1.

⁴⁴⁸ See Resolute November 9, 2017 IQR at 93.

⁴⁴⁹ See *Lumber V Prelim* PDM at 71, unchanged in *Lumber V Final*; see also *SC Paper 2015 Administrative Review Prelim* PDM at 42-43.

⁴⁵⁰ See *Lumber V Prelim* PDM at 71.

⁴⁵¹ See *Magnola Metallurgy, Inc. v. United States*, 508 F.3d 1349 (Fed. Cir. 2007) (*Magnola*); *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, from the People’s Republic of China: Final Results of Countervailing Duty Administrative Review; 2012*, 80 FR 41003 (July 14, 2015) (*Solar Cells from the PRC 2012 AR*), and accompanying IDM at 27.

⁴⁵² See Resolute Preliminary Calculation Memorandum.

26. Investment Program in Public Forests Affected by Natural or Anthropogenic Disturbance – Incentives for Harvesting Areas Infested by Spruce Budworm

The North Shore areas of Québec are experiencing an outbreak of the spruce budworm.⁴⁵³ Beginning in 2015, the GOQ implemented certain incentives for forest producers to diminish wood loss associated with this outbreak by accelerating the cutting of wood in forests infested by this budworm. Harvesting and processing wood from these infested forests result in increased costs to forestry companies because the poor-quality fiber can jam machinery; wood must be bleached to remove stains from the budworm; and increased quantities of infested wood are needed to make newsprint.⁴⁵⁴ The GOQ offsets certain of these costs incurred by eligible forest producers, including 1) holders of a supply guarantee; 2) buyers on the open market (auctions); 3) delegates of a local forest; 4) forestry businesses (*e.g.*, co-ops and harvesting companies); 5) holders of a forestry permit as described in Section 73 of the SDFFA; and 6) holders of management delegation agreements.⁴⁵⁵

The program operates only in the North Shore areas affected by the spruce budworm outbreak and is administered by MFFP, an agency of the Government of Québec, under the authority of the SDFFA.⁴⁵⁶ Funding to help offset the increased costs is determined per cubic meter of scaled timber, which varies according to zone, species, quality of timber, nature of the disturbance, and the salvage period relative to the outbreak of the disturbance. The GOQ provides an annual rate grid detailing payment procedures at the beginning of every fiscal year, generally in April, by the BMMB.⁴⁵⁷ Per these guidelines, companies can receive up to 100 percent of certain recognized eligible expenses.

The criteria for identifying eligible companies include whether companies are holders of a supply guarantee, buyers on the open market (*i.e.*, auction), delegates of a local forest, forestry businesses (*e.g.*, co-ops and harvesting companies), holders of a forestry permit as described in Section 73 of the SDFFA, and holders of management delegation agreements.⁴⁵⁸ Therefore, we preliminarily find that this program is *de jure* specific under section 771(5A)(D)(i) of the Act because eligible recipients are limited on an industry basis (*i.e.*, the forestry industry). Further, we preliminarily find this program is *de facto* specific because the totality of the program's benefit in 2015 and 2016 was attributed to sawmills.⁴⁵⁹ Additionally, we preliminarily determine that this program provides a financial contribution, in the form of a direct transfer of funds from the government, and that this program bestows a benefit in the amount of the grants, pursuant to section 771(5)(D)(i) of the Act and 19 CFR 351.504(a).

The GOQ reported that Resolute received grants under this program during the AUL period,

⁴⁵³ See Resolute November 9, 2017 IQR at 130.

⁴⁵⁴ *Id.* at 125.

⁴⁵⁵ See GOQ November 9, 2017 IQR at GOQ-OTHER-81 and GOQ-OTHER-82.

⁴⁵⁶ *Id.* at Exhibits QC-OTHER-AD-3 and QC-OTHER-AD-1.

⁴⁵⁷ *Id.* at Exhibits QC-OTHER-AD-8 and QC-OTHER-AD-9 for rates in place for 2015-2016 and 2016-2017, respectively.

⁴⁵⁸ *Id.* at Exhibits QC-OTHER-AD-6 and QC-OTHER-AD-7.

⁴⁵⁹ *Id.* at Exhibit QC-OTHER-AD-11.

whereas Resolute reported only grants under this program during the POI.⁴⁶⁰ After Resolute was approved for project funding, it received recurring grants under this program.⁴⁶¹ Therefore, pursuant 19 CFR 351.525(b)(6)(i), we divided the benefit received by Resolute in the POI by its total sales in the POI, for a net countervailable subsidy rate of 0.02 percent *ad valorem* for Resolute.⁴⁶²

27. Paix des Braves

In 2002, the GOQ and the Cree Nation of Québec established an agreement (*i.e.*, the Agreement Respecting a New Relationship Between the Cree Nation and the Government of Québec (the Agreement)) requiring forestry companies to conduct certain additional harvesting activities on “Paix des Braves” territories covered by the Agreement. Specifically, when harvesting on the territories covered by this agreement, forestry companies are required to perform the following additional activities: 1) build additional roads; 2) cut in a patchwork of smaller blocks (*i.e.*, mosaic cutting); and 3) perform certain other activities as defined by Chapter 3 of the SFDA.⁴⁶³ In order for forestry companies to maintain their activities on these lands in spite of the increased costs, the GOQ initiated a program in 2015 which provides partial compensation to offset these costs (*i.e.*, costs not already covered by Section 120 of the SFDA) incurred when complying with the Agreement.⁴⁶⁴

This program is administered by the MFFP, pursuant to the Agreement Respecting a New Relationship Between the Cree Nation and the Government of Québec established by the GOQ.⁴⁶⁵ The GOQ states that participants of this program have to conduct harvesting operations on the territory under the rules of the Agreement and identifies eligible entities to include supply guarantee holders, successful bidders at the BMMB auctions, and forestry companies hired to provide harvesting services and authorized to operate in the public forests.⁴⁶⁶ Moreover, eight recipients, of which Resolute is one, received funding from this program.⁴⁶⁷ Regarding the program’s reimbursement structure, the rates are determined each year by the BMMB; in 2015-2016 and 2016-2017, the compensation rate was C\$251 and C\$176 per hectare, respectively.⁴⁶⁸

We preliminarily find that the MFFP is an agency of the GOQ⁴⁶⁹ and, thus, constitutes an “authority” within the meaning of section 771(5)(B) of the Act. Furthermore, we preliminarily determine that the Paix des Braves program is *de jure* specific under section 771(5A)(D)(i) of the Act because recipients are limited on an industry basis to the forestry sector pursuant to a

⁴⁶⁰ See GOQ November 9, 2017 IQR at Exhibit QC-OTHER-AD-2 and Resolute November 9, 2017 IQR at 125.

⁴⁶¹ See Resolute November 9, 2017 IQR at 125.

⁴⁶² See Resolute Preliminary Calculation Memorandum.

⁴⁶³ See GOQ November 9, 2017 IQR at Exhibit QC-OTHER-CA-3.

⁴⁶⁴ See Resolute November 9, 2017 IQR at 122; and GOQ November 9, 2017 IQR at Exhibit QC-OTHER-CA-1.

⁴⁶⁵ GOQ November 9, 2017 IQR at GOQ-OTHER-38 and Exhibit QC-OTHER-CA-1.

⁴⁶⁶ *Id.* at GOQ-OTHER-46.

⁴⁶⁷ *Id.* at Exhibit QC-OTHER-CA-7.

⁴⁶⁸ *Id.* at GOQ-OTHER-44.

⁴⁶⁹ See, *e.g.*, GOQ November 9, 2017 IQR at QC-PCIP-3.

government decree. We also preliminarily find this program is *de facto* specific because there were only eight companies that benefited from this program. Additionally, we preliminarily determine that this program provides a financial contribution, in the form of a direct transfer of funds from the government, within the meaning of section 771(5)(D)(i) of the Act.

Both Resolute and the GOQ reported that Resolute received a payment under this program during the POI in the form of a reimbursement.⁴⁷⁰ We treated this payment as a non-recurring grant because Resolute would only earn a benefit under this program in the years it harvested on Paix des Braves land. Therefore, we performed the “0.5 percent test,” for Resolute as described in 19 CFR 351.524(b)(2). The total amount of approved funding was less than 0.5 percent of Resolute’s sales in the year of approval; therefore, we will expense the benefit in the year it was received, which is the POI. Therefore, pursuant to 19 CFR 351.525(b)(6)(i), we divided the benefit received in the POI by its total sales in the POI, for a net countervailable subsidy rate of 0.01 percent *ad valorem*.⁴⁷¹

Loan Program

28. Newfoundland and Labrador Provision of Loans to CBPP

On February 19, 2014, the GNL, through its Department of Natural Resources, executed a C\$110 million loan to CBPP, one of Kruger’s cross-owned mills.⁴⁷² The credit agreement between the GNL and CBPP states that the loan proceeds were to be used to repay senior debt, provide working capital, and for capital improvements for the hydroelectric power and transmission assets.⁴⁷³ This loan was offered by the GNL as a one-time loan that was individually-negotiated with CBPP. Therefore, we preliminarily determine that the loan provided by the GNL is specific, within the meaning of section 771(5A)(D)(i) of the Act, to CBPP because it was limited to CBPP. Further, this program constitutes a financial contribution in the form of a direct transfer of funds from an authority under section 771(5)(D)(i) of the Act.

A benefit exists within the meaning of 19 CFR 351.505(a) to the extent that the amount paid by the recipient is less than that which would have paid on a comparable market-rate commercial loan. As noted in the “Creditworthiness” section, above, the petitioner alleged that CBPP was uncreditworthy at the time of the loan; and, after analyzing the information on the record, we preliminarily find CBPP to be uncreditworthy at the time of the GNL loan.⁴⁷⁴ Therefore, pursuant to 19 CFR 351.505(a)(3)(iii), we derived an “uncreditworthy” interest rate for the GNL loan to CBPP. Pursuant to our regulations, we used the probability of default for Caa to C-rated companies in Moody’s study of historical default rates of Canadian corporate bond issuers, and average cumulative default rates for Aaa to Baa-rated companies in Moody’s study of historical default rates of Canadian corporate bond issues (*i.e.*, investment grade companies).⁴⁷⁵ We used a time period of five years for the term of the loan because the Moody’s study data covered up to a

⁴⁷⁰ See GOQ November 9, 2017 IQR at Exhibit QC-OTHER-CA-7; and Resolute November 9, 2017 IQR at 122.

⁴⁷¹ See Resolute Preliminary Calculation Memorandum.

⁴⁷² *Id.* at Exhibit NL-LOAN-1.

⁴⁷³ See Kruger December 18, 2017 SQR at Exhibit Q1-A at 76.

⁴⁷⁴ See Equityworthiness Memo at 22.

⁴⁷⁵ See Memorandum, “Benchmark Information for Uncreditworthiness Rate,” dated January 8, 2018.

five-year time window for default probabilities. We used the average of the above rates to determine a uncreditworthy loan interest rate, which we used as a benchmark. To calculate the benefit, we divided the difference between the interest CBPP paid during the POI and the interest that would have been paid using the benchmark rate by the total sales of the UGW producers as described in the “Attribution of Subsidies” section of this memorandum, for the POI. On this basis, we preliminarily determine the countervailable subsidy rate for Kruger under this program to be 2.77 percent *ad valorem*.

Purchase of Goods for MTAR

British Columbia Programs

29. BC Hydro Electricity Purchase Agreements (EPAs)

Catalyst reported that it sold electricity to BC Hydro, a provincial Crown corporation during the POI, pursuant to EPAs.⁴⁷⁶ Catalyst reported that it had one EPA with BC Hydro, at its Powell River facility. Created in 1961, BC Hydro is a statutory Crown corporation constituted under the Hydro and Power Authority Act, chapter 212.⁴⁷⁷ BC Hydro is accountable to Government through the BC Minister of Energy and Mines.⁴⁷⁸ BC Hydro is a vertically integrated electric utility company that owns and operates more than 30 generating facilities, approximately 79,000 kilometers of transmission and distribution lines, and approximately 300 substations to provide electricity service to approximately 1.96 million customers.⁴⁷⁹ BC Hydro’s service area encompasses the vast majority of British Columbia, with the exception of the City of New Westminster and a small portion of the south central part of the province.⁴⁸⁰ In 2002, the GBC introduced an energy plan calling for new sources of energy and limiting BC Hydro’s role to 1) maintaining, improving, and expanding its existing power facilities and generation resources, and 2) purchasing new power from independent power producers (“IPPs”).⁴⁸¹ The 2002 energy plan also confirmed that BC Hydro’s rates would continue to be set by the British Columbia Utilities Commission (BCUC) on a “cost of service” basis.⁴⁸² In 2007, the GBC updated its energy plan and specified that 1) by 2016 BC Hydro must be capable of meeting its electricity supply obligations solely from electricity generation facilities within British Columbia; 2) BC Hydro must employ demand-side measures to reduce expected increases in demand by the year 2020, and 3) at least 93 percent of the electricity generated in British Columbia should be from clean or renewable resources, including biomass, biogas, geothermal heat, hydro, solar, ocean, and wind.⁴⁸³ Further, GBC Order in Council number 508, issued on June 25, 2007, directed BCUC to take into consideration additional factors when considering contracts for electricity generated from biomass.⁴⁸⁴ BC Hydro purchases energy from IPPs pursuant to long-term EPAs.⁴⁸⁵ As of November 2016, BC Hydro had 135 EPAs with IPPs, 114 of which were with

⁴⁷⁶ See Catalyst November 9, 2017 IQR at Appendix IV.C.9.

⁴⁷⁷ See GBC November 9, 2017 IQR at BC Volume II, 71-72.

⁴⁷⁸ *Id.*

⁴⁷⁹ *Id.* at BC Volume II, 29.

⁴⁸⁰ *Id.* at BC Volume II, 30.

⁴⁸¹ *Id.* at BC Volume II, 31.

⁴⁸² *Id.*

⁴⁸³ *Id.* at BC Volume II, 31-32.

⁴⁸⁴ *Id.* at Exhibit BC-BCH-30.

⁴⁸⁵ *Id.* at BC Volume II, 33.

operating facilities, and 21 of which were with facilities in development; the IPPs supply approximately one-quarter of BC Hydro's total energy requirement.⁴⁸⁶

Consistent with our finding in the *Lumber V Final*, we find that, as a Crown corporation, BC Hydro is an "authority" within the meaning of section 771(5)(B) for the Act.⁴⁸⁷ In particular, the GBC has stated BC Hydro "is for all purposes an agent of the {GBC}."⁴⁸⁸ Therefore, consistent with our finding in the *Lumber V Final*,⁴⁸⁹ we determine that BC Hydro is providing a financial contribution in the form of a purchase of goods under section 771(5)(D)(iv) of the Act to Catalyst. BC Hydro reported that as of November 2016, it has EPAs with 135 IPPs.⁴⁹⁰ As explicitly stated in the SAA, the specificity test is to function as an initial screening mechanism to winnow out only those foreign subsidies which truly are broadly available and widely used throughout an economy.⁴⁹¹ The EPA program, which is limited to only 135 power providers in British Columbia, is not widely used throughout the provincial economy; therefore, consistent with our determination in the *Lumber V Final*,⁴⁹² we also preliminarily determine that this program is *de facto* specific under section 775(5A)(D)(iii)(I) because the actual recipients of the subsidy are limited in number.

We next examined whether a benefit was provided to Catalyst within the meaning of section 771(5)(E)(iv) of the Act. Because there is no evidence on the record to suggest that the electricity rates paid by consumers in British Columbia are not market-based prices, and consistent with the benefit calculation for this program in the *Lumber V Final*,⁴⁹³ to calculate whether Catalyst benefited under this program, we compared the monthly weighted-average unit sales price of electricity from Catalyst to BC Hydro, to the monthly base unit price that Catalyst paid to BC Hydro for electricity for all of its mills and based upon the combined transmission service rate schedules RS1823, RS1880, and RS1892.⁴⁹⁴ We performed the benchmark and benefit calculations on a tax-exclusive, month-by-month basis, using the month of sale benchmark for comparison with the month of earned income, based upon the production month. We multiplied the respective unit price differences resulting from these comparisons by the total monthly quantities of electricity sold by Catalyst and summed all benefits which Catalyst received payment during the POI (*i.e.*, date of receipt of payment, as reported by Catalyst); we divided the resulting benefit by Catalyst's total sales in the POI. On this basis, we preliminarily calculate a net countervailable subsidy of 1.23 percent *ad valorem* for Catalyst.⁴⁹⁵

⁴⁸⁶ *Id.* at BC Volume II, 32-33.

⁴⁸⁷ See *Lumber V Prelim* PDM at 84 ("BC Hydro EPAs"), unchanged in *Lumber V Final*.

⁴⁸⁸ See GBC November 9, 2017 IQR at BC Volume II at 30.

⁴⁸⁹ See *Lumber V Final* IDM at Comment 48.

⁴⁹⁰ *Id.* at 33.

⁴⁹¹ See SAA at 929.

⁴⁹² See *Lumber V Final* IDM at Comment 50.

⁴⁹³ *Id.* at Comment 51.

⁴⁹⁴ See Catalyst December 12, 2017 SQR at 11-13 and Exhibit EPA-23.

⁴⁹⁵ See Catalyst Preliminary Calculation Memorandum.

30. GOQ Purchase of Electricity for MTAR

As noted above, in the *Lumber V Final*, we found that Hydro-Québec is an authority within the meaning of section 771(5)(B) of the Act because it is a state-owned utility, whose sole shareholder is the Québec government, and based on record evidence we continue to find that Hydro-Québec is an authority.⁴⁹⁶ We also determined that Hydro-Québec's purchase of electricity constitutes a financial contribution within the meaning of section 771(5)(D)(iv) of the Act.⁴⁹⁷

In this investigation, Resolute reported sales of electricity to Hydro-Québec under the PAE 2011-01 program and Kruger reported sales of electricity to Hydro-Québec under the A/O 2003-01 program, as well as under PAE 2011-01.⁴⁹⁸ We preliminarily determine that contracts for the sale of electricity to Hydro-Québec are *de facto* specific within the meaning of section 771(5A)(D)(iii)(I) of the Act because recipients of the subsidy are limited in number. For instance, in 2016, there were 18 executed power purchase agreements (PPAs) in effect with 16 producers.⁴⁹⁹ We preliminarily find that a benefit was provided within the meaning of section 771(5)(E)(iv) of the Act to the extent that the GOQ purchased electricity for MTAR from Resolute and Kruger when measured against an appropriate benchmark for electricity. Therefore, we preliminarily find that this program provides a countervailable subsidy, consistent with our findings in *Lumber V*.⁵⁰⁰

There is no evidence on the record to suggest that the electricity rates paid by consumers in Québec are not market-based prices.⁵⁰¹ Therefore, we relied on electricity tariff rates paid by Kruger and Resolute during the POI to select a benchmark to measure the adequacy of remuneration of Hydro-Québec's purchases of electricity. Specifically for Kruger, we selected as our benchmark the Industrial L electricity rate paid to Hydro-Québec by the Kruger company holding the PPAs during the POI.⁵⁰² For Resolute, we selected as our benchmark the Industrial L electricity rate that it paid to Hydro-Québec for electricity during a certain month of the POI.⁵⁰³ The L rate applies to an annual contract between the customer and Hydro-Québec whose minimum billing demand is 5,000 Kw or more and which is principally related to an industrial activity.⁵⁰⁴ To determine whether a benefit exists, we compared the L Rate that Kruger and Resolute paid to the unit price of electricity that Hydro-Québec paid to these companies for each month of the POI. We multiplied the difference by the total volume of electricity purchased by Hydro-Québec for each month and then summed those amounts. Because this program is recurring under 19 CFR 351.524(c)(1), we divided the sum of the benefits by the total sales of

⁴⁹⁶ See *Lumber V Final* IDM at Comments 52 through 55.

⁴⁹⁷ See *Lumber V Prelim* PDM at 85, unchanged in *Lumber V Final*.

⁴⁹⁸ See Resolute November 9, 2017 IQR at RES-NS-39; see also Kruger November 9, 2017 IQR at 130.

⁴⁹⁹ See GOQ December 22, 2017 SQR at GQ-SUPP-10.

⁵⁰⁰ See *Magnola*, 508 F.3d 1349; see also *Solar Cells from the PRC 2012 AR* IDM at 27.

⁵⁰¹ See *Lumber V Prelim* PDM at 85, unchanged in *Lumber V Final*.

⁵⁰² See Kruger December 18, 2017 SQR at Exhibit Q47-A.

⁵⁰³ See GOQ November 9, 2017 IQR at Exhibit-BIO-24; and Resolute January 4, 2018 SQR at Exhibit 2.

⁵⁰⁴ See GOQ November 9, 2017 IQR at Exhibit QC-BIO-48, Chapter 5.

Resolute and by the total sales Kruger’s UGW paper producers and KEBLP, as described in the “Attribution of Subsidies” section of this memorandum.

On this basis, we preliminarily calculate a net countervailable subsidy of 1.45 percent *ad valorem* for Kruger and a net countervailable subsidy of 0.91 percent *ad valorem* for Resolute.⁵⁰⁵

B. Programs Not Further Examined

1. Consultations for Employment Program (CEP)⁵⁰⁶

In the *Lumber V Final*, Commerce found the CEP program to be not specific, and therefore not countervailable.⁵⁰⁷ Although the CEP program was self-reported by respondents and the governments in this investigation, this program was not alleged to provide a subsidy by the petitioner, and no party has pointed to changes in this program which would cause Commerce to reconsider the countervailability of this program in this investigation. As such, we have no basis to investigate this program.

C. Programs Preliminary Found Not to Be Countervailable

1. Provision of Below-Market Rate Loans from IQ

In 2015, IQ made an aligned loan and equity investment in the total amount of up to C\$190 million to KTR and Kruger Holdings, respectively. IQ’s investment and loan were both pursuant to Decree 743-2015 issued on August 26, 2015, which authorized IQ to invest up to a maximum of \$190 million towards a company integration project for the production of non-subject

merchandise.⁵⁰⁸ The financing consisted of one loan of up to \$84 million to KTR destined for the conversion of paper machine number 10 from producing uncoated groundwood paper to linerboard and corrugated medium, as described in IQ’s Loan Offer. For a discussion of the equity investment to Kruger Holdings, see the discussion above.

When determining whether a subsidy is tied to a particular product or market the *Preamble* states that we will tie subsidies to particular products or markets “on a case-by-case basis”⁵⁰⁹ and “based on the stated purpose of the subsidy or the purpose {Commerce} evince {s} from record

⁵⁰⁵ See Resolute Preliminary Calculation Memorandum.

⁵⁰⁶ In its response, Resolute titled this program “Québec’s MTESS Employment Insurance Training Program” and “ARTT.” See Resolute November 9, 2017 IQR at 120-121; see also Resolute December 4, 2017 NSAR at 64. This program was also referred to as “Concertations for Employment” in certain questionnaire responses.

⁵⁰⁷ See, *Lumber V Final* IDM at 19 (“E. Programs Determined To Be Not Countervailable”) (finding that the program is not *de jure* specific because it is available to all employers, employees, employee associations, professional groups, and workers subject to collective lay-offs; and that the program is not *de facto* specific because the assistance is provided to recipients in all of the province’s industrial sectors).

⁵⁰⁸ See GOQ November 9, 2017 IQR at GOQ-IQ-1 to 2 and Exhibits QC-IQIP-1 and QC-IQIP-2.

⁵⁰⁹ See *Preamble*, 63 FR at 65402.

evidence at the time of bestowal.⁵¹⁰ In this instance, the administrative decree that authorized the loan and the loan offer state specifically that the loan was only offered to finance the conversion of paper machine number 10 from making UGW paper to making linerboard and corrugated medium.⁵¹¹ Because the loan is specifically tied to the production of non-subject merchandise, we preliminarily find that it is not countervailable.

D. Programs Preliminarily Determined Not To Provide Measurable Benefits During the POI

The respondents reported receiving benefits under various programs, some of which were specifically alleged and others of which were self-reported. Based on the record evidence, we preliminarily determine that the benefits from certain programs: 1) were fully expensed prior to the POI; 2) are less than 0.005 percent *ad valorem* when attributed to the respondent's applicable sales as discussed above in the "Attribution of Subsidies" section above; 3) are only tied to the production of non-subject merchandise; or 4) in the case of export subsidies, were not tied to U.S. sales of subject merchandise. Consistent with Commerce's practice,⁵¹² we have not included the programs which provided no measurable benefit in our preliminary subsidy rate calculations. Moreover, we determine that it is unnecessary for Commerce to make a preliminary determination as to the countervailability of these programs.

For a list of the subsidy programs that do not provide a benefit for each respondent, *see* Appendix I attached to this memorandum.

E. Programs Preliminarily Determined Not To Be Used During the POI

Each respondent reported non-use of certain programs on which Commerce initiated. For a list of the subsidy programs not used by each respondent, *see* Appendix I attached to this memorandum.

⁵¹⁰ *See, e.g., Preamble*, 63 FR at 65400. This distinguishes the attribution of subsidies that benefit all production and subsidies that are tied to a particular product.

⁵¹¹ *See* GOQ November 9, 2017 IQR at Exhibits QC-IQIP-1 and QC-IQIP-2 ("The Loan is only offered for the project regarding the conversion of the newsprint paper machine MP#10 of the Trois-Rivières plant purchased by Entreprise de Papiers de publication Kruger inc. to a cardboard machine...")

⁵¹² *See, e.g., Coated Free Sheet Paper from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 72 FR 60645 (October 25, 2007), and accompanying IDM at "Analysis of Programs, Programs Determined Not To Have Been Used or Not To Have Provided Benefits During the POI for GE;" *Certain Steel Wheels from the People's Republic of China: Final Affirmative Countervailing Duty Determination, Final Affirmative Critical Circumstances Determination*, 77 FR 17017 (March 23, 2012), and accompanying IDM at "Income Tax Reductions for Firms Located in the Shanghai Pudong New District;" *Aluminum Extrusions from the People's Republic of China: Final Results of Countervailing Duty Administrative Review; 2010 and 2011*, 79 FR 106 (January 2, 2014), and accompanying IDM at "Programs Used By the Alnan Companies;" and *Countervailing Duty Investigation of Certain Cold-Rolled Steel Flat Products from the Russian Federation: Final Affirmative Countervailing Duty Determination and Final Negative Critical Circumstances Determination*, 81 FR 49935 (July 29, 2016), and accompanying IDM at "Tax Deduction for Research and Development Expenses."

F. Programs Preliminarily Determined to Require Additional Information

The following programs were either initiated on by Commerce as part of the petitioner's new subsidy allegations or were self-reported by respondents. As such, we have not been able to collect and fully analyze information pertaining to these programs in the allotted time and we are, therefore, deferring examination of these programs until after the preliminary determination. For these programs, we have, or we intend to, solicit additional information from the respondent companies, as well as from the relevant government entities in this case prior to making a post-preliminary decision.

Federal Government

1. Fees and Dues Paid to a Research Consortium
2. Export Development Canada (EDC)'s Financing and Investment Program
3. EDC's Accounts Receivable Insurance Program
4. EDC's Account Performance Security Guarantee program

Ontario

5. GOO Purchase of Electricity for MTAR
6. Ontario Forest Roads Funding Program

Newfoundland and Labrador

7. Government Repurchase of Timber Rights
8. GNL Silviculture Payments to CBPP Mill
9. Canada-NL Job Grants
10. Property Tax
11. NY Hydro Cogeneration Power Purchase Agreement
12. Secondary Energy Arrangements with NL Hydro
13. Capacity Assistance Agreement with NL Hydro
14. GNL's Provision of a \$130 Million Grant to Resolute

Québec

15. HQ Special L Rate for Industrial Customers Affected by Spruce Budworm
16. Hydro Québec's Industrial Systems Program (Energy Efficiency Program)
17. EcoPerformance – MERN (TEQ)
18. Road Diversion
19. Connection of Electricity Sub-Station to Hydro-Québec Grid
20. Energy Efficiency Conversion Projects
21. Tax Credit for Private Partnership Pre-Competitive Research
22. Emploi Québec: Fonds De Développement et de Reconnaissance des Compétences de la Main-d'Oeuvre (FDRCMO) (Workforce Skills Development and Recognition Fund)
23. Emploi Québec: Mesure de Formation de la Main-D'Oeuvre Volet Entreprises (MFOR) (Manpower Training Measure)
24. Emploi Québec: Aménagement et Réduction du Temps De Travail (ARTT)
25. Ministère des transports - Réduction des gaz à effet de serre (Greenhouse gas reduction on freight)
26. Investissement Québec Loan Guarantee to Kruger Energy Bromptonville L.P.
27. PFIInnovations Grants
28. Training Grant for White Birch's Stadacona Mill

VIII. CONCLUSION

We recommend that you approve the preliminary findings described above.

Agree

Disagree

1/8/2018

X

Gary Taverman

Signed by: GARY TAVERMAN

Gary Taverman
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations,
performing the non-exclusive functions and duties of the
Assistant Secretary for Enforcement and Compliance

APPENDIX I

NOT-USED AND NOT-MEASURABLE PROGRAMS, BY COMPANY

Catalyst

Programs Preliminarily Determined Not To Provide Measurable Benefits to Catalyst During the POI

Count	Title
	Government of Canada Programs
1	Federal Forestry Industry Transformation Program
2	ecoENERGY Efficiency for Industry Program
3	Transport Canada's Marine Security Contribution Program
4	Untied Payments from the Government of Canada
5	Interest from the GOC on Late Payment from the Government of Net Goods and Services Tax
6	Export Development Canada: Credit Insurance Program
7	Federal Accelerated Capital Cost Allowances for Class 29 Assets
8	Federal Scientific Research and Experimental Development (SR&ED) Tax Credit
9	Federal Apprenticeship Job Creation Tax Credit
10	Transformative Technologies Pilot Scale Demonstration Program
	Government of British Columbia Programs
11	BC SR&ED Tax Credit
12	Flight Refunds from the BC Ministry of Finance
13	BC Adjustments Related to Pollution Permits
14	Environment Testing at the Crofton Mill
15	BC Lease of Buildings in Port Alberni
16	BC Ministry of Forestry, Lands and Natural Resource Operations Contributions for Competitiveness Studies
17	BC Training Tax Credits
18	Commissions from BC for Timely Filing its Provincial Sales Tax Returns
19	Differences in BC Monthly Carbon Tax Remittances
20	BC Property Assessments
21	WorkSafeBC Workers Compensation
22	City of Port Alberni: Property Purchase and Road Dedication Agreement
	Local Government Programs
23	District of North Cowichan Water Payments
24	Cowichan Valley Regional District Land Payments
25	City of Port Alberni Fire Hydrant Deposit
26	City of Port Alberni Property Purchase and Road Dedication Agreement

Programs Preliminarily Determined Not To Be Used by Catalyst During the POI

Count	Title
	Government of Canada Programs
1	Forest Innovation Program
2	Sustainable Development Technology Canada
3	Atlantic Canada Opportunities Agency Loans – Atlantic Innovation Fund
4	Atlantic Canada Opportunities Agency Loans – Business Development Program
5	Western Economic Diversification – Western Innovation Initiative
6	Export Guarantee Program
7	Atlantic Investment Tax Credit
	Province of Alberta
8	Bioenergy Producers Credit Program Grant in Alberta
9	Alberta Innovates
10	Alberta Mountain Pine Beetle Project
11	Alberta Resource Road Program
12	Alberta Tax-Exempt Fuel Program for Marked Fuel and Alberta’s Tax Rebates for Clear Fuel
13	Alberta SR&ED Tax Credit
14	Alberta Export Support Fund
	Province of New Brunswick
15	New Brunswick Financial Assistance to Industry Program
16	New Brunswick Total Development Fund
17	Northern New Brunswick Economic Development and Innovation Fund
18	New Brunswick Workforce Expansion: One Job Pledge
19	New Brunswick Provision of Silviculture Grants
20	New Brunswick License Management Fees
21	New Brunswick R&D Tax Credit
22	New Brunswick’s Large Industrial Renewable Energy Purchases
	Newfoundland and Labrador
23	Newfoundland and Labrador Provision of Loans to Corner Brook
24	Government of Newfoundland and Labrador Gasoline Tax Exemption or Rebate
25	Newfoundland and Labrador Manufacturing and Processing Profits Tax Credit
26	Newfoundland and Labrador SR&ED Tax Credit
	Province of Ontario
27	Forestry Industry Grants Under the Ontario Forest Sector Prosperity Fund
28	Ontario Forestry Growth Fund

29	Pilot Biorefinery Program
30	Ontario Northern Industrial Electricity Rate Program
31	Loan Guarantee Program in Ontario
	Province of Québec
32	Investment Program for Treated Partial Forests in Québec (Partial Cut Investment Program)
33	Provision of Below-Market Rate Loans from Investissement Québec
34	Québec Tax Holiday for Large Investment Projects
35	Tax Credit for Acquisition of Manufacturing and Processing Equipment in Québec
36	Québec Capital Cost Allowance for Property Used in Manufacturing and Processing
37	Credits for Construction and Major Repair of Public Access Roads and Bridges in Forest Areas
38	Tax Incentives for Private Forest Producers – Property Tax Refund for Forestry Producers on Private Woodlands in Québec
39	Québec SR&ED Tax Credit
40	Government of Québec Purchase of Electricity for MTAR under PAE 2011-01
	Stumpage Programs
41	Alberta Provision of Stumpage for LTAR
42	British Columbia Provision of Stumpage for LTAR
43	New Brunswick Provision of Stumpage for LTAR
44	Ontario Provision of Stumpage for LTAR
45	Québec Provision of Stumpage for LTAR

Kruger

Programs Preliminarily Determined Not To Provide Measurable Benefits to Kruger During the POI

Count	Title
	Government of Canada Programs
1	Atlantic Canada Opportunities Agency Loans – Atlantic Innovation Fund
2	Federal SR&ED Tax Credit
3	Atlantic Investment Tax Credit
4	Natural Sciences and Engineering Research Council (NSERC), the Canadian Institutes of Health Research and the Social Sciences and Humanities Research Council and Industry Canada
5	Post Doctorate for Industrial R&D
	British Columbia
6	British Columbia SR&ED Tax Credit
	Newfoundland and Labrador
7	Infrastructure Buy Back
8	Forest Access Road Construction
9	Biomass Project
10	Green Fund
11	NL Hydro Energy Reduction Program for TMP
12	Reconstruction Hinds Lake – NL Hydro
13	Transportation Costs for Northern Peninsula
	Québec
14	Québec Tax Holiday for Large Investment Projects
15	Tax Credit for Acquisition of Manufacturing and Processing Equipment in Québec
16	Program 1 ⁵¹³
17	Programmes d'efficacité énergétique d'Hydro-Québec
18	EcoPerformance (Programmes subvention MRNQ, PRCML)
19	Programme de réduction du mazout lourd
20	Aide au Reclassement
21	Programme analyse et démonstration industrielles
22	Appui au Développement Industriel
23	Program 2 ⁵¹⁴

⁵¹³ See Kruger Preliminary Calculation Memo.

⁵¹⁴ *Id.*

Programs Preliminarily Determined Not To Be Used by Kruger During the POI

Count	Title
	Government of Canada Programs
1	Federal Forestry Industry Transformation Program
2	Federal Pulp and Paper Green Transformation Program
3	Forest Innovation Program
4	Transformative Technologies Pilot Scale Demonstration Program
5	Sustainable Development Technology Canada
6	Atlantic Canada Opportunities Agency Loans – Business Development Program
7	Western Economic Diversification – Western Innovation Initiative
8	Export Guarantee Program
9	Federal Apprenticeship Job Tax Credit
	Province of Alberta
10	Bioenergy Producers Credit Program Grant in Alberta
11	Alberta Innovates
12	Alberta Mountain Pine Beetle Project
13	Alberta Resource Road Program
14	Alberta Tax-Exempt Fuel Program for Marked Fuel and Alberta’s Tax Rebates for Clear Fuel
15	Alberta SR&ED Tax Credit
16	Alberta Export Support Fund
	Government of British Columbia
17	Canada-BC Job Grant
18	BC Hydro's Power Smart: Industrial Energy Managers Program
19	BC Hydro's Power Smart: TMP Program
20	BC Hydro's Power Smart: Load Curtailment
21	BC Hydro's Power Smart: Incentives
22	British Columbia Powell River City Tax Exemption Program
23	British Columbia Lower Tax Rates for Coloured Fuel/BC Coloured Fuel Certification
24	BC Hydro’s Electricity Purchase Agreements
	Province of New Brunswick
25	New Brunswick Financial Assistance to Industry Program
26	New Brunswick Total Development Fund
27	Northern New Brunswick Economic Development and Innovation Fund
28	New Brunswick Workforce Expansion: One Job Pledge
29	New Brunswick Provision of Silviculture Grants
30	New Brunswick License Management Fees
31	New Brunswick R&D Tax Credit
32	New Brunswick’s Large Industrial Renewable Energy Purchases

	Newfoundland and Labrador
33	Government of Newfoundland and Labrador Gasoline Tax Exemption or Rebate
34	Newfoundland and Labrador Manufacturing and Processing Profits Tax Credit
35	CBPP Pension Plans
	Province of Ontario
36	Forestry Industry Grants Under the Ontario Forest Sector Prosperity Fund
37	Ontario Forestry Growth Fund
38	Pilot Biorefinery Program
39	Ontario Northern Industrial Electricity Rate Program
40	Loan Guarantee Program in Ontario
	Province of Québec
41	Investment Program for Treated Partial Forests in Québec (Partial Cut Investment Program)
42	Credits for Construction and Major Repair of Public Access Roads and Bridges in Forest Areas
43	Tax Incentives for Private Forest Producers – Property Tax Refund for Forestry Producers on Private Woodlands in Québec
	Stumpage Programs
44	Alberta Provision of Stumpage for LTAR
45	British Columbia Provision of Stumpage for LTAR
46	British Columbia Log and Wood Residue Export Restraints
47	New Brunswick Provision of Stumpage for LTAR
48	Ontario Provision of Stumpage for LTAR
49	Québec Provision of Stumpage for LTAR

Resolute

Programs Preliminarily Determined Not To Provide Measurable Benefits to Resolute During the POI

Count	Title
	Government of Canada Programs
1	Federal Scientific Research and Experimental Development Tax Credit
2	EcoEnergy for Efficiency
3	Federal Accelerated Capital Cost Allowances for Class 29 Assets
4	Federal Research Consortium
	Government of Ontario Programs
5	Cooperative Education Tax Credit
6	Chemical Engineer Intern Placement
7	Forest Industry Grants under the Ontario Forest Sector Prosperity Fund
	Government of Québec Programs
8	Tax Credit for Acquisition of Manufacturing and Processing Equipment in Québec
9	Tax Credit for Training in the Manufacturing, Forestry and Mining Sectors
10	Formabois
11	Rexforet
12	Fuel Tax Refunds for Stationary Purposes and for Certain Other Purposes
13	Tax Credit for Technological Adaptation Services
14	Tax Credit for on-the-Job Training
15	Tax Credit for University Research or Research Carried Out by a Public Research Centre or a Research Consortium
16	Industrial Systems Program (Energy Efficiency Program – Hydro-Québec)
17	Industrial Systems Program (Prescriptive Measures) – Hydro-Québec
18	Silviculture Work
19	Sectoral Committee Forest Management Employees
20	Hydro Québec Electricity Consumption Analysis – Industrial Systems Program
21	Hydro Québec Electricity Retrofit – Industrial Systems Program
22	MFFP Forest Camp Reimbursement
23	Study on Chip Quality and Quality of Fiber Inventory
24	MFFP Educational Grant
25	Innovation and Development for the Region of Manicouagan
26	Waste Management Training
27	MQ-128 Worker Training Program

Programs Preliminarily Determined Not To Be Used by Resolute During the POI

Count	Title
	Government of Canada Programs
1	Federal Forestry Industry Transformation Program
2	Forest Innovation Program
3	Transformative Technologies Pilot Scale Demonstration Program
4	Sustainable Development Technology Canada
5	Atlantic Canada Opportunities Agency Loans – Atlantic Innovation Fund
6	Atlantic Canada Opportunities Agency Loans – Business Development Program
7	Western Economic Diversification – Western Innovation Initiative
8	Export Guarantee Program
9	Federal Apprenticeship Job Creation Tax Credit
10	Atlantic Investment Tax Credit
11	EcoEnergy for Renewable Power
12	EcoEnergy for Efficiency
13	Natural Sciences and Engineering Research Council of Canada, Industrial R& D Fellowships, and Industrial Undergraduate Student Research Awards
14	Employment and Social Development Canada Job Creation Partner
15	Centre Emersion
	Government of Alberta
16	Bioenergy Producers Credit Program Grant in Alberta
17	Alberta Innovates
18	Alberta Mountain Pine Beetle Project
19	Alberta Resource Road Program
20	Alberta Tax-Exempt Fuel Program for Marked Fuel and Alberta's Tax Rebates for Clear Fuel
21	Alberta Scientific Research and Experimental Development Tax
22	Alberta Export Support Fund
	Government of British Columbia
23	Canada-BC Job Grant
24	BC Hydro's Power Smart: Industrial Energy Managers Program
25	BC Hydro's Power Smart: TMP Pulp Program
26	BC Hydro's Power Smart: Load Curtailment
27	BC Hydro's Power Smart: Incentives
28	British Columbia Powell River City Tax Exemption Program
29	British Columbia Lower Tax Rates for Coloured Fuel/BC Coloured Fuel Certification
30	British Columbia Scientific Research and Experimental Development Tax Credit
31	BC Hydro's Electricity Purchase Agreements
32	British Columbia Log and Wood Residue Export Restraints

	Province of New Brunswick
33	New Brunswick Financial Assistance to Industry Program
34	New Brunswick Total Development Fund
35	Northern New Brunswick Economic Development and Innovation Fund
36	New Brunswick Workforce Expansion: One Job Pledge
37	New Brunswick Provision of Silviculture Grants
38	New Brunswick License Management Fees
39	New Brunswick R&D Tax Credit
40	New Brunswick's Large Industrial Renewable Energy Purchases
	Newfoundland and Labrador
41	Newfoundland and Labrador Provision of Loans to Corner Brook
42	Government of Newfoundland and Labrador Gasoline Tax Exemption or Rebate
43	Newfoundland and Labrador Manufacturing and Processing Profits Tax Credit
44	Newfoundland and Labrador SR&ED Tax Credit
	Province of Ontario
45	Ontario Forestry Growth Fund
46	Pilot Biorefinery Program
47	Loan Guarantee Program in Ontario
48	Ontario Research and Development Tax Credit
49	Compensation for Disrupting Waterflow At Hydro-Electric Facilities
	Province of Québec
50	Provision of Below-Market Rate Loans from Investissement Québec
51	Québec Tax Holiday for Large Investment Projects
52	Québec Capital Cost Allowance for Property Used in Manufacturing and Processing
53	Alma Book Paper Machine Project
54	Maniwaki Sawmill Project
55	Reimbursement for Relocation of Power Lines at Hydro Saguenay
56	Tax Incentives for Private Forest Producers – Property Tax Refund for Forestry Producers on Private Woodlands in Québec
	Stumpage Programs
57	Alberta Provision of Stumpage for LTAR
58	British Columbia Provision of Stumpage for LTAR
59	New Brunswick Provision of Stumpage for LTAR

White Birch

Programs Preliminarily Determined Not To Provide Measurable Benefits to White Birch During the POI

Count	Title
	Government of Canada Programs
1	GOC Warehousing Agreement with Soucy Mill
2	GOC Small Business Job Credit
	Government of Québec Programs
3	Québec Capital Cost Allowance for Property Used in Manufacturing and Processing
4	Tax Credit for On-the-Job Training Period in Québec
5	Logging Tax Credit
6	Emploi Québec Miscellaneous Training
7	Tax Credit for On-the-Job Training Period in Québec
	Local Government Programs
8	Land Sale and Exchange with the City of Gatineau (Québec)

Programs Preliminarily Determined Not To Be Used by White Birch During the POI

Count	Title
	Government of Canada Programs
1	Federal Forestry Industry Transformation Program
2	Federal Pulp and Paper Green Transformation Program
3	Forest Innovation Program
4	Sustainable Development Technology Canada
5	Transformative Technologies Pilot Scale Demonstration Program
6	Atlantic Canada Opportunities Agency Loans – Atlantic Innovation Fund
7	Atlantic Canada Opportunities Agency Loans – Business Development Program
8	Western Economic Diversification – Western Innovation Initiative
9	Atlantic Investment Tax Credit
10	Federal Scientific Research and Experimental Development Tax Credit
11	Federal Apprenticeship Job Creation Tax Credit
12	Export Guarantee Program
	Province of Alberta
13	Bioenergy Producers Credit Program Grant in Alberta
14	Alberta Innovates
15	Alberta Mountain Pine Beetle Project
16	Alberta Resource Road Program
17	Alberta Tax-Exempt Fuel Program for Marked Fuel and Alberta’s Tax Rebates for Clear Fuel
18	Alberta SR&ED Tax Credit

19	Alberta Export Support Fund
	Government of British Columbia
20	Canada-BC Job Grant
21	British Columbia Hydro Power Smart Grants
22	BC Hydro Power Smart: TMP Program
23	BC Hydro Power Smart: Load Curtailment
24	BC Hydro Power Smart: Incentives
25	British Columbia Powell River City Tax Exemption Program
26	British Columbia Lower Tax Rates for Coloured Fuel/BC Coloured Fuel Certification
27	British Columbia Scientific Research and Experimental Development Tax Credit
28	BC Hydro's Electricity Purchase Agreements for MTAR
29	BC Log and Wood Residue Export Restraints
	Province of New Brunswick
30	New Brunswick Financial Assistance to Industry Program
31	New Brunswick Total Development Fund
32	Northern New Brunswick Economic Development and Innovation Fund
33	New Brunswick Workforce Expansion: One Job Pledge
34	New Brunswick Provision of Silviculture Grants
35	New Brunswick License Management Fees
36	New Brunswick R&D Tax Credit
37	New Brunswick's Large Industrial Renewable Energy Purchases
	Newfoundland and Labrador
38	Government of Newfoundland and Labrador Gasoline Tax Exemption or Rebate
39	Newfoundland and Labrador Manufacturing and Processing Profits Tax Credit
40	Newfoundland and Labrador SR&ED Tax Credit
	Province of Ontario
41	Forestry Industry Grants Under the Ontario Forest Sector Prosperity Fund
42	Ontario Forestry Growth Fund
43	Pilot Biorefinery Program
44	Ontario Northern Industrial Electricity Rate Program
45	Loan Guarantee Program in Ontario
	Province of Québec
46	Investment Program for Treated Partial Forests in Québec (Partial Cut Investment Program)
47	Wood Fiber Technology Project for Papier Masson in Québec
48	Provision of Below-Market Rate Loans from Investissement Québec
49	Québec Tax Holiday for Large Investment Projects
50	Credits for Construction and Major Repair of Public Access Roads and Bridges in Forest Areas

51	Tax Incentives for Private Forest Producers – Property Tax Refund for Forestry Producers on Private Woodlands in Québec
52	Québec SR&ED Tax Credit
53	Government of Québec Purchase of Electricity for MTAR
	Stumpage Programs
54	Alberta Provision of Stumpage for LTAR
55	British Columbia Provision of Stumpage for LTAR
56	New Brunswick Provision of Stumpage for LTAR
57	Ontario Provision of Stumpage for LTAR