



C-122-865
Investigation
POI: 1/1/2018 – 12/31/2018
Public Document
E&C/OII: Team

July 5, 2019

MEMORANDUM TO: Jeffrey I. Kessler
Assistant Secretary
for Enforcement and Compliance

FROM: James Maeder
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Decision Memorandum for the Preliminary Determination of the
Countervailing Duty Investigation of Certain Fabricated Structural
Steel from Canada

I. SUMMARY

The Department of Commerce (Commerce) preliminarily determines that countervailable subsidies are not being provided to producers and exporters of certain fabricated structural steel (fabricated structural steel) from Canada, as provided in section 703(b)(1) of the Tariff Act of 1930, as amended (the Act).

II. BACKGROUND

A. Initiation and Case History

On February 4, 2019, Commerce received antidumping duty (AD) and countervailing duty (CVD) petitions concerning imports of fabricated structural steel from Canada, Mexico, and the People's Republic of China, filed on behalf of the American Institute of Steel Construction Full Member Subgroup (the petitioner), which was subsequently amended on February 21, 2019.¹ On February 21, 2019, we received a request from Ocean Steel & Construction Ltd. (Ocean Steel) to participate as a voluntary respondent in the event Commerce initiates a CVD investigation of

¹ See Petitioner's Letter, "Petitions for the Imposition of Antidumping and Countervailing Duties on Certain Fabricated Structural Steel from Canada, Mexico, and the People's Republic of China," dated February 4, 2019 (Petition); and Petitioner's Letter, "Certain Fabricated Structural Steel from Canada, Mexico, and the People's Republic of China: Amendment to Petition to Clarify Petitioner," dated February 21, 2019.

fabricated structural steel from Canada and does not select Ocean Steel as a mandatory respondent.²

On March 4, 2019, we initiated a CVD investigation of fabricated structural steel from Canada.³ In the *Initiation Notice*, Commerce notified parties of an opportunity to comment on the scope of the investigation.⁴ From March 2019 through July 2019, certain interested parties commented on the scope of the investigation as it appeared in the *Initiation Notice*.⁵ On April 24, 2019, the petitioner informed Commerce that it was proposing a revision to the scope to exclude certain steel poles.⁶ For further discussion of these comments, see the “Scope of the Investigation” section below.

B. Respondent Selection

The Petition identified 50 companies in Canada that produce and/or export certain fabricated structural steel. On February 20, 2019, we released the U.S. Customs and Border Protection (CBP) data for U.S. imports of certain fabricated structural steel under the appropriate Harmonized Tariff Schedule of the United States (HTSUS) subheadings to all interested parties under an administrative protective order.⁷ In the *Initiation Notice*, Commerce stated that, where appropriate, it intended to select respondents based on CBP data for U.S. imports of certain fabricated structural steel under the appropriate HTSUS subheadings and requested interested parties comment on the data within three business days of the publication of the *Initiation Notice*.⁸

On March 7, 2019, we received comments from certain interested parties identifying deficiencies in the CBP data placed on the record.⁹ Several of these parties argued that these data were

² See Ocean Steel’s Letter, “Fabricated Structural Steel from Canada: Request for Voluntary Respondent Treatment,” dated February 21, 2019. We note that Ocean Steel also requested voluntary status after the initiation of this investigation. See Ocean Steel’s Letter, “Fabricated Structural Steel from Canada: Request for Voluntary Respondent Treatment,” dated February 26, 2019; and Ocean Steel’s Letter, “Certain Fabricated Structural Steel from Canada: Reiteration of Request for Voluntary Respondent Treatment,” dated May 28, 2019.

³ See *Certain Fabricated Structural Steel from Canada, Mexico, and the People’s Republic of China: Initiation of Countervailing Duty Investigations*, 84 FR 7339 (March 4, 2019) (*Initiation Notice*).

⁴ See *Initiation Notice*, 84 FR at 7340.

⁵ See Memorandum, “Fabricated Structural Steel from Canada, Mexico, and the People’s Republic of China: Preliminary Scope Decision,” dated concurrently with this notice (Preliminary Scope Decision Memorandum).

⁶ See Petitioner’s Letter, “Certain Fabricated Structural Steel from Canada, Mexico, and the People’s Republic of China: Petitioner’s Additional Comments on Scope,” dated April 24, 2019.

⁷ See Memorandum, “Countervailing Duty Petition on Certain Fabricated Structural Steel from Canada: Release of Customs Data from U.S. Customs and Border Protection,” dated February 20, 2019.

⁸ See *Initiation Notice*, 84 FR at 7342-43.

⁹ See Petitioner’s Letter, “Certain Fabricated Structural Steel from Canada: Petitioner’s Comments on CBP Data and Respondent Selection,” dated March 7, 2019 (Petitioner’s Respondent Selection Comments); Canam Buildings and Structures Inc.’s (Canam’s), Les Industries Canatal Inc.’s (Canatal’s), and Walters Inc.’s (Walters’) Letter, “Fabricated Structural Steel from Canada, (C-122-865): Comments on CBP Data for U.S. Imports,” dated March 7, 2019 (Canam’s, Canatal’s, and Walters’ Respondent Selection Comments); and Ocean Steel’s Letter, “Certain Fabricated Structural Steel from Canada: Comments on Respondent Selection,” dated March 7, 2019 (Ocean Steel’s Respondent Selection Comments).

fundamentally flawed, such that they could not be used as the basis of respondent selection.¹⁰ Therefore, they requested that Commerce solicit quantity and value (Q&V) data from the producers or exporters of subject merchandise 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 March 12, 2019, we solicited Q&V data from the ten companies who were the largest exporters and producers of subject merchandise according to the CBP data.¹¹ Additionally, the Q&V questionnaire was placed on the record, thereby providing all other interested parties an opportunity to respond. From March 18, 2019, through April 1, 2019, we received Q&V data from a total of eleven producers or exporters of fabricated structural steel from Canada.¹²

On March 29, 2019, pursuant to section 777A(e)(2)(A) of the Act, Commerce limited the number of respondents selected for individual examination to the two largest producers/exporters of the subject merchandise, by volume.¹³ Accordingly, we selected Les Constructions Beauce-Atlas Inc. (LC Beauce-Atlas) and Les Industries Canatal Inc. (LI Canatal)¹⁴ as mandatory respondents in this investigation and issued the CVD questionnaire to the Government of Canada (GOC), who is responsible for forwarding the questionnaire to the mandatory respondents.

C. Questionnaires and Responses

In April 2019, we received timely responses to the “affiliated companies” section of the questionnaires from each of these companies, as well as a voluntary response from Ocean

¹⁰ See Canam’s, Canatal’s, and Walters’ Respondent Selection Comments at 1-2.

¹¹ See Commerce’s Letter, “Quantity and Value Questionnaire,” dated March 12, 2019.

¹² See Les Constructions Beauce-Atlas Inc.’s Letter, “Response to Quantity & Value questionnaire,” dated March 18, 2019; AI Industries’ Letter, “Antidumping Duty Investigation of Certain Fabricated Structural Steel from Canada: AI Industries Quantity and Value Questionnaire Response,” dated March 21, 2019; Bailey Metal Products Limited’s Letter, “Response to Antidumping Duty and Countervailing Duty Investigations,” dated March 21, 2019; Camino Modular Systems, Inc.’s Letter, “Fabricated Structural Steel from Canada; A-122-864, C-122-865; Antidumping and Countervailing Duty Investigations; Quantity and Value Response of Camino Modular Systems, Inc.,” dated March 21, 2019; Canam’s Letter, “Fabricated Structural Steel from Canada; Response of Canam Buildings and Structures Inc. to the Department’s Quantity & Value Questionnaire,” dated March 21, 2019; Canatal’s Letter, “Fabricated Structural Steel from Canada; Response of Les Industries Canatal Inc. to the Department’s Quantity & Value Questionnaire,” dated March 21, 2019; Norgate Metal 2012 Inc.’s Letter, “Fabricated Structural Steel from Canada; Response of Norgate Metal 2012 Inc. to the Department’s Quantity & Value Questionnaire,” dated March 21, 2019; Ocean Steel’s Letter, “Certain Fabricated Structural Steel from Canada: Response to Quantity and Value Questionnaire,” dated March 21, 2019; Pipe & Piling Supplies Ltd.’s Letter, “Response to Quality and Value Questionnaire,” dated March 21, 2019; Walters’ Letter, “Fabricated Structural Steel from Canada; Response of Walters Inc. to the Department’s Quantity & Value Questionnaire,” dated March 21, 2019; Breton Steel 2016 Inc.’s Letter, “Certain Fabricated Structural Steel from Canada: Q&V Response,” dated March 26, 2019; and Kingspan Insulated Panels’ Letter, “Response to Quantity and Value Questionnaire,” dated April 1, 2019.

¹³ See Memorandum, “Countervailing Duty Investigation of Certain Fabricated Structural Steel from Canada: Respondent Selection,” dated March 29, 2019.

¹⁴ Also known as Canatal Industries, Inc.

Steel.^{15,16} In their responses, the companies reported that they had a number of cross-owned affiliates.¹⁷ We hereinafter refer to LC Beauce-Atlas and its cross-owned affiliates collectively as “Beauce-Atlas,” and LI Canatal and its cross-owned affiliates collectively as “Canatal.”

In April and May 2019, the petitioner submitted timely comments and new factual information (NFI) to rebut, clarify, and/or correct information in the respondents’ affiliated companies questionnaire responses, pursuant to 19 CFR 351.301(c)(1)(v).¹⁸

In May 2019, we received timely responses to the remainder of the initial questionnaires from Beauce-Atlas,¹⁹ Canatal,²⁰ and Ocean Steel,²¹ as well as to the entire questionnaires issued to the GOC (including responses from the governments of six provinces in Canada).²² Also in May 2019, we issued supplemental questionnaires to Beauce-Atlas; it provided a timely response to these supplemental questionnaires in May and June 2019.²³

In June 2019, we issued additional supplemental questionnaires to Beauce-Atlas; we also issued supplemental questionnaires to Canatal, the GOC, and the GOQ. We received timely responses

¹⁵ See LC Beauce-Atlas’ April 12, 2019 Affiliation Response (Beauce-Atlas April 12, 2019 AFFR); LI Canatal’s April 12, 2019 Affiliation Response (Canatal April 12, 2019 AFFR); and Ocean Steel’s April 12, 2019 Affiliation Response.

¹⁶ Although Ocean Steel filed timely responses to Commerce’s questionnaire, we did not analyze its response due to Commerce’s resource constraints. For further discussion, see Memorandum, “Countervailing Duty Investigation of Certain Fabricated Structural Steel from Canada: Selection of Voluntary Respondent,” dated July 1, 2019 (Voluntary Respondent Memo) and the “Determination Not to Select Ocean Steel as a Voluntary Respondent” section of this memorandum *infra*.

¹⁷ For further discussion, see the “Attribution of Subsidies” section of this memorandum *infra*.

¹⁸ See Petitioner’s Letter, “Certain Fabricated Structural Steel from Canada: Comments on Affiliation Questionnaire Responses,” dated April 26, 2019; and Petitioner’s Letter, “Certain Fabricated Structural Steel from Canada: Additional Comments on Affiliation Questionnaire Responses,” dated May 13, 2019.

¹⁹ See Beauce-Atlas’ May 13, 2019 Initial Questionnaire Response (Beauce-Atlas May 13, 2019 IQR).

²⁰ See Canatal’s May 13, 2019 Initial Questionnaire Response (Canatal May 13, 2019 IQR).

²¹ See Ocean Steel’s May 6, 2019 Initial Questionnaire Response.

²² See GOC’s May 13, 2019 Initial Questionnaire Response (GOC May 13, 2019 IQR); Government of Alberta’s May 13, 2019 Initial Questionnaire Response; Government of British Columbia’s May 13, 2019 Initial Questionnaire Response; Government of New Brunswick’s May 13, 2019 Initial Questionnaire Response; Government of Nova Scotia’s May 13, 2019 Initial Questionnaire Response; Government of Ontario’s May 13, 2019 Initial Questionnaire Response; Government of Québec’s (GOQ’s) May 13, 2019 Initial Questionnaire Response (GOQ May 13, 2019 IQR); and Government of Saskatchewan’s May 13, 2019 Initial Questionnaire Response.

²³ See Beauce-Atlas’ May 30, 2019 Supplemental Questionnaire Response; and Beauce-Atlas’ June 6, 2019 Supplemental Questionnaire Response (Beauce-Atlas June 6, 2019 SQR).

to these supplemental questionnaires in the same month.²⁴ Also in June 2019, the petitioner requested alignment of the CVD final determination with the AD final determination.²⁵

In July 2019, we issued an additional supplemental questionnaire to the GOC.²⁶ We also intend to issue an additional questionnaire to the GOQ pertaining to Énergir L.P. (formerly Gaz Métro LP) Energy Efficiency Programs. Because the responses to these questionnaires will be received after the date of this preliminary determination, we intend to verify this information and consider it for purposes of the final determination.

D. Potential Benchmark Data

In May and June 2019, we received timely-filed benchmarks used to measure the benefit of loans under 19 CFR 351.505(a) in this investigation from the petitioner and the GOC.²⁷

E. Postponement of the Preliminary Determination

On April 5, 2019, the petitioner requested that Commerce postpone the preliminary determination of this investigation.²⁸ Commerce granted the petitioner's request and, on April 10, 2019, we postponed the date of the preliminary determination until July 5, 2019, in accordance with section 703(c)(1)(A) of the Act and 19 CFR 351.205(b)(2).²⁹

F. Period of Investigation

The period of investigation (POI) is January 1, 2018, through December 31, 2018.

²⁴ See Beauce-Atlas' June 10, 2019 Supplemental Questionnaire Response; Canatal's June 10, 2019 Supplemental Questionnaire Response; Beauce-Atlas' June 12, 2019 Supplemental Questionnaire Response; Canatal's June 12, 2019 Supplemental Questionnaire Response (Canatal June 12, 2019 SQR); GOC's June 12, 2019 Supplemental Questionnaire Response (GOC June 12, 2019 SQR); GOQ's June 12, 2019 Supplemental Questionnaire Response (GOQ June 12, 2019 SQR); GOC's June 27, 2019 Supplemental Questionnaire Response (GOC June 27, 2019 SQR); and GOQ's June 28, 2019 Supplemental Questionnaire Response (GOQ June 28, 2019 SQR). Further, on June 18, 2019, Beauce-Atlas submitted timely NFI to rebut, clarify, and/or correct information in the GOQ's questionnaire responses, pursuant to 19 CFR 351.301(c)(2)(v). See Beauce-Atlas' Letter, "Certain Fabricated Structural Steel from Canada, Case No. C-122-865: Clarification of the Government of Québec's First Supplemental Questionnaire Response," dated June 18, 2019.

²⁵ See Petitioner's Letter, "Certain Fabricated Structural Steel From Canada, Mexico, and the People's Republic of China: Request to Postpone Preliminary Antidumping Duty Determination and to Align Final Countervailing Duty Determination with Final Antidumping Duty Determination," dated June 19, 2019 (Petitioner's June 19, 2019 Request for Alignment).

²⁶ See Commerce's Letter, "Countervailing Duty Investigation of Fabricated Structural Steel from Canada: Second Supplemental Questionnaire," dated July 2, 2019.

²⁷ See GOC May 13, 2019 IQR; and Petitioner's Letter, "Certain Fabricated Structural Steel from Canada: Submission of Other Factual Information and Benchmark Information," dated June 5, 2019.

²⁸ See Petitioner's Letter, "Certain Fabricated Structural Steel from Canada, Mexico, and the People's Republic of China: Request to Postpone Determination," dated April 5, 2019.

²⁹ See *Certain Fabricated Structural Steel from Canada, Mexico, and the People's Republic of China: Postponement of Preliminary Determinations in the Countervailing Duty Investigations*, 84 FR 15581 (April 16, 2019).

G. Alignment

On June 19, 2019, the petitioner requested that Commerce align the date of the CVD final determination with that of the AD final determination.³⁰ 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, we are aligning the final CVD determination in this investigation with the final determination in the companion AD investigation of fabricated structural steel from Canada. Consequently, the final CVD determination will be issued on the same date as the final AD determination, which is currently scheduled to be issued no later than November 18, 2019.

III. **DETERMINATION NOT TO SELECT OCEAN STEEL AS A VOLUNTARY RESPONDENT**

Section 777A(e)(1) of the Act directs Commerce to calculate an individual countervailable subsidy rate for each known exporter or producer of the subject merchandise. However, section 777A(e)(2) of the Act gives Commerce discretion to limit its examination to a reasonable number of exporters or producers if it is not practicable to determine individual countervailing subsidy rates because of the large number of exporters or producers involved in the investigation. As noted above, Commerce limited its examination of exporters or producers of the subject merchandise, pursuant to section 777A(e)(2)(A) of the Act, and selected Beauce-Atlas and Canatal as mandatory respondents.³¹

When Commerce limits the number of exporters examined in an investigation pursuant to section 777A(e)(2) of the Act, section 782(a)(1) of the Act directs Commerce to calculate individual countervailing duty subsidy rates for any exporter or producer not initially selected for individual examination that voluntarily provides the information requested of the mandatory respondents, if: (1) the information is submitted by the due date specified for exporters or producers initially selected for examination; and (2) the number of companies subject to the investigation is not so large that any additional individual examination of exporters or producers that have voluntarily provided information would be unduly burdensome and inhibit the timely completion of the investigation.

Pursuant to section 782(a)(2) of the Act, in determining whether it would be unduly burdensome to examine a voluntary respondent, Commerce may consider: (A) the complexity of the issues or information presented in the proceeding, including questionnaires and any responses thereto; (B) any prior experience of Commerce in the same or similar proceedings; (C) the total number of investigations or reviews being conducted by Commerce; and (D) such other factors relating to the timely completion of those investigations and reviews as Commerce considers appropriate.

As explained in our memorandum declining to select Ocean Steel as a voluntary respondent, Commerce considered the criteria in section 782(a)(2) of the Act to determine whether it would be unduly burdensome to examine a voluntary respondent at that time.³² Pursuant to section

³⁰ See Petitioner's June 19, 2019 Request for Alignment.

³¹ See Memorandum, "Countervailing Duty Investigation of Certain Fabricated Structural Steel from Canada: Respondent Selection," dated March 29, 2019.

³² See Voluntary Respondent Memorandum at 3-4.

782(a) of the Act, we determined that examining Ocean Steel as a voluntary respondent would be unduly burdensome and would inhibit the timely completion of the investigation. Based on the criteria listed in the Act, Commerce found that, because of the volume and complexity of the information presented in the proceeding, the large number of programs under investigation, and the total number of investigations and reviews being conducted as of the date of the determination, it only had sufficient resources to examine two mandatory respondents. For additional explanation, *see* the Voluntary Respondent Memo. Thus, consistent with section 782(a) of the Act, Commerce has not considered Ocean Steel’s voluntary questionnaire responses and has not selected Ocean Steel as a voluntary respondent.³³

IV. SCOPE OF THE INVESTIGATION

The product covered by this investigation is certain fabricated structural steel from Canada. Based on our analysis of certain scope comments, we are preliminarily modifying the scope language as it appeared in the *Initiation Notice*.³⁴ For a full description of the scope of this investigation, *see* this memorandum’s accompanying *Federal Register* notice at Appendix I.

V. 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 March 22, 2019, the ITC determined that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of fabricated structural steel from Canada.³⁵

VI. 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.³⁶ Commerce finds the AUL period in this proceeding to be 12 years, pursuant to 19 CFR 351.524(d)(2) and the U.S. Internal Revenue Service’s Depreciation Range System, as revised.³⁷ Commerce notified the respondents of the 12-year AUL period in the initial questionnaire and requested data accordingly. No party in this proceeding has disputed this allocation period. We, therefore, preliminarily determine that a 12-year AUL period is appropriate to allocate benefits from non-recurring subsidies.

³³ *Id.* at 5.

³⁴ *See* Preliminary Scope Decision Memorandum.

³⁵ *See Fabricated Structural Steel from Canada, China, and Mexico*, 84 FR 11554 (March 27, 2019).

³⁶ *See* 19 CFR 351.524(b).

³⁷ *See* U.S. Internal Revenue Service Publication 946 (2015), “How to Depreciate Property” at Table B-2: Table of Class Lives and Recovery Periods.

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. 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*³⁸ 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.³⁹

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

³⁸ See *Countervailing Duties; Final Rule*, 63 FR 65347 (November 25, 1998) (*Preamble*).

³⁹ *Id.* at 65401.

The 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.⁴⁰

Beauce-Atlas

LC Beauce-Atlas responded to Commerce's initial questionnaire on behalf of the following affiliated companies:⁴¹

- LC Beauce-Atlas, the exporter of subject merchandise and the Beauce-Atlas entity selected as a mandatory respondent in this investigation;
- Fabrication Beauce-Atlas, Inc. (FBA), the producer of subject merchandise;
- Gestion Beauce-Atlas, Inc. (GBA), parent company of LC Beauce-Atlas;
- Métal B.G.L., Inc. (BGL), an entity that supplied inputs through tolling services; and
- Structure Beauce-Atlas, Inc. (SBA), an entity that supplied inputs through tolling services.

Beauce-Atlas reported that cross-ownership exists between LC Beauce-Atlas, FBA, GBA, BGL, and SBA.

On May 22, 2019, we directed LC Beauce-Atlas to provide full questionnaire responses for the following additional affiliated companies:⁴²

- Investissements G.M.N. Inc (GMN), parent company of GBA;
- 2643-3284 Québec Inc. (2643), parent company of GMN;
- Solide Internationale Inc. (Solide), an entity that supplied inputs through drafting services;
- Les Dessins de Structures Steltec (Steltec), an entity that supplied inputs through drafting services; and
- Beauce-Atlas Installation Inc. (BAI), an entity that provided safety training and inspection services.

On June 6, 2019, LC Beauce-Atlas provided full questionnaire responses for these companies.⁴³

FBA, a producer of subject merchandise, is cross-owned with LC Beauce-Atlas, pursuant to 19 CFR 351.525(b)(6)(vi). Therefore, we are preliminarily attributing all subsidies received by FBA to the total sales value (net of intercompany transactions) of FBA and LC Beauce-Atlas, pursuant to 19 CFR 351.525(b)(6)(ii).

GBA, GMN, and 2643, the parent and/or holding companies of LC Beauce-Atlas, FBA, and SBA, are cross-owned with LC Beauce-Atlas, pursuant to 19 CFR 351.525(b)(6)(iii). Therefore,

⁴⁰ See *Fabrique de Fer de Charleroi, SA v. United States*, 166 F. Supp. 2d 593, 600-04 (CIT 2001).

⁴¹ See Beauce-Atlas April 12, 2019 AFFR; and Beauce-Atlas May 13, 2019 IQR.

⁴² See Commerce's Letter, "Countervailing Duty Investigation of Certain Fabricated Structural Steel from Canada: First Supplemental Questionnaire," dated May 22, 2019.

⁴³ See Beauce-Atlas June 6, 2019 SQR at 1.

we are preliminarily attributing any benefit received from subsidies received by 2643, GBA, and GMN to the consolidated sales of the parent company and its subsidiaries.

BGL, SBA, Solide, and Steltec, input suppliers for the producers of subject merchandise, are cross-owned with LC Beauce-Atlas, pursuant to 19 CFR 351.525(b)(6)(iv), as the production of the input products supplied by BGL, Solide, SBA and Steltec are primarily dedicated to the production of fabricated structural steel.⁴⁴ Therefore, we are preliminarily attributing subsidies received by BGL, SBA, Solide, and Steltec to the combined total sales (net of intercompany transactions) of the input supplier and the relevant producer.

BAI is a cross-owned affiliate of LC Beauce-Atlas that provides installation services and safety training and inspection services.⁴⁵ However, regardless of whether the input supplier attribution rule under 19 CFR 351.525(b)(6)(iv) applies, we preliminarily find that BAI had no measurable subsidies during the pre-POI portion of the AUL period and was not involved in the production of fabricated structural steel during the POI. Thus, we preliminarily determine not to attribute the subsidies received by BAI during the POI to LC Beauce-Atlas.

Canatal

Canatal responded to Commerce's initial questionnaire on behalf of the following affiliated companies:⁴⁶

- LI Canatal, the producer of subject merchandise, and the Canatal entity selected as a mandatory respondent in this investigation;
- Groupe Canatal Inc., the parent company of LI Canatal; and
- 7247508 Canada Inc., an input supplier to Canatal Inc.⁴⁷

Canatal reported that cross-ownership exists between LI Canatal, Groupe Canatal Inc., and 7247508 Canada Inc.

Groupe Canatal Inc., the parent company of LI Canatal, is cross-owned with LI Canatal, pursuant to 19 CFR 351.525(b)(6)(iii). Therefore, we are preliminarily attributing any benefit received from subsidies received by Groupe Canatal Inc. to the consolidated sales of the Groupe Canatal Inc. and its subsidiaries, pursuant to 19 CFR 351.525(b)(6)(iii).

Further, 7247508 Canada Inc., an input supplier, is cross-owned with LI Canatal, pursuant to 19 CFR 351.525(b)(6)(iv), as the production of the input products supplied by 7247508 Canada Inc. is primarily dedicated to the production of fabricated structural steel.⁴⁸ Therefore, we are preliminarily attributing any benefit received from subsidies received by 7247508 Canada Inc. to the total sales value (net of intercompany transactions) of 7247508 Canada Inc. and LI Canatal, pursuant to 19 CFR 351.525(b)(6)(iv).

⁴⁴ See Beauce-Atlas June 6, 2019 SQR at 11, and Exhibits 33 and 45.

⁴⁵ *Id.* at 7.

⁴⁶ See Canatal April 12, 2019 AFFR at 1; and Canatal May 13, 2019 IQR at 5-6.

⁴⁷ See Canatal April 12, 2019 AFFR at 7.

⁴⁸ *Id.*

C. 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 subsidy rate for the various subsidy programs described below are identified in the Preliminary Calculation Memoranda prepared for this preliminary determination.⁴⁹

D. 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 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.⁵⁰ 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).⁵¹

Short-Term and Long-Term Loans

Based on Beauce-Atlas' and Canatal'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 Beauce-Atlas and Canatal 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, we used national average interest rates from the Bank of Canada, Data and Statistics Office as benchmark rates for Canadian dollar-denominated short-term and long-term loans.⁵² We preliminarily find

⁴⁹ See Memorandum, "Countervailing Duty Investigation of Certain Fabricated Structural Steel from Canada: Preliminary Determination Calculation Memorandum for Beauce-Atlas," (Beauce-Atlas Preliminary Calculation Memorandum); and Memorandum, "Countervailing Duty Investigation of Certain Fabricated Structural Steel from Canada: Preliminary Determination Calculation Memorandum for Canatal," (Canatal Preliminary Calculation Memorandum), both dated concurrently with these preliminary results.

⁵⁰ See, *e.g.*, *Certain Frozen Warmwater Shrimp from India: Final Affirmative Countervailing Duty Determination*, 78 FR 50385 (August 19, 2013) (*Shrimp from India*) and accompanying Issues and Decision Memorandum (IDM) at "Benchmark and Discount Rates" section.

⁵¹ 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."

⁵² See GOC May 13, 2019 IQR at Exhibit GOC-Benchmark.

that the Bank of Canada rates provide a reasonable representation of both short-term and long-term interest rates for Canadian dollar-denominated loans.

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.

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

Tax Programs

Federal

1. Additional Depreciation for Class 1 and 1b Assets

Class 1 and 1b assets are buildings purchased after 1987, as well as certain additions or alterations made after 1987.⁵³ The standard capital cost allowance rate for Class 1 is four percent.⁵⁴ Under Class 1, eligible non-residential buildings acquired after March 18, 2007, are eligible for an additional allowance of six percent (for a total of ten percent) for machinery used in manufacturing and processing operations.⁵⁵ Under Class 1b, eligible non-residential buildings acquired after March 18, 2007, are eligible for an additional allowance of two percent (for a total of six percent) for machinery used in manufacturing and processing operation.⁵⁶ Beauce-Atlas and Canatal reported that they used the accelerated depreciation under this program to reduce their taxable income during the POI.⁵⁷

Accordingly, we preliminarily determine that the additional depreciation for the Class 1 and 1b 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 Canada's Income Tax Regulation's definition of manufacturing and processing.⁵⁸ We preliminarily determine that there is a financial contribution in the form of revenue foregone, within the meaning of section

⁵³ *Id.* at Exhibit GOC-CRA-ACCA-6.

⁵⁴ See GOC June 27, 2019 SQR at Exhibit GOC-SUPP2-CRA-CLASS1-1.

⁵⁵ *Id.*

⁵⁶ *Id.*

⁵⁷ See Beauce-Atlas May 13, 2019 IQR at 23-24; Beauce-Atlas June 6, 2019 SQR at 17; and Canatal May 13, 2019 IQR at Exhibit CAN-TAX-15.

⁵⁸ See GOC June 12, 2019 SQR at Exhibit GOC-SUPP1-CRA-CLASS1-1.

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 1 and 1b accelerated depreciation provisions, the Class 1 and 1b assets acquired would otherwise have been subject to normal, *i.e.*, nonaccelerated, depreciation.⁵⁹ Accordingly, the benefit conferred is the tax savings of the difference between the deduction calculated using the Class 1 and 1b accelerated rate of depreciation and the deduction calculated using the 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 percent plus the provincial tax rate. We then divided the calculated benefit by each company's respective total sales. On this basis, we preliminarily calculate a net countervailable subsidy rate of 0.01 percent and 0.02 percent *ad valorem* for Beauce-Atlas and Canatal, respectively.⁶⁰

Québec

2. 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.⁶¹ 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.⁶² To receive the benefit, eligible companies must fill out Form RD-1029.7.⁶³ Canatal received a tax credit under this program in its 2017 tax year annual returns filed during the POI.⁶⁴

The GOQ reported that there were a limited number of industries and companies that received the tax credit in the POI.⁶⁵ 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 Canatal 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 appropriate denominator, in accordance with 19 CFR 351.524(a). On this basis, we preliminarily calculate a net countervailable subsidy rate of 0.01 percent *ad valorem* for Canatal.⁶⁶

⁵⁹ *Id.*

⁶⁰ See Beauce-Atlas Preliminary Calculation Memorandum; and Canatal Preliminary Calculation Memorandum.

⁶¹ See GOQ May 13, 2019 IQR at 73.

⁶² *Id.*

⁶³ *Id.* at Exhibit QC-C02-13.

⁶⁴ *Id.* at 74; see also Canatal May 13, 2019 IQR at 46.

⁶⁵ See GOQ May 13, 2019 IQR at Exhibit QC-C02-19.

⁶⁶ See Canatal Preliminary Calculation Memorandum.

3. Québec Additional Reduction in Tax Rate for Primary and Manufacturing Sectors

Under this program, small and medium sized enterprises (SMEs) in the primary and manufacturing sectors may claim an addition deduction on their income.⁶⁷ A corporation whose proportion of primary and manufacturing sector activities is 50 percent or higher qualifies for the maximum rate of the additional reduction.⁶⁸ During the POI, the maximum rate of the additional reduction was 4 percent.⁶⁹ The rate of the additional reduction is reduced linearly, when the corporation's proportion of primary and manufacturing sector activities is between 50 percent and 25 percent and reaches zero at 25 percent.⁷⁰ Beauce-Atlas' cross-owned affiliate BGL used this deduction to reduce its taxable income under this program during the POI.⁷¹

We preliminarily determine that the tax credit deduction 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 in the primary and manufacturing sectors.⁷² 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 deduction provides a benefit in the amount of the tax savings pursuant to 19 CFR 351.509(a)(1). Given this is a recurring subsidy under 19 CFR 351.524(c), for Beauce-Atlas, we divided the amount of the tax savings received during the POI by the appropriate denominator in accordance with 19 CFR 351.524(a). On this basis, we preliminarily calculate a net countervailable subsidy rate of 0.02 percent *ad valorem* for Beauce-Atlas.⁷³

4. Québec Tax Credit for On-The-Job Training

In 1994, the GOQ established a tax credit for on-the-job training, to encourage businesses to hire trainees and improve their professional skills.⁷⁴ A corporation that hires a student or an apprentice who is enrolled in a qualified training program can claim a tax credit at a rate of 24 percent for: (1) the salary or wages paid to the student or apprentice; and/or (2) the salary or wages paid to an employee for the hours they devote to supervision of the students and apprentices.⁷⁵ Individuals engaged in business activities can also claim the tax credit but the tax credit rates for individuals are reduced by 50 percent, *i.e.*, the credit is available at the rate of 12 percent.⁷⁶ Beauce-Atlas and Canatal received tax refunds under this program during the POI.⁷⁷

We preliminarily determine 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. Because the actual

⁶⁷ See GOQ May 13, 2019 IQR at 107.

⁶⁸ *Id.*

⁶⁹ *Id.*

⁷⁰ *Id.*

⁷¹ *Id.* at 108.

⁷² See GOQ June 12, 2019 SQR at Exhibits QC-MFC-2 and QC-MFC-3.

⁷³ See Beauce-Atlas Preliminary Calculation Memorandum.

⁷⁴ See GOQ June 28, 2019 SQR at Exhibit QC-C09-A.

⁷⁵ *Id.*

⁷⁶ *Id.*

⁷⁷ See Beauce-Atlas May 13, 2019 IQR at Exhibit 11; Canatal May 13, 2019 IQR at 81.

recipients, which benefited from this tax credit, relative to the total number of tax filers, inclusive of corporations and individuals in business, during the POI, are limited in number on an enterprise basis,⁷⁸ we preliminarily determine that this program is *de facto* specific, in accordance with section 771(5A)(D)(iii)(I) of the Act. The tax incentive 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 refund received during the POI by the company's total sales during the POI, as described in the "Attribution of Subsidies" section of this memorandum. We preliminarily calculate a net countervailable subsidy rate of 0.04 percent *ad valorem* for Beauce-Atlas.⁷⁹ We also preliminarily determine that Canatal did not receive a measurable benefit under this program during the POI.

Ville de Thetford

5. Tax Credit for Industrial Establishment from Ville de Thetford

The Council of the Ville de Thetford may provide assistance to companies in the form of a tax credit.⁸⁰ For-profit companies classified as manufacturing; communication; or research, development and testing services, that own or occupy a building, are eligible for this tax credit program.⁸¹ Once an application for the program has been approved, the tax credit is granted for a period of five to ten years, with a tax credit on the property tax owed calculated based on the type of property assessment.⁸² Canatal reported that it used this tax credit during the POI.⁸³

We preliminarily determine 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. We also preliminarily determine that this program is *de jure* specific under section 771(5A)(D)(i) of the Act, because the tax credit is expressly limited by law to companies engaging in manufacturing; communication; and research, development and testing services.⁸⁴ 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 under 19 CFR 351.524(c)(1), to calculate the benefit for Canatal, we divided the benefit reported by Canatal's total sales. On that basis, we preliminarily calculate a net countervailable subsidy rate of 0.02 percent *ad valorem* for Canatal.⁸⁵

⁷⁸ See GOQ June 28, 2019 SQR at Exhibit QC-C09-17.

⁷⁹ See Beauce-Atlas Preliminary Calculation Memorandum.

⁸⁰ See Canatal May 13, 2019 IQR at Exhibit CAN-TAX-8.

⁸¹ *Id.* at 108.

⁸² *Id.*

⁸³ *Id.*

⁸⁴ See Canatal May 13, 2019 IQR at Exhibit CAN-TAX-8.

⁸⁵ See Canatal Preliminary Calculation Memorandum.

Grant Programs

Québec Grants

6. Hydro-Québec Industrial Systems Program

Hydro Québec is a utility wholly owned by the GOQ and is the sole entity responsible for the administration of the Industrial Systems Program.⁸⁶ During the POI, Hydro Québec had several energy efficacy programs, including the Industrial Systems Energy Efficiency Program (ISEE)⁸⁷; it also had various predecessor programs during the AUL period.⁸⁸ Any individual or corporation that owns, operates or occupies an industrial building in Québec associated with a goods-producing industry is eligible to participate in the ISEE program, if it meets the criteria as presented in the Program Guides.⁸⁹ Projects are submitted by participants and authorized by Hydro Québec, in accordance with the criteria in the Program Guides.⁹⁰ The purpose of the ISEE program is to reduce the average amount of electricity used per unit of production by the participants.⁹¹ Beauce-Atlas and Canatal participated in this program and its predecessor program during the AUL period.⁹²

The GOQ reported that there were a limited number of companies that received grants from the program during the POI and the AUL period.⁹³ 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. We also preliminarily determine that the grants received by Beauce-Atlas and Canatal conferred a benefit equal to the amount of the grant, pursuant to 19 CFR 351.504(a). We preliminarily determine that there is a financial contribution in the form of a direct transfer of funds from the government to these respondents, within the meaning of section 771(5)(D)(i) of the Act.

In accordance with 19 CFR 351.524(c)(1), we have preliminarily treated these grants as non-recurring subsidies, because Commerce will normally treat grants as non-recurring subsidies. Therefore, we conducted the “0.5 percent test,” pursuant to 19 CFR 351.524(b), on the amounts of the grants approved by Hydro Québec over the recipient’s total sales in the years of the agreements. When the approved amount did pass the “0.5 percent test,” we allocated the grant disbursements as received, in accordance with 19 CFR 351.524(d). When the approved amounts did not pass the “0.5 percent test,” we expensed the grants in the year of receipt of the payments for each grant. We preliminarily determine that Beauce-Atlas and Canatal received

⁸⁶ See GOQ June 12, 2019 SQR at 12.

⁸⁷ *Id.* at 6-7.

⁸⁸ *Id.* at 7.

⁸⁹ *Id.* at 9.

⁹⁰ *Id.* at 8-9.

⁹¹ *Id.* at 7.

⁹² *Id.* at 6 and Exhibit QC-ISEE-5; see also Beauce-Atlas May 13, 2019 IQR at 38; and Canatal May 13, 2019 IQR at 54.

⁹³ See GOQ June 12, 2019 SQR at 19.

countervailable subsidies of 0.04 percent and 0.01 percent *ad valorem*, respectively, under this program.⁹⁴

7. ÉcoPerformance MERN (TEQ)/ Energy Efficiency Conversion Projects

The ÉcoPerformance program is administered by the Transition énergétique Québec (TEQ), a division of the Ministère de l'Énergie et Ressources Naturelles (Ministry of Energy and Natural Resources or MERN), a ministry of the Québec government.⁹⁵ The ÉcoPerformance program was launched in October 2013 as the successor program to the Programme de réduction de la consommation de mazout lourd (program to reduce the consumption of heavy fuel oil) that ran from 2008 to 2012.⁹⁶ The purpose of the ÉcoPerformance program is to provide financial assistance to reduce greenhouse gas emissions through the implementation of measures or projects.⁹⁷ The applicants must satisfy the following criteria: they must (1) be located in Québec; (2) consume fossil fuel; (3) invest more than 25 percent of project cost in the project; (4) reduce greenhouse gas emissions; (5) meet energy rate of return requirements; and (6) meet ISO14064 for quantification of greenhouse gas emission reductions.⁹⁸ Canatal received grants under this program and its predecessor program during the AUL period.⁹⁹

The GOQ reported that there were a limited number of companies that received grants from the program during the POI and the AUL period.¹⁰⁰ 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. We also preliminarily find that the grants received by Canatal conferred a benefit equal to the amount of the grant, pursuant to 19 CFR 351.504(a). We preliminarily determine that there is a financial contribution in the form of a direct transfer of funds from the government to Canatal, within the meaning of section 771(5)(D)(i) of the Act.

In accordance with 19 CFR 351.524(c)(1), we have preliminarily treated these grants as non-recurring subsidies, because Commerce will normally treat grants as non-recurring subsidies. Therefore, we conducted the “0.5 percent test,” pursuant to 19 CFR 351.524(b), on the amounts of the grants approved by MERN over the recipient’s total sales in the years of the agreements. When the approved amount did pass the “0.5 percent test,” we allocated the grant disbursements as received, in accordance with 19 CFR 351.524(d). When the approved amounts did not pass the “0.5 percent test,” we expensed the grants in the year of receipt of the payments for each grant. We preliminarily determine that Canatal received a countervailable subsidy of 0.33 percent *ad valorem* under this program.¹⁰¹

⁹⁴ See Beauce-Atlas Preliminary Calculation Memorandum; and Canatal Preliminary Calculation Memorandum.

⁹⁵ See GOQ May 13, 2019 IQR at 15.

⁹⁶ *Id.* at 15-16.

⁹⁷ *Id.* at 16.

⁹⁸ *Id.* at 27.

⁹⁹ *Id.* at 16.

¹⁰⁰ *Id.* at 28-29 and Exhibit QC-ECO-11.

¹⁰¹ See Canatal Preliminary Calculation Memorandum.

8. Ministry of Economy and Innovation (MEI) Audit Industry 4.0 Program

The GOQ launched the Audit Industry 4.0 program in 2017; this program is administered by the MEI.¹⁰² The purpose of the Audit Industry 4.0 program is to provide financial assistance to increase the number of Québec manufacturing companies that undertake a shift to the digital economy by carrying out a diagnosis and a digital plan related to Industry 4.0.¹⁰³ The program is available to profit-oriented enterprises legally incorporated under the laws of the GOQ or GOC that have an establishment operating in Québec, including cooperatives and social economy businesses, engaged in commercial activities in the manufacturing sector.¹⁰⁴ Canatal received a grant under this program during the POI.¹⁰⁵

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.¹⁰⁶ We also preliminarily find that the grant received by Canatal conferred a benefit equal to the amount of the grant, pursuant to 19 CFR 351.504(a). We preliminarily determine that there is a financial contribution in the form of a direct transfer of funds from the government to these respondents, within the meaning of section 771(5)(D)(i) of the Act.

In accordance with 19 CFR 351.524(c)(1), we have preliminarily treated these grants as non-recurring subsidies, because Commerce will normally treat grants as non-recurring subsidies. Therefore, we conducted the “0.5 percent test,” pursuant to 19 CFR 351.524(b), on the amounts of the grants approved by MERN over the recipient’s total sales in the years of the agreements. When the approved amount did pass the “0.5 percent test,” we allocated the grant disbursements as received, in accordance with 19 CFR 351.524(d). When the approved amounts did not pass the “0.5 percent test,” we expensed the grants in the year of receipt of the payments for each grant. We preliminarily determine that Canatal received a countervailable subsidy of 0.01 percent *ad valorem* under this program.¹⁰⁷

9. Fonds de Développement et de Reconnaissance des Compétences de la Main-d’œuvre – Volet Soutien Régionalisé (FDRCMO) program and the Formation de la Main-d’œuvre Volet Entreprises (MFOR)

Emploi-Québec is a specific administrative department within the Ministère du Travail, de l’Emploi et de la Solidarité Sociale (MTESS), translated as “Ministry of Work, Employment and Social Solidarity.” Emploi-Québec is responsible for administering the FDRCMO and MFOR programs within MTESS.¹⁰⁸ MTESS is a ministry of the Québec government. Beauce-Atlas and

¹⁰² See GOQ June 12, 2019 SQR at 26.

¹⁰³ *Id.*

¹⁰⁴ *Id.* at 32-33.

¹⁰⁵ *Id.* at 29.

¹⁰⁶ *Id.* at 38.

¹⁰⁷ See Canatal Preliminary Calculation Memorandum.

¹⁰⁸ See GOQ June 28, 2019 SQR at Exhibits QC-FDRCMO-A and QC-MFOR-A

Canatal reported receiving grants from Emploi-Québec under the FDRCMO and MFOR programs during the AUL period.¹⁰⁹

The purpose of the MFOR program is to support skills development for workers at risk of losing their jobs and to support low-skilled workers who want to improve basic training.¹¹⁰ The purpose of the FDRCMO program is to fund projects related to skills development, primarily through French language courses.¹¹¹

We preliminarily determine that the Emploi-Québec FDRCMO and MFOR grants are *de facto* specific under section 771(5A)(D)(iii)(III) of the Act, because the GOQ reported that there were a limited number of companies, on an enterprise basis, that received grants under the FDRCMO and MFOR programs.¹¹² Additionally, we preliminarily determine that these grant programs provide 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.

In accordance with 19 CFR 351.524(c)(1), we have preliminarily treated these grants as non-recurring subsidies, because Commerce will normally treat grants as non-recurring subsidies. Therefore, we conducted the “0.5 percent test,” pursuant to 19 CFR 351.524(b), on the amounts of the grants approved by Emploi-Québec over the recipient’s total sales in the years the agreements were approved. When the approved amount passed the “0.5 percent test,” we allocated the grant disbursements, in accordance with 19 CFR 351.524(d). When the approved amounts did not pass the “0.5 percent test,” we expensed the grants in the year of receipt of the payments for each grant. We preliminarily determine that Beauce-Atlas received a countervailable subsidy of 0.01 percent *ad valorem* under these programs.¹¹³ We also preliminarily determine that Canatal did not receive a measurable benefit during the POI.

10. Énergir, L.P. (formerly Gaz Métro Limited Partnership) Efficiency Program

Énergir is a limited partnership and the largest national gas distribution company in Québec.¹¹⁴ It is owned, in part, by Caisse de Dépôt et Placement du Québec (CDPQ).¹¹⁵ The record shows CDPQ controls Énergir, through its ownership of Trencap. CDPQ was created by the GOQ and now manages more than \$300 billion on behalf of pension plans and public and para-public insurance funds for the benefit of over 6 million Québécois.¹¹⁶ CDPQ’s mission is “to receive moneys on deposit as provided by law and manage them with a view to achieving optimal return on capital within the framework of depositors’ investment policies while at the same time contributing to Québec’s economic development.”¹¹⁷ CDPQ’s board of directors is appointed by

¹⁰⁹ See Beauce-Atlas May 13, 2019 IQR at Exhibit I-5; Beauce-Atlas June 6, 2019 SQR at Exhibit I-9; and Canatal May 13, 2019 IQR at 86.

¹¹⁰ See GOQ June 28, 2019 SQR at Exhibit QC-MFOR-A.

¹¹¹ *Id.* at Exhibit QC-FDRCMO-A.

¹¹² See GOQ June 28, 2019 SQR at Exhibits QC-FDRCMO-8 and QC-MFOR-5.

¹¹³ See Beauce-Atlas Preliminary Calculation Memorandum.

¹¹⁴ See GOQ June 12, 2019 SQR at 63 and Exhibit QC-ENER-15.

¹¹⁵ *Id.* at 64 and Exhibit QC-ENER-3.

¹¹⁶ *Id.*

¹¹⁷ *Id.* (emphasis added).

the GOQ and the GOQ sets the directors' remuneration.¹¹⁸ The GOQ must also approve the appointment of CDPQ's President/Chief Executive Officer (CEO).¹¹⁹ In addition, the GOQ sets the conditions for remuneration of all employees of CDPQ, while the board of directors and the CEO control CDPQ's investments.¹²⁰

Information regarding Énergir's corporate structure, including the composition of its board of directors and other relevant information, is not available on the record. This information is necessary to fully analyze and determine whether Énergir is a private entity or an "authority" within the meaning of section 771(5)(B) of the Act. Because necessary information is not available on the record, we must rely on facts otherwise available pursuant to section 776(a)(1) of the Act to make a preliminary determination. The record shows that CDPQ is not only one of the ultimate owners of Énergir, but it also owns a controlling share of each intermediary company. Specifically, CDPQ is the majority stakeholder in Trencap, which is the majority stakeholder (through Noverco and Énergir Inc.) of Énergir.¹²¹ Record evidence shows that Énergir follows GOQ's initiatives, particularly those related to the implementation of Québec's energy policy goals.¹²² Therefore, on the basis of facts available, we preliminarily find that Énergir constitutes an "authority" within the meaning of section 771(5)(B) of the Act. We intend to solicit additional information after the preliminary determination and regarding Énergir's corporate structure, including the composition of its board of directors and any other relevant information, and we will consider this information and further in our final determination as to whether Énergir is an authority within the meaning of section 771(5)(B) of the Act.

Beauce-Atlas and Canatal reported that they received funds under its energy efficiency program during the AUL period.¹²³ The funds are to encourage the acquisition of new, more efficient gas equipment or the adopting of the more efficient processes that consume natural gas. Under the program, Énergir reimburses customers for a portion of the cost of acquiring and installing high efficiency gas equipment. We preliminarily determine that Énergir, as an authority, is providing a financial contribution under section 771(5)(D)(i) of the Act in the form of a direct transfer of funds in the amount of the grants under 19 CFR 351.504(a) to Beauce-Atlas and Canatal.

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 on an industry basis is limited in number.

In accordance with 19 CFR 351.524(c)(1), we have preliminarily treated these grants as non-recurring subsidies, because Commerce will normally treat grants as non-recurring subsidies. Therefore, we conducted the "0.5 percent test," pursuant to 19 CFR 351.524(b), on the amounts of the grants approved by Énergir over the recipient's total sales in the years the grants were approved. To calculate the benefit for Beauce-Atlas we divided the amount of the payments transferred to Beauce-Atlas through Énergir under the program by the sales of LC Beauce-Atlas

¹¹⁸ *Id.*

¹¹⁹ *Id.*

¹²⁰ *Id.*

¹²¹ *Id.* at 64.

¹²² *Id.* at 63 and Exhibit QC-ENER-15.

¹²³ See Beauce-Atlas May 13, 2019 IQR at 38; and Canatal May 13, 2019 IQR at 67.

and the cross-owned affiliate receiving the payment. The amounts of the grants approved for Beauce-Atlas and Canatal did not pass the “0.5 percent test” and were expensed in the year of receipt. To calculate the benefit for Canatal’s grants received during the POI, we divided the amount of the payments transferred to Canatal through Énergir under the program by Canatal’s total sales during the POI. On this basis, we preliminarily determine that Canatal received a countervailable subsidy of 0.04 percent *ad valorem* under this program.¹²⁴ We also preliminarily determine that Beauce-Atlas did not receive a measurable benefit during the POI.

Loan Programs

11. Canada Economic Development for Québec (CEDQ) Regions – Québec Economic Development Program (QEDP)

The QEDP was launched in 2012 to promote long-term economic development of the regions of Québec by focusing on regions experiencing slow economic growth or where opportunities for productive employment are inadequate.¹²⁵ The QEDP provided both non-repayable financial assistance to non-profit organizations, municipalities, and the GOQ as well as repayable contributions¹²⁶ to SMEs. Canatal and Beauce-Atlas both received interest-free repayable contributions under this program that had balances outstanding in the POI.¹²⁷

We preliminarily determine that this program is specific under section 771(5A)(D)(iv) of the Act because the loans provided under the program are limited to companies located in a certain designated geographical region (*i.e.*, Québec).¹²⁸ 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 been paid on a comparable market-rate commercial loan. To calculate the benefit, we divided the difference between the interest on the outstanding principal that the respondents would have paid using the benchmark rate by the total sales of the fabricated structural steel 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 Canatal under this program to be 0.01 percent *ad valorem*.¹²⁹ We also preliminarily determine that Beauce-Atlas did not receive a measurable benefit during the POI.

¹²⁴ See Canatal Preliminary Calculation Memorandum.

¹²⁵ See GOC June 12, 2019 SQR at Exhibit GOC-SUPP1-CED-QEDP-1 at page 2.

¹²⁶ Contributions made to for-profit businesses are repayable without interest. *Id.*

¹²⁷ See Canatal’s May 13, 2019 IQR at 24 and Exhibit CAN-UNIQ-1; and Beauce-Atlas May 13, 2019 IQR at Exhibit A-2.

¹²⁸ See GOC June 12, 2019 SQR at Exhibit GOC-SUPP1-CED-QEDP-1 at pages 13 and 18, and Exhibit GOC-SUPP1-CED-QEDP-4.

¹²⁹ See Canatal Preliminary Calculation Memorandum.

B. Programs Preliminary Found Not to Be Countervailable

1. Consultations for Employment Program (CEP)

In the *Lumber V Final*, Commerce found the CEP program to be not specific, and therefore not countervailable.¹³⁰ Nothing on the record of this investigation would cause Commerce to reconsider the countervailability of this program. As such, consistent with *Lumber V*, we continue to find this program not to be countervailable.

2. Business Development Bank of Canada (BDC) Loans

In the *Lumber V Expedited Review Final*, Commerce found the BDC program to be not specific, and therefore not countervailable.¹³¹ Nothing on the record of this investigation would cause Commerce to reconsider the countervailability of this program. As such, consistent with *Lumber V Expedited Review Final*, we continue to find this program not to be countervailable.

3. Federal Small Business Tax Deduction

Beauce-Atlas and Canatal reported that they used the Federal Small Business Tax Deduction during the POI.¹³² Under this program, a company's federal corporate income tax that it would otherwise pay on its active business income for a taxation year is reduced. To be eligible, a company must be a Canadian-controlled private corporation and have taxable income of less than C\$15 million.¹³³

We preliminarily find that this program is not *de jure* specific within the meaning of section 771(5A)(D)(i) of the Act because, as a matter of law, access to the subsidy is not expressly limited to an enterprise or industry, or groups thereof. We analyzed the information on the record to determine whether this program is *de facto* specific. Because the GOC was unable to provide finalized usage numbers for 2018 (*i.e.*, the POI), it is necessary to rely on the finalized usage data in 2017 as facts otherwise available under section 776(a) of the Act for purposes of

¹³⁰ See *Certain Softwood Lumber Products from Canada: Preliminary Affirmative Countervailing Duty Determination, and Alignment of Final Determination With Final Antidumping Duty Determination*, 82 FR 19657 (April 28, 2017) and accompanying IDM at 19 ("E. Programs Determined To Be Not Countervailable") (finding that the program is not *de jure* specific because, as a matter of law, 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 actual recipients of the assistance is not limited on an enterprise or industry basis), unchanged in *Certain Softwood Lumber Products from Canada: Final Affirmative Countervailing Duty Determination, and Final Negative Determination of Critical Circumstances*, 82 FR 51814 (November 8, 2017) (*Lumber V Final*).

¹³¹ See *Certain Softwood Lumber Products From Canada: Final Results of Countervailing Duty Expedited Review*, 84 FR 32121 (July 5, 2019) and accompanying IDM at Comment 8 (finding that, because the BDC's Act, "must give particular consideration to the needs of small and medium-sized enterprises", and the fact that the loan program targets SMEs, which constitute the majority of loan recipients, specificity is not established under Commerce's regulations, which specifically state at 19 CFR 351.502(e) that Commerce "will not regard a subsidy as being specific under section 771(5A)(D) of the Act solely because the subsidy is limited to small firms"); and 19 CFR 351.502(e).

¹³² See Beauce-Atlas May 13, 2019 IQR at 24; and Canatal June 12, 2019 SQR at 5.

¹³³ See GOC May 13, 2019 IQR at 25.

our *de facto* specificity analysis.¹³⁴ Based on the usage data in 2017, we preliminarily find that this program is not limited to an enterprise or an industry and the data do not indicate that the fabricated structural steel industry made up a disproportionate percentage of use or received a disproportionately large amount of benefit provided by this program.¹³⁵ We therefore preliminarily determine that this program is not *de facto* specific under section 771(5A)(D)(iii) of the Act.

C. 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; and (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. Consistent with Commerce's practice,¹³⁶ we have not included the programs which provided no measurable benefit in our preliminary subsidy rate calculations.

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

D. 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.

¹³⁴ See GOC June 12, 2019 SQR at Exhibit GOC-SUPP1-CRA-SBD-6.

¹³⁵ *Id.* at Exhibit GOC-SUPP1-CRA-SBD-1.

¹³⁶ 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."

VIII. CONCLUSION

We recommend that you approve the preliminary findings described above.

☒

☐

Agree

Disagree

7/5/2019

X



Signed by: JEFFREY KESSLER

Jeffrey I. Kessler
Assistant Secretary
for Enforcement and Compliance

APPENDIX I

NOT-USED AND NOT-MEASURABLE PROGRAMS, BY COMPANY

Beauce-Atlas

Programs Preliminarily Determined Not to Provide Measurable Benefits to Beauce-Atlas During the POI

Count	Title
	Government of Canada Programs
1	Federal & Québec Accelerated Capital Cost Allowances for Class 29 Assets & Class 53 Assets
2	CEDQ Community Adjustment Fund Loan
3	Export Development Canada (EDC) Surety Bond Insurance-Reinsurance
	Province of Québec Programs
4	Ministry of Health and Safety workers compensation reimbursement
5	Québec Additional Deduction for Transportation Costs for Manufacturing SMEs
6	Québec Deduction for Depreciation of Goods Used in Manufacturing, Processing or Computer-Related Activities
7	Investissement Québec Non-Repayable Contributions (Immigrant Investor Program)
8	Emploi Québec Grants for English Lessons
9	School Tax Exemptions
10	Investissement Québec Project Financing Loan
11	CEDQ QEDP Loan
12	ESSOR Program - Investment Projects Support Component Loans
13	Gaz Metro/ Énergir Grants
14	Grants from Ministère de l'Economie et de l'Innovation (MEI)
15	Le Programme d'aide à l'intégration des Immigrants et des Minorités Visibles en Emploi (PRIIME)
	Miscellaneous Government Assistance
16	Government Assistance Provided in AUL from Unknown Sources

Programs Preliminarily Determined Not to Be Used by Beauce-Atlas During the POI

Count	Title
	Government of Canada Programs
1	Foreign Affairs and International Trade Canada CanExport Program
2	Export Guarantee Program
3	Export Development Canada Export Financing for Steel Loans
4	Export Development Canada Export Financing for Steel Loan Guarantees
5	Western Economic Diversification Canada's Western Innovation Initiative
6	Federal Atlantic Innovation Fund
7	Business Development Program
8	Federal Scientific Research and Experimental Development Tax Credit
9	Atlantic Investment Tax Credit
10	Export Development Canada Export Financing for Steel Export Insurance
11	Federal Apprenticeship Job Creation Tax Credit
12	BDC Loans
	Province of Alberta Programs
13	Alberta Export Support Fund
14	Canada-Alberta Job Grant
15	Alberta Scientific Research and Experimental Development Tax Credit
	Province of British Columbia Programs
16	BC Hydro Power Smart: Industrial Energy Managers Program
17	BC Hydro Power Smart: Load Curtailment
18	BC Hydro Power Smart: Incentives
19	Canada-BC Job Grant
20	BC Scientific Research and Experimental Development Tax Credit
	Province of Manitoba Programs
21	Canada-Manitoba Job Grant
	Province of New Brunswick Programs
22	New Brunswick Workforce Expansion: One Job Pledge
23	New Brunswick Financial Assistance to Industry Payroll Rebate Program
24	New Brunswick Financial Assistance to Industry Loan Program
25	New Brunswick Research and Development Tax Credit
26	New Brunswick's Large Industrial Renewable Energy Purchases Program (LIREPP)
	Province of Nova Scotia Programs
27	Canada-Nova Scotia Job Grant
28	Workplace Innovation and Productivity Skills Incentive (WIPSI) Program
	Province of Ontario Programs
29	Canada-Ontario Job Grant

30	Independent Electricity System Operator (IESO) Demand Response
	Province of Prince Edward Island Programs
31	Canada-Prince Edward Island Job Grant
	Province of Québec Programs
32	Hydro Québec Interruptible Electricity Option Program
33	Hydro Québec Electricity Discount Program for Capital Investments
34	Hydro Québec Electricity Discount Program for Industrial Users
35	ESSOR Program - Investment Projects Support Component Grants
36	ÉcoPerformance - MERN (TEQ)/ Energy Efficiency Conversion Projects
37	ESSOR Program - Investment Projects Support Component Loan Guarantees
38	Québec Tax Holiday for Large Investment Projects
39	Tax Credit for the Acquisition of Manufacturing and Processing Equipment in Québec
40	Québec Capital Cost Allowance for Property Used in Manufacturing and Processing
41	Québec Scientific Research and Experimental Development Tax Credit
42	MEI Audit Industry 4.0 Program
	Province of Saskatchewan Programs
43	Canada-Saskatchewan Job Grant
	Local Government Programs
44	Tax Credit for Industrial Establishment from Ville de Thetford

Canatal

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

Count	Title
	Government of Canada Programs
1	Natural Resources Canada ecoENERGY for Renewable Heat Program
2	Business Development Bank of Canada Loans
3	EDC Surety Bond Insurance-Reinsurance
	Province of Québec Programs
4	Québec Tax Credit for On-the-Job Training
5	MEI Programme d'Aide aux Entreprises (PAE)
6	MEI Export Program (PEX)
7	Emploi Québec - FDRCMO and MFOR
8	Wage Assistance Program
9	Investissement Québec – UNIQ Loan Program
10	Cegep-Thetford
11	Club Recherche Emploi
12	FICEP-Training
13	Angle Line Training

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

Count	Title
	Government of Canada Programs
1	Foreign Affairs and International Trade Canada CanExport Program
2	Export Guarantee Program
3	Export Development Canada Export Financing for Steel Loans
4	Export Development, Canada Export Financing for Steel Loan Guarantees
5	Western Economic Diversification Canada's Western Innovation Initiative
6	Federal Atlantic Innovation Fund
7	Business Development Program
8	Federal Accelerated Capital Cost allowances for Class 29 Assets
9	Federal Scientific Research and Experimental Development Tax Credit
10	Federal Apprenticeship Job Creation Tax Credit
11	Atlantic Investment Tax Credit
12	Export Development Canada Export Financing for Steel Export Insurance
	Province of Alberta
13	Alberta Export Support Fund
14	Canada-Alberta Job Grant
15	Alberta Scientific Research and Experimental Development Tax
	Province of British Columbia Programs
16	BC Hydro Power Smart: Industrial Energy Managers Program
17	BC Hydro Power Smart: Load Curtailment
18	BC Hydro Power Smart: Incentives
19	Canada-BC Job Grant
20	BC Scientific Research and Experimental Development Tax Credit
	Province of Manitoba Programs
21	Canada-Manitoba Job Grant
	Province of New Brunswick Programs
22	New Brunswick Workforce Expansion: One Job Pledge
23	New Brunswick Financial Assistance to Industry Payroll Rebate Program
24	New Brunswick Financial Assistance to Industry Loan Program
25	New Brunswick Research and Development Tax Credit
26	New Brunswick's LIREPP
	Province of Nova Scotia Programs
27	Canada-Nova Scotia Job Grant
28	WIPSI Program
	Province of Ontario Programs
29	Canada-Ontario Job Grant

30	IESO Demand Response
	Province of Prince Edward Island Programs
31	Canada-Prince Edward Island Job Grant
	Province of Québec Programs
32	Hydro Québec Interruptible Electricity Option Program
33	Hydro Québec Electricity Discount Program for Capital Investments
34	Hydro Québec Electricity Discount Program for Industrial Users
35	ESSOR Program - Investment Projects Support Component Grants
36	ESSOR Program – Investment Projects Support Component Loans
37	ESSOR Program - Investment Projects Support Component Loan Guarantees
38	Québec Tax Holiday for Large Investment Projects
39	Tax Credit for the Acquisition of Manufacturing and Processing Equipment in Québec
40	Québec Capital Cost Allowance for Property Used in Manufacturing and Processing
	Province of Saskatchewan Programs
41	Canada-Saskatchewan Job Grant