to recommend a level of acceptable biological catch. The Scientific and Statistical Committees will also review a request from the Council to provide advice on the best approach to collect fishery independent data that can be used in the next red snapper assessments.

Copies of the agenda and other related materials can be obtained by calling (813) 348–1630 or can be downloaded from the Council's ftp site, *ftp.gulfcouncil.org*. To get directly to the folder containing the meeting materials, click on Standing and Reef Fish SSC meeting - March 2010.

Although other non-emergency issues not on the agenda may come before the Scientific and Statistical Committees for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal action during this meeting. Actions of the Scientific and Statistical Committees will be restricted to those issues specifically identified in the agenda and any issues arising after publication of this notice that require emergency action under Section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Tina O'Hern at the Council (see **ADDRESSES**) at least 5 working days prior to the meeting.

Dated: March 4, 2010.

William D. Chappell,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2010–4971 Filed 3–8–10; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

International Trade Administration

C–560–824

Certain Coated Paper from Indonesia: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Countervailing Duty Determination with Final Antidumping Duty Determination

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (the Department) preliminarily determines that countervailable subsidies are being provided to producers and exporters of certain coated paper suitable for high–quality print graphics using sheet–fed presses (certain coated paper or CCP) in Indonesia. For information on the estimated subsidy rates, see the "Suspension of Liquidation" section of this notice.

EFFECTIVE DATE: March 9, 2010.

FOR FURTHER INFORMATION CONTACT: Myrna Lobo, Nicholas Czajkowski, or Justin Neuman, AD/CVD Operations, Office 6, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–2371, (202) 482–1395, and (202) 482–0486, respectively.

SUPPLEMENTARY INFORMATION:

Case History

On October 13, 2009, the Department initiated a countervailing duty (CVD) investigation of certain coated paper from Indonesia. *See Certain Coated Paper from Indonesia: Initiation of Countervailing Duty Investigation*, 74 FR 53707 (October 20, 2009) (*Initiation Notice*).[1] In the Initiation Notice, the Department set aside a period for all interested parties to raise issues regarding product coverage. The comments we received are discussed in the "Scope Comments" section below.

In the *Initiation Notice*, the Department identified the Asia Pulp & Paper/Sinar Mas Group (APP/SMG), through the Indonesian paper mills it operates, as the mandatory company respondent in this investigation. Respondent APP/SMG companies identified in this investigation are PT. Pabrik Kertas Tjiwi Kimia Tbk. (Tjiwi Kimia or TK), PT. Pindo Deli Pulp and Paper Mills (Pindo Deli or PD), and PT. Indah Kiat Pulp & Paper, Tbk. (Indah Kiat or IK) (hereinafter designated as respondents, APP/SMG, or by their individual company names).

On November 3, 2009, the Department issued the questionnaire (including government and company sections) to the Government of Indonesia (GOI). On the same day, the Department also provided a copy of the questionnaire to APP/SMG. On December 29, 2009, APP/SMG and the GOI submitted their questionnaire responses. (*APP/SMG Initial Questionnaire Response* and *GOI Initial Questionnaire Response*) On January 11 and January 14, 2010, the Department received comments from petitioners regarding these questionnaire responses. On January 28 and 29, 2010, the Department issued supplemental questionnaires to APP/SMG and the GOI, respectively (*Supplemental Questionnaire to APP/SMG* and *Supplemental Questionnaire to the GOI*, respectively). Responses to these questionnaires were received on February 16, and 22, 2010, and March 1, 2010 (*APP/SMG Supplemental Questionnaire Response* and *GOI Supplemental Questionnaire Response*). The Department notes that the March 1 questionnaire response was received too late to be considered for this preliminary determination.

On February 16, 2010, petitioners submitted comments for the Department to consider for purposes of the preliminary determination. On February 23, 2010, petitioners submitted additional comments for the Department's consideration. On February 26, 2010, respondents submitted comments for the Department's preliminary determination. However, the most recent comments from petitioners and respondents did not reach the Department in time for sufficient consideration to be given for purposes of the preliminary determination. The Department will therefore consider these submissions in its analysis for the final determination.

On February 17, 2010, the Department issued a memorandum finding that petitioners' original allegation that APP/SMG was uncreditworthy from 2001 to April 2005 was sufficient and timely, and stating that we would cover creditworthiness in our analysis. *See* Memorandum to File from Justin M. Neuman, International Trade Analyst, AD/CVD Operations, Office 6, *Countervailing Duty Investigation of Certain Coated Paper from Indonesia: Allegation of Uncreditworthiness*, dated February 17, 2010 (*Creditworthiness Memorandum*). On that same day, we issued a questionnaire to respondents regarding creditworthiness. Respondents submitted their response on February 22, 2010 (*Creditworthiness Questionnaire Response*).

On December 3, 2009, the Department postponed the preliminary determination until February 20, 2010. However, since February 20, 2010 fell on a Saturday, the Department stated its determination would be issued on the next business day, February 22, 2010. *See Certain Coated Paper from Indonesia: Postponement of Preliminary*

[1] Petitioners in this investigation are Appleton Coated LLC, NewPage Corporation, S.D. Warren Company d/b/a/ Sappi Fine Paper North America, and the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union (collectively, petitioners).

Determination in the Countervailing Duty Investigation, 74 FR 63391 (December 3, 2010). Subsequently, on February 12, 2010, the Department issued a memorandum revising all case deadlines. As explained in the memorandum from the Deputy Assistant Secretary for Import Administration, the Department exercised its discretion to toll deadlines for the duration of the closure of the Federal Government from February 5 through February 12, 2010. *See* Memorandum to the Record from Ronald Lorentzen, DAS for Import Administration, *Tolling of Administrative Deadlines As a Result of the Government Closure During the Recent Snowstorm*, dated February 12, 2010, a public document on file in the Department's Central Records Unit (CRU) in Room 1117 of the main Department building. Thus, all deadlines in this segment of the proceeding have been extended by seven days. The revised deadline for the preliminary determination of this investigation was February 27, 2010. Since this date fell on a Saturday, the actual signature date is March 1, 2010.

On February 26, 2010, petitioners requested that the final determination of this countervailing duty investigation be aligned with the final determination in the companion antidumping duty investigation in accordance with section 705(a)(1) of the Act.

Alignment of Final Countervailing Duty Determination With Final Antidumping Duty Determination

On the same day the Department initiated this countervailing duty investigation, *see Initiation Notice*, the Department also initiated the antidumping duty investigations of certain coated paper from Indonesia and the People's Republic of China (PRC). *See Certain Coated Paper Suitable for High–Quality Print Graphics Using Sheet–Fed Presses From Indonesia and the People's Republic of China: Initiation of Antidumping Duty Investigations*, 74 FR 53710 (October 20, 2009). The countervailing duty investigation and the antidumping duty investigation have the same scope with regard to the merchandise covered. On February 26, 2010, in accordance with section 705(a)(1) of the Act, petitioners requested alignment of the final countervailing duty determination with the final antidumping duty determination of certain coated paper from Indonesia. Therefore, in accordance with section 705(a)(1) of the Act and 19 CFR 351.210(b)(4), we are aligning the final countervailing duty determination with the final antidumping duty determination. Consequently, the final countervailing duty determination will be issued on the same date as the final antidumping duty determination, which is currently scheduled to be issued no later than July 12, 2010, unless postponed.

Injury Test

Because Indonesia 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 Indonesia materially injure, or threaten material injury to, a U.S. industry. On November 23, 2009, the ITC published its affirmative preliminary determination that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from the PRC and Indonesia of subject merchandise. *See Certain Coated Paper Suitable for High–Quality Print Graphics Using Sheet–Fed Presses from China and Indonesia*, 74 FR 61174; and USITC Publication 4108 entitled Certain Coated Paper Suitable for High–Quality Print Graphics Using Sheet–Fed Presses from China and Indonesia: Investigation Nos. 701–TA–470–471 and 731–TA–1169–1170 (Preliminary) (November 2009).

Scope of the Investigation

The scope of this investigation consists of Coated Paper, which are certain coated paper and paperboard[2] in sheets suitable for high quality print graphics using sheet–fed presses; coated on one or both sides with kaolin (China or other clay), calcium carbonate, titanium dioxide, and/or other inorganic substances; with or without a binder; having a GE brightness level of 80 or higher;[3] weighing not more than 340 grams per square meter; whether gloss grade, satin grade, matte grade, dull grade, or any other grade of finish; whether or not surface–colored, surface–decorated, printed (except as described below), embossed, or perforated; and irrespective of dimensions.

Coated Paper includes: (a) coated free sheet paper and paperboard that meets this scope definition; (b) coated groundwood paper and paperboard produced from bleached chemi–thermo-mechanical pulp ("BCTMP") that meets this scope definition; and (c) any other coated paper and paperboard that meets this scope definition.[4]

Coated Paper is typically (but not exclusively) used for printing multi–colored graphics for catalogues, books, magazines, envelopes, labels and wraps, greeting cards, and other commercial printing applications requiring high quality print graphics.

Specifically excluded from the scope are imports of paper and paperboard printed with final content printed text or graphics.

As of 2009, imports of the subject merchandise are provided for under the following categories of the Harmonized Tariff Schedule of the United States ("HTSUS"): 4810.14.11, 4810.14.1900, 4810.14.2010, 4810.14.2090, 4810.14.5000, 4810.14.6000, 4810.14.70, 4810.19.1100, 4810.19.1900, 4810.19.2010, 4810.19.2090, 4810.22.1000, 4810.22.50, 4810.22.6000, 4810.22.70, 4810.29.1000, 4810.29.5000, 4810.29.6000, 4810.29.70. While HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.

The HTSUS subheadings are provided for convenience and customs purposes only, the written description of the scope of this investigation is dispositive.

Scope Comments

In accordance with the preamble to the Department's regulations, we set aside a period of time in our *Initiation Notice* for parties to raise issues regarding product coverage, and encouraged all parties to submit comments within 20 calendar days of publication of that notice. *See Antidumping Duties; Countervailing Duties*, 62 FR 27296, 27323 (May 19, 1997), and *Initiation Notice*, 74 FR at 53703. We received comments concerning the scope of the antidumping duty (AD) and countervailing duty (CVD) investigations of coated paper from the PRC and Indonesia.

Timely comments were filed collectively by Gold East Paper (Jiangsu) Co., Ltd., Gold Huasheng Paper Co., Ltd., PD, and TK (collectively, "the scope respondents") on November 6, 2009. These parties asked the Department to clarify the scope of these

[2] "'Paperboard' refers to Coated Paper that is heavier, thicker and more rigid than coated paper which otherwise meets the product description. In the context of Coated Paper, paperboard typically is referred to as 'cover,' to distinguish it from 'text.'"

[3] One of the key measurements of any grade of paper is brightness. Generally speaking, the brighter the paper the better the contrast between the paper and the ink. Brightness is measured using a GE Reflectance Scale, which measures the reflection of light off of a grade of paper. One is the lowest reflection, or what would be given to a totally black grade, and 100 is the brightest measured grade.

[4] As noted below in the "Scope Comments" section, we have determined that the word "paperboard" was inadvertently left out of the sentence in the *Initiation Notice* and have corrected it for the preliminary determination.

investigations by inserting language stating that multi–ply coated paperboard is not covered. According to the scope respondents, multi–ply coated paperboard is not the same as subject coated paper and paperboard. First, the scope respondents claim its end–use is not for graphic printing purposes or as a cover for graphic applications as stated in the petition, but primarily for packaging functions (*e.g.*, cosmetics, cigarettes, *etc.*). Moreover, the physical characteristics of this product and its production process differ from those of subject coated paper. In addition, the scope respondents note the Harmonized Tariff Schedule (HTS) number for multi–ply coated paper products was not included in the scope by petitioners and, thus, it was not their intention to consider this product subject to the investigations. Finally, the scope respondents claim that including multi–ply coated paperboard would call into question the Department's industry standing analysis.

In response to the scope respondents' submission, petitioners submitted comments on November 16, 2009. Petitioners assert the scope provides clear, specific criteria (*e.g.*, sheets, suitable for high quality print graphics, using sheet–fed press, coated, 80 or higher GE brightness level, weight no more than 340 gsm, *etc.*) for determining covered merchandise. Petitioners also point out that neither the petitions nor the initiation documents indicate that plies are a relevant physical characteristic. Furthermore, multi–ply products produced by the scope respondents are suitable for more than a single use. Thus, if the coated paper product, including multi–ply coated paperboard, meets the criteria stated in the scope, the product is subject to these investigations and the arguments provided by the scope respondents (*e.g.*, characteristics, production process, HTS numbers, *etc.*) are immaterial. Finally, petitioners claim that there is no reason to re–examine the analysis conducted at the initiation phase of the investigation regarding petitioners' standing.

On December 16, 2009, the scope respondents requested that the Department revisit its determination regarding industry support. While acknowledging that the deadline had passed, the scope respondents claimed that neither the statute nor the Department's regulations preclude it from extending the deadline and revisiting its industry support determination.

On December 28, 2009, petitioners responded that the statute and Statement of Administrative Action are clear that an industry support determination cannot be reconsidered in the context of the investigation. On February 19, 2010, representatives of the scope respondents met with Department officials to discuss their scope comments. *See* Memorandum to the File from Nancy Decker, regarding "Ex–Parte Meeting with Counsel to Respondents" (March 1, 2010). On February 23, 2010, the scope respondents filed documents and photographs of items presented to the Department at this ex parte meeting. On February 22, 2010, representatives of petitioners met with Department officials to discuss their scope comments. *See* Memorandum to the File from Nancy Decker, regarding "Ex–Parte Meeting with Counsel to Petitioners" (March 1, 2010). On February 23, 2010, petitioners filed a submission in which they included a calculation presented to the Department during this *ex parte* meeting.

On February 25, 2010, petitioners filed additional comments rebutting the documents filed by the scope respondents and restating their prior claims. In response to a question the Department posed during the *ex parte* meeting, petitioners stated that the phrase "suitable for high quality print graphics" could be stricken from the description of the subject merchandise without altering the scope of these investigations.

Based on our review of the scope, we agree with petitioners that the number of plies is not among the specific physical characteristics (*e.g.*, brightness, coated, weight, *etc.*) defining the subject merchandise. Accordingly, we preliminarily find that multi–ply coated paper is covered by the scope of these investigations, to the extent that it meets the description of the merchandise in the scope.

Given that petitioners' most recent submission regarding the suitability language was received shortly before these preliminary determinations, we have not had sufficient time to analyze this issue. Accordingly, we have not amended the scope and we invite parties to further comment with respect to whether the phrase "suitable for high quality print graphics" can be stricken from the description of the subject merchandise without altering the scope of these investigations. These scope comments must be filed within 20 calendar days of publication of this notice, and they must be filed on the record of this investigation, as well as the records of the concurrent AD investigations on coated paper from Indonesia and the PRC and the CVD investigation of coated paper from the PRC.

In their February 25, 2010 submission, petitioners also stated that the phrase in the scope, "(c) any other coated paper that meets the scope definition" should also include the word "paperboard." We agree that the word "paperboard" was inadvertently omitted (*e.g.*, it is already explicitly included in the first sentence of the scope language and in "(b)" of the second paragraph) and have corrected the scope language to read "(c) any other coated paper and paperboard that meets this scope definition."

Period of Investigation

The period for which we are measuring subsidies, i.e., the period of investigation (POI), is January 1, 2008 through December 31, 2008.

Subsidies Valuation Information

Cross–Ownership

The Asia Pulp and Paper Company/Sinar Mas Group is comprised of a group of companies including forestry/logging companies, pulp producers, and paper pro[5]ducers linked by varying degrees of common ownership involving the Widjaja family. The producers/exporters of subject merchandise, TK, PD, and IK, have reported affiliations with each other through a parent holding company, PT. Purinusa Ekapersada (Purinusa); with pulp producer PT. Lontar Papyrus Pulp and Paper Industry (Lontar); with six forestry/logging companies PT. Arara Abadi (AA), PT. Wirakarya Sakti (WKS), PT. Satria Perkasa Agung (SPA), PT. Riau Abadi Lestari (RAL), PT. Finnantara Intiga (FI), and PT. Murini Timber (MT); and with domestic trading company PT. Cakrawala Megah Indah (CMI).

The Department's regulations at 19 CFR 351.525(b)(6)(vi) state that 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 the Department'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 to the Department's regulations further clarifies the Department's cross–ownership standard. *See* Countervailing Duties 63 FR 65347, 65401 (*CVD Preamble*). According to the *CVD Preamble*, relationships captured by the

[5] We note that respondent company IK is also a pulp producer and supplier, in addition to being a producer of the subject merchandise.

cross-ownership definition include those where the interests of two corporations have merged to such a degree that one corporation can use or direct the individual assets (including subsidy benefits) of the other corporation in essentially the same way it can use its own assets (including subsidy benefits). The cross–ownership standard does not require one corporation to own 100 percent of the other corporation. In certain circumstances, a large minority voting interest (for example, 40 percent) or a "golden share" may also result in cross–ownership. *See CVD Preamble* at 65401.

As such, the Department's regulations make it clear that we must examine the facts presented in each case in order to determine whether cross–ownership exists. If we find that cross–ownership exists and if one or more of the relationships identified in 19 CFR 351.525(b)(6)(i) - (v) exists, we treat all cross–owned companies, to which at least one of those relationships apply, as one company, and calculate a single rate for any countervailable subsidies that we identify and measure, in accordance with 19 CFR 351.525(b)(6).

Further, in accordance with 19 CFR 351.525(b)(6)(iv), if the Department determines that the suppliers of inputs primarily dedicated to the production of the downstream product are cross–owned with the producers/exporters under investigation, then the Department will treat subsidies provided to the input producers as subsidies attributable to the production of the downstream product.

In this investigation, we are examining whether the three producers/exporters of the subject merchandise, TK, PD, and IK, are cross–owned with one another, and with their input suppliers, as outlined in 19 CFR 351.352(b)(6)(iv). The alleged subsidies pertaining to stumpage that we are investigating are conferred on the forestry/logging companies which harvest standing timber and sell pulpwood to the pulp producers that supply pulp to the paper producers/exporters. Therefore, we must examine whether cross–ownership exists among and across the suppliers of pulpwood, the pulp producers, and the CCP producers/exporters.

Based on information on the record, we preliminarily determine that cross–ownership exists, in accordance with 19 CFR 351.525(b)(6)(vi), among and across the following companies involved in the production and sale of the subject merchandise: respondent paper producers/exporters, TK, PD, and IK; pulp producers, Lontar and IK; forestry and logging companies, AA, WKS, RAL, SPA, FI, and MT; and domestic trading company, CMI. In addition, we find that the input products in question, pulp logs, are primarily dedicated to the production of CCP in accordance with 19 CFR 351.525(b)(6)(iv).

Since much of our analysis supporting our finding on cross–ownership involves business proprietary information, a full discussion of the bases for our preliminary determination is set forth in the Memorandum to Barbara E. Tillman, Director, AD/CVD Operations, Office 6, from Myrna Lobo, International Trade Compliance Analyst, *Countervailing Duty Investigation: Certain Coated Paper from Indonesia - Cross–Ownership*, dated March 1, 2010 (*Cross–Ownership Memorandum*), a public version of which is on file in the CRU.

In addition to the six cross–owned forestry/logging companies identified above, APP/SMG reported ten additional forestry/logging companies from whom material quantities of timber were purchased during the POI and with whom APP/SMG entered into cooperation agreements. However, APP/SMG has reported that it has no affiliation with these companies other than a business arrangement. Accordingly, we preliminarily determine that these companies are not cross–owned with APP/SMG, but will continue examining this issue during the course of this investigation.

Allocation Period

Under 19 CFR 351.524(d)(2)(i), we presume the allocation period for non–recurring subsidies to be the average useful life (AUL) prescribed by the Internal Revenue Service (IRS) for renewable physical assets of the industry under consideration (as listed in the IRS's 1977 Class Life Asset Depreciation Range System, and as updated by the Department of the Treasury). This presumption will apply unless a party claims and establishes that these tables do not reasonably reflect the AUL of the renewable physical assets of the company or industry under investigation. Specifically, the party must establish that the difference between the AUL from the tables and the company–specific AUL or country–wide AUL for the industry under investigation is significant, pursuant to 19 CFR 351.524(d)(2)(i) and (ii). For assets used to manufacture certain coated paper, the IRS tables prescribe an AUL of 13 years. Neither APP/SMG nor the GOI has disputed the AUL of 13 years in this investigation. Therefore, the Department is using an AUL of 13 years in this investigation.

Creditworthiness

In its petition, petitioners included an allegation that APP/SMG was uncreditworthy from 2001 through April 2005.[6] As the basis for its allegation, petitioners relied on an earlier Department determination of uncreditworthiness for the same years with respect to APP/SMG. *See Coated Free Sheet Paper from Indonesia: Final Affirmative Countervailing Duty Determination*, 72 FR 60642 (October 25, 2007) (*Indonesia CFS Final Determination*) and the accompanying Issues and Decision Memorandum (*CFS IDM*) at 16.[7] In the CFS investigation, the Department examined the following factors in determining the creditworthiness of APP/SMG: (1) the receipt by respondent companies of commercial long–term loans (as stated in 19 CFR 351.505(a)(4)(i)(A)); and (2) respondent companies' recent past and present ability to meet their costs and fixed financial obligations with their cash flow (as stated in 19 CFR 351.505(a)(4)(i)(C)). Based on this analysis, we found APP/SMG to be uncreditworthy from 2001 through April 2005. *See* Memorandum to File from Barbara E. Tillman, Director, Office 6, AD/CVD Operations, *Countervailing Duty Investigation: Coated Free Sheet Paper from Indonesia: Post–Preliminary Analysis of Two New Subsidy Allegations*, dated September 7, 2007 (*Indonesia CFS Post–Preliminary*

[6] Although the Department did not address this allegation in the Initiation Checklist (*See Countervailing Duty Investigation Initiation Checklist: Certain Coated Paper from Indonesia*, 74 FR 53707 (October 20, 2009) (*Initiation Checklist*), we subsequently issued a memorandum confirming that this was a timely and sufficient allegation of uncreditworthiness which we would be examining during the course of the investigation. *See Creditworthiness Memorandum*.

[7] In the coated free sheet paper investigation (hereinafter referred to as the CFS investigation or CFS), APP/SMG was also the sole respondent, and all of the used programs examined in the CFS investigation were alleged in the current investigation of CCP. The POI in CFS was calendar year 2005. Because the programs and company in this investigation mirror the programs and company under investigation in CFS, we requested that the GOI and APP/SMG place on the record of this investigation the following documents from the CFS investigation: all verification reports as well as certain verification exhibits (on the record as Exhibits 32-33 of GOI Initial Questionnaire Response, dated December 29, 2009 and Exhibits 2-9 of *APP/SMG Supplemental Questionnaire Response*, dated February 16, 2010); business proprietary memoranda pertaining to cross-ownership and the subsidy calculations, including benchmarks (on the record as Exhibit 65 of *APP/SMG Initial Questionnaire Response*, dated December 29, 2009 and Exhibit 1 of *APP/SMG Supplemental Questionnaire Response*, dated February 16, 2010). Where appropriate and necessary, we have relied on these documents as well as all of the other information in the GOI's questionnaire responses to reach this preliminary determination.

Analysis Memorandum), on this record as Exhibit 14 of Petition Volume V, dated September 23, 2007; unchanged in *Indonesia CFS Final Determination*.

In March 2001, APP/SMG declared a standstill on its obligations (principal and interest) to its creditors. *See Indonesia CFS Final Determination* and *CFS IDM* at 16. APP/SMG began negotiating with its creditors to restructure its debt; however, the "Master Restructuring Agreements" (MRAs), which finalized the debt restructuring, did not go into effect until April 2005. *See id.* at 16. In the time between the announcement of the debt standstill and the effective date of the MRAs, none of the four Principal Indonesian Operating Companies (PIOCs) in the APP/SMG group (IK, Lontar, TK, and PD) made any payment of principal or interest on their multi–billion dollar debt obligations except for a $90 million payment that was made to repay a portion of IK's debt in June 2002. *See id.* at 16. Additionally, none of the PIOCs were able to secure long–term loans during this time period due to the debt standstill and the ongoing debt restructuring discussions with their creditors. *See id.* at 16.

In *Indonesia CFS Final Determination*, due to their inability to meet their debt payments and financial obligations in accordance with 19 CFR 351.505(a)(4)(i)(D) or to obtain any long–term loans in accordance with 19 CFR 351.505(a)(4)(i)(A) during this time period, we found that companies in the APP/SMG group were uncreditworthy at the time the government forgave debt through the acceptance of Certificates of Entitlement (COEs) as debt repayment and at the time the GOI forgave debt through the sale of APP/SMG's debt to Orleans Offshore Investment Limited (Orleans). *See Indonesia CFS Final Determination* and *CFS IDM* at 16. *See also Indonesia CFS Post–Preliminary Analysis Memorandum* at 13–14.

In the instant investigation, we issued a supplemental questionnaire regarding the issue of creditworthiness to APP/SMG on February 17, 2010. In that questionnaire, we instructed APP/SMG that, if it disagreed with our determination in *Indonesia CFS Final Determination*, it should respond to a series of questions in the questionnaire so that the Department could conduct a meaningful analysis of any information APP/SMG presented regarding its creditworthiness status from 2001 to April 2005. In response to this questionnaire, APP/SMG stated that it would not contest the Department's previous determination of APP/SMG's creditworthiness status in *Indonesia CFS Final Determination. See Creditworthiness Questionnaire Response* at 2.

Therefore, we are continuing to find that APP/SMG was uncreditworthy from 2001 through April 2005. Therefore, in accordance with the methodology described in 19 CFR 351.505(a)(3)(iii), a risk premium has been included in the discount rate used to calculate the debt forgiveness benefits for both the "Debt Forgiveness through the Indonesian Government's Acceptance of Financial Instruments with No Market Value" and the "Debt Forgiveness through APP/SMG's Buyback of Its Own Debt from the Indonesian Government" programs.

Analysis of Programs

I. Programs Preliminarily Determined To Be Countervailable

A. Provision of Standing Timber for Less Than Adequate Remuneration

Petitioners alleged that the GOI provides a countervailable subsidy to pulp and paper producers through the provision of standing timber for less than adequate remuneration. As support for their allegation, they relied on *Indonesia CFS Final Determination*. In *Indonesia CFS Final Determination*, the Department found that the "provision of standing timber" (also referred to as stumpage) by the GOI was countervailable because the provision: (1) provided a financial contribution under section 771(5)(D)(iii) of the Act (provision of goods or services other than general infrastructure); (2) provided a benefit under section 771(5)(E)(iv) of the Act (goods or services are provided for less than adequate remuneration); and (3) was specific under section 771(5A)(D)(iii) of the Act (limited to a group of industries).

In the CFS investigation, the GOI reported that virtually all harvestable forest land is owned by the GOI. *See Indonesia CFS Final Determination* and *CFS IDM* at 18. We found that the GOI allows timber to be harvested from government–owned land under two main types of licenses: (1) HPH licenses to harvest timber in the natural forest; and (2) HTI licenses to establish and harvest timber from plantations. HTI license holders pay "cash stumpage fees" known as PSDH royalty fees, which are paid per unit of timber harvested. In addition to paying PSDH fees, HPH license holders pay a per–unit Rehabilitation Fee (dana reboisasi or DR) for timber harvested from natural forests. License holders in Jambi province also pay a PSDA fee for harvest from plantations. *See id.* at 18. We also found that all of the stumpage fees are administratively set by the GOI. *See id.* at 69.

In the November 3, 2009 questionnaire issued by the Department, we asked the GOI and APP/SMG to provide any new information or evidence of changed circumstances with respect to the administration of this program since December 2005 (the end of the POI in the Indonesia CFS Final Determination) that would warrant a reconsideration of the Department's prior countervailability finding that the GOI provided standing timber for less than adequate remuneration to a specific group of industries. *See Certain Pasta from Italy: Final Results of the Seventh Countervailing Duty Administrative Review*, 69 FR 70657 (Dec. 7, 2004), and the accompanying Issues and Decision Memorandum at Comment 2 ("It is the Department's practice not to revisit past findings unless new factual information or evidence of changed circumstances has been placed on the record of the proceeding that would cause the Department to deviate from past practice."); *see also PPG Industries, Inc. v. United States*, 14 C.I.T. 522, 539–40 (1990) (upholding the Department's determination not to reinvestigate program absent sufficient new evidence). The GOI reported that several laws and decrees have been issued since December 2005 which have affected the forest industry. *See GOI Initial Questionnaire Response*, dated December 29, 2009 at 7–8. However, none of these changes materially alter the procedures through which the GOI provides standing timber or how it prices standing timber. The GOI did not provide any updated information on the quantity of forest land owned by the government; however, the GOI did report that the harvest from private land was 2,007,156 m^3 of a total of 31,984,443 m^3 (or only 6.27 percent) of the total harvest during the POI. *See GOI Initial Questionnaire Response*, dated December 29, 2009 at 18. Therefore, we preliminarily determine that the provision of standing timber by the GOI constitutes a financial contribution in accordance with section 771(5)(D)(iii) of the Act.

In addition, in a letter dated February 4, 2010, the Department requested that the GOI provide information on the number of industries to which it provided standing timber during the POI, as well as the total number of industries in Indonesia. Information provided by the GOI indicates the government recognizes 23 industry categories. Of these 23 categories, standing timber was provided by the GOI to five industries during the POI,

including the paper industry. *See GOI Supplemental Questionnaire Response*, dated February 22, 2010 at 40. As such, we preliminarily determine that the provision of stumpage is specific in accordance with section 771(5A)(D)(iii) of the Act, because it is limited to a group of industries.

The provision of standing timber provides a benefit as described in section 771(5)(E)(iv) of the Act, to the extent that the GOI received less than adequate remuneration, when measured against a market benchmark for stumpage. The Department's regulations at 19 CFR 351.511(a)(2) set forth the basis for identifying benchmarks to determine whether a government good or service is provided for less than adequate remuneration. 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. The most direct means of determining whether the government required adequate remuneration is by comparison with private transactions for a comparable good or service in the country. Thus, the preferred benchmark in the hierarchy is 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 (the latter transaction would be in the form of an import). This is because such prices generally would be expected to reflect most closely the commercial environment of the purchaser under investigation.

In accordance with the first preference in the hierarchy, to determine the existence and extent of the benefit, we would need to identify an observed market stumpage price from a private supplier in Indonesia. As noted above, the GOI reported private forests accounted for only 6.27 percent of the total harvest in 2008 (2,007,156 m^3 of a total of 31,984,443 m^3). *See GOI Initial Questionnaire Response*, dated December 29, 2009 at 18 and Exhibit 27. Additionally, in *Indonesia CFS Final Determination*, the Department found that there were only 233,811 hectares of private forest land out of 57 million hectares in Indonesia. *See Indonesia CFS Final Determination* and *CFS IDM* at 18. The GOI did not provide any updated information on the percentage of government ownership of forest land. Thus, the GOI clearly plays a predominant role in the market for standing timber. As such, we preliminarily determine that there are no market–determined stumpage fees in Indonesia upon which to base a "first tier" benchmark. Furthermore, because standing timber cannot be imported, there are no actual stumpage import prices to consider. This is consistent with our finding in *Indonesia CFS Final Determination*.

A "second tier" benchmark, according to the regulations, relies on world market prices that would be available to the purchasers in the country in question, though not necessarily reflecting prices of actual transactions involving the particular producer. In selecting a world market price under this second approach, the Department examines the facts on the record regarding the nature and scope of the market for that good to determine if that market price would be available to an in–country purchaser. As discussed in the *CVD Preamble*, the Department will consider whether the market conditions in the country are such that it is reasonable to conclude that a purchaser in the country could obtain the good or service on the world market. For example, a European price for electricity normally would not be an acceptable comparison price for electricity provided by a Latin American government, because electricity from Europe in all likelihood would not be available to consumers in Latin America. However, as another example, the world market price for commodity products, such as certain metals and ores, or for certain industrial and electronic goods commonly traded across borders, could be an acceptable comparison price for a government–provided good, provided that it is reasonable to conclude from record evidence that the purchaser would have access to such internationally traded goods. *See CVD Preamble* at 65377. There are no world market prices for stumpage that we could use because standing timber cannot be traded across borders; only the logs produced from the standing timber can be traded. Thus, we cannot apply a "second tier" benchmark.

Since we are not able to conduct our analysis under the "second tier" of the regulations, consistent with the hierarchy, we are preliminarily measuring the adequacy of remuneration by assessing whether the government price is consistent with market principles (*i.e.*, the "third tier" as described in the Department's regulations). This approach is set forth in 19 CFR 351.511(a)(2)(iii) and is explained further in the *CVD Preamble* at 65378: "Where the government is the sole provider of a good or service, and there are no world market prices available or accessible to the purchaser, we will assess whether the government price was set in accordance with market principles through an analysis of such factors as the government's price–setting philosophy, costs (including rates of return sufficient to ensure future operations), or possible price discrimination." The regulations do not specify how the Department is to conduct such a market principles analysis. By its nature, the analysis depends upon available information concerning the market sector at issue and, therefore, must be developed on a case–by-case basis.

The GOI has not provided information or documentation to demonstrate that the stumpage fees it charges are established in accordance with market principles. Although the PSDH fees are established as a percentage of the reference price of logs, we cannot conclude that the log reference price is reflective of market principles or is a market–determined price. The GOI reported that the reference price is normally determined by a weighted–average of both the Indonesian domestic and export prices for logs. However, since a log export ban is in place (see further discussion below), the reference price is currently determined solely from domestic prices. Through its ownership of virtually all of Indonesia's harvestable forests, the GOI has almost complete control over access to the timber supply. In addition, the ban on the export of logs affects the price for logs. As such, the reference prices for logs cannot be considered to be market–based. Furthermore, the percentage that is applied to the reference price to calculate the PSDH fees is administratively set by the GOI. Thus, we preliminarily determine that the stumpage fees, charged by the GOI as a percentage of a non–market-determined reference price, are not based on market principles.

Since the government price is not set in accordance with market principles, we looked for an appropriate proxy to determine a market–based stumpage benchmark. It is generally accepted that the market value of timber is derivative of the value of the downstream products. The species, dimension, and growing condition of a tree largely determine the downstream products that can be produced from a tree; the value of a standing tree is derived from the demand for logs produced from that tree and the demand for logs is, in turn,

derived from the demand for the products produced from those logs. *See, e.g., 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), and the accompanying Issues and Decision Memorandum at 16–18.

Both petitioners and respondents have made recommendations for the appropriate basis for calculating benchmark prices. Petitioners have placed Malaysian export prices for acacia pulpwood and mixed tropical hardwood (MTH) pulpwood from the World Trade Atlas (WTA) on the record of this review. *See* Petition Volume V, dated September 23, 2009 at Exhibit 11. The Department used WTA export prices as the basis for its benchmark price in *Indonesia CFS Final Determination*.

Respondents provided a number of alternatives to the WTA data. *See APP/SMG Initial Questionnaire Response*, dated December 29, 2009 at 34–41. These include: (1) pulpwood exports from the Malaysian state of Sabah collected by an industrial consultant; (2) specific transactions of Malaysian acacia exports to Indonesia; (3) export data from the Sabah Forestry Department; (4) pulpwood prices in the U.S. published in World Resources Quarterly (WRQ); (5) pulpwood prices in Chile and Russia published in WRQ; and (6) global pulpwood prices published in WRQ.

For the purposes of this preliminary determination, the Department finds that a species–specific benchmark is the most appropriate basis for calculating a stumpage benefit. Based on the information provided by both the GOI and APP/SMG, stumpage fees are assessed on a species–specific basis. For example, acacia, MTH, and meranti logs are all assessed different PSDH fees. *See APP/SMG Initial Questionnaire Response*, dated December 29, 2009 at 29. This is consistent with the Department's finding in the CFS investigation. *See Indonesia CFS Final Determination* and *CFS IDM* at 22.

In reviewing the benchmark alternatives suggested, the data from the Sabah Forestry Department and the WRQ are not species specific. Therefore, we are not using data from these sources as the basis of our benchmark. We also are not using individual transaction prices for pulpwood between a Malaysian exporter and an Indonesian importer as a starting point. First, these individual transactions were self–selected by respondents. In addition, because the GOI dominates the Indonesian stumpage market and because stumpage and pulpwood markets are inextricably intertwined, we find it inappropriate to use import prices into Indonesia for pulpwood as a starting point to determine whether Indonesian stumpage prices reflect market prices. Finally, although the Sabah pulpwood export data provided by the industrial consultant are species specific, we do not find them preferable to the Malaysian export statistics because: (1) they were prepared for purposes of this investigation; and (2) they cannot be checked against any official export data, including data from the Sabah Forestry Department, which is not presented on a species–specific basis.

As a result of the geographic proximity and the similarities of forest conditions, climate, and tree species between Indonesia and Malaysia, we preliminarily determine that Malaysian pulp log export prices as reported in the WTA are the most appropriate source to use in our analysis. We have relied on these export prices to derive a market–based stumpage benchmark, which we have compared to GOI stumpage fees in order to determine whether the GOI is providing standing timber for less than adequate remuneration. To calculate the benchmark, where possible we have removed exports to Indonesia from these statistics. As discussed above, we find that it is not appropriate to use imports into Indonesia as a benchmark source. However, for one of the species, the only exports in the Malaysian statistics are exports to Indonesia. Therefore, for purposes of this preliminary determination, we are using the statistics for this species to calculate the benchmark. However, we will further evaluate this approach for the final determination and we intend to gather additional information with respect to a benchmark source that does not reflect prices into Indonesia.

Respondents have argued that, if the Department does use export prices from either Malaysia or Sabah, a deduction for export royalty payments must be made from the benchmark price. Respondents argue that these payments are reflected in the export prices and therefore should be deducted to calculate an accurate benchmark. We do not necessarily agree with respondents that such royalty fees should be deducted from the starting price, but we need not reach that issue in this preliminary determination. While respondents have provided information that export royalty payments are to be collected on log exports from Malaysia, they have not provided any evidence on the record for this investigation demonstrating that these royalties are reflected in the values reported in the export statistics of Malaysia. Furthermore, the Malaysian transactions of acacia pulp logs exported to Indonesia, placed on the record by respondents, do not include export royalty payments. According to respondents, timber harvested from private village territory in Malaysia is not subject to an export royalty. *See APP/SMG Supplemental Questionnaire Response*, dated February 16, 2010 at 12. Therefore, we are not making any deductions from the export values for export royalty payments.

After removing exports to Indonesia from the statistics, where possible, we have calculated four unit values: one for acacia pulp logs; one for MTH chipwood; one for eucalyptus; and one for logs (timber over 30 cm in diameter). We have also adjusted the Malaysian export log prices to remove the Indonesian costs of extraction (harvesting) of the standing timber. To determine the Indonesian harvesting costs (including a reasonable amount for profit associated with extraction), we used information contained in "Addicted to Rent: Corporate and Spatial Distribution of Forest Resources in Indonesia; Implications of Forest Sustainability and Government Policy." *See* Petition Volume V, dated September 23, 2009, Exhibit 9. This study provides the only independent source on the record that specifies extraction costs and profit in Indonesia. The amounts in this report are $17 for extraction costs and $5 for profit in connection with extraction.

Respondents have argued that the Department could use the forestry/logging companies' reported actual costs for harvesting to adjust the Malaysian log export prices. However, for purposes of this preliminary determination, we have decided not to use these actual costs. We may consider using these actual costs for the final determination if the GOI can demonstrate: that it has a system in place to evaluate exactly which costs are legitimately considered to be harvesting and extraction costs, that it has evaluated how to distinguish the types of costs relevant to harvesting from plantations versus the natural forest, and that it has a system in place to distinguish the costs of extraction from plantations versus other plantation development and maintenance costs.

The deduction of the harvesting costs, and profit associated with harvesting, from the unit values results in a derived benchmark stumpage price for each species. We compared these derived benchmark prices for each type or species of standing timber to the Indonesian stumpage fees and found the

GOI's stumpage fees to be lower than the market benchmark prices. Accordingly, we preliminarily determine that a benefit is provided in accordance with section 771(5)(E)(iv) of the Act because the GOI provides standing timber for less than adequate remuneration.

To calculate the benefit received under this program, we first multiplied the benchmark prices for each type of timber by the appropriate harvest quantity. According to the questionnaire responses, the GOI charges PSDH and DR fees on both a cubic meter and metric ton basis, depending on the species. *See APP/SMG Initial Questionnaire Response*, dated December 29, 2009 at 29. The quantities of pulp log exports from Malaysia that are associated with the total value of exports from Malaysia are reported by the WTA in cubic meters. Thus, the per cubic meter export price is the starting point for our benchmark calculation. Therefore, to calculate the benefit, the Department must convert from metric tons to cubic meters on a consistent basis.

In *Indonesia CFS Final Determination*, where necessary, the Department converted harvest and purchase quantities using the conversion factor in a report of the Food and Agriculture Organization of the United Nation (FAO) to convert metric tons to cubic meters. The Department found that the FAO conversion factor for tropical pulpwood (1 metric ton to 1.33 cubic meters) was the most appropriate conversion factor to apply.

In its questionnaire response, APP/SMG provided a set of conversion factors developed through a research project authorized by the Ministry of Forestry. *See APP/SMG Initial Questionnaire Response*, dated December 29, 2009 at Exhibit 61. These factors were based on a field study conducted by the Study Team of the Center for Research and Development of Forest Products (hereinafter referred to as field study). In this study, smaller diameter logs of acacia that are grown and harvested on plantations were evaluated. The GOI argues that, based on this study, the more accurate conversion factor for metric tons to cubic meters for smaller diameter acacia is 1.0.

The Department preliminarily finds that the conversion factors developed in the study by the Ministry of Forestry provide a more appropriate basis for the conversion factors for the acacia species harvested by APP/SMG. Based on the information currently on the record, this study appears to be an objective field study of actual conditions in Indonesia. Furthermore, it was not developed for purposes of this investigation. While the Department is using this conversion factor for acacia in the preliminary determination, we do have some concerns regarding this factor. We intend to solicit additional information from the GOI about the purpose of the study and any parameters the GOI set for the study team. Further, the GOI and/or APP/SMG will need to demonstrate that this conversion factor is applicable to the acacia entering the APP/SMG inventory.

We recognize that, in addition to acacia conversion factors, this study also contains conversion factors for multiple species of eucalyptus. However, we are unable to establish, based on record information, which species of eucalyptus APP/SMG harvested. Therefore, for the purposes of this preliminary determination, we have used the conversion factors in the FAO report, where appropriate, for eucalyptus. We will collect additional information regarding the eucalyptus conversion factor for the final determination. If we find that the data in the study is reliable and that there is a conversion factor applicable to the eucalyptus entering the APP/SMG inventory, we will consider using one of the Ministry of Forest's conversion factors for eucalyptus in the final determination.

The field study does not address MTH chipwood and logs (over 30 cm in diameter); therefore, for MTH chipwood and logs (over 30 cm in diameter), the Department has used the conversion factors in the FAO report in this preliminary determination.

To calculate the benefit conferred through stumpage fees charges for acacia, we multiplied each benchmark price by the sum of each forestry company's acacia harvest during the POI. To calculate the benefit conferred through stumpage fees charged for MTH chipwood, we multiplied the benchmark price by the sum of each forestry company's MTH chipwood timber harvest during the POI. To calculate the benefit conferred through stumpage fees charged for eucalyptus, we multiplied the benchmark price by the sum of each forestry company's eucalyptus timber harvest during the POI.

In determining the benefit for logs (i.e., harvested timber over 30 cm in diameter that was sold to the APP/SMG pulp producers for pulp production), the Department is using the volume of logs sold by IK and Lontar as the quantity for which to measure the benefit. We are using log sales to the APP/SMG pulp producers rather than total harvest quantity because we are only capturing in our calculation benefits attributable to the pulp and paper production of the APP/SMG pulp and paper producers.

After multiplying each stumpage benchmark by the appropriate harvest quantities, we summed all the values to calculate the total amount of fees that should have been paid at the market–based benchmark stumpage rate. We then subtracted the total of the actual PSDH and DR fees, plus the PSDA fees, paid by the APP/SMG forestry companies during the POI, from the total amount of stumpage fees that should have been paid.

We then divided the benefit by the total external sales of the APP/SMG pulp and paper producers, including external sales made through CMI, respondents' affiliated reseller and trading company (*i.e.*, the total FOB sales values of the pulp and paper producers minus any cross–owned inter–company sales) to calculate a net countervailable subsidy rate of 10.30 percent *ad valorem* for this program. *See* Memorandum to the File from Nicholas Czajkowski, International Trade Analyst, *Calculations for the Preliminary Determination of Certain Coated Paper from Indonesia*, dated concurrently with this notice (*CCP Preliminary Calculation Memorandum*).

B. Government Prohibition of Log Exports

Petitioners alleged that the GOI provides a countervailable subsidy to pulp and paper producers through the GOI's ban on log exports. As support for their allegation, they relied on *Indonesia CFS Final Determination* in which the Department found that the GOI's imposition of a log export ban on logs and chipwood provided a countervailable subsidy to downstream wood processing industries, including the pulp and paper producing industries. *See Indonesia CFS Final Determination* and *CFS IDM* at 32.

In CFS, the Department determined that the log export ban provided a financial contribution in accordance with sections 771(5)(B)(iii) and 771(5)(D)(iii) of the Act. Specifically, the Department found that the GOI, through the log export ban, entrusted or directed forestry/harvesting companies to provide lower price inputs (logs and chipwood) to companies in the pulp and paper producing industries. The Department determined that the log export ban provided a benefit in accordance with section 771(5)(E)(iv) of the Act. Specifically, the GOI's log export ban allowed the forestry companies in the APP/SMG group to

purchase inputs (logs and chipwood) from unaffiliated forestry companies below market log prices.

Finally, the Department determined that the log export ban was specific under section 771(5A)(D)(i) of the Act. Specifically, the Department found the GOI's decree banning the exports of logs and chipwood to be *de jure* specific within the meaning of section 771(5A)(D)(i) of the Act, since it is restricted by law to only a limited group of industries and because it covers only a small number of products within each of these seven industries.

In the November 3, 2009 questionnaire issued by the Department, we asked the GOI and APP/SMG to provide any new information or evidence of changed circumstances with respect to the administration of this program that would warrant a reconsideration of the Department's prior countervailability finding regarding the log export ban. In their questionnaire responses for the current investigation, both the GOI and APP/SMG have objected to the Department's finding in CFS. The GOI and APP/SMG state that the World Trade Organization (WTO) has ruled that this type of government action cannot constitute a subsidy program. *See* WT/DS 194 United States -- Measures Treating Export Restraints As Subsidies (adopted by WTO DSB August 23, 2001). Our finding here and our countervailing duty law are consistent with our WTO commitments. Moreover, as discussed in CFS, WTO panel reports are not binding on the United States and do "not have any power to change U.S. law or to order such a change." *See* Statement of Administrative Action (SAA) accompanying the Uruguay Round Agreements Act, H.R. Doc. 103–316, Vol. 1 at 659. *See also Indonesia CFS Final Determination* and *CFS IDM* at 97. The Department is obligated to follow U.S. law in reaching its countervailing duty determinations, and, as discussed below, the GOI's log export ban constitutes a countervailable subsidy under U.S. law. In its questionnaire response, the GOI also reported that it has begun the process of legalizing the export of forest products. See GOI Initial Questionnaire Response, dated December 29, 2009 at Exhibit 8, "Government Regulation No.6 of 2007." While the GOI may have begun the process legalizing exports of certain forest products, the GOI confirmed that a ban on the exportation of logs was still in effect during the POI of this investigation. *See id.* at 25.

As explained in Indonesia *CFS Final Determination*, one of the purposes of the GOI's ban was to develop the downstream industries, which was a basis on which the Department determined that the GOI entrusts or directs domestic log suppliers to sell logs at suppressed prices to domestic consumers, thus providing a good to pulp and paper producers for less than adequate remuneration. *See Indonesia CFS Final Determination* and *CFS IDM* at 27. Neither the GOI nor APP/SMG has placed any additional information on the record that causes us to reconsider our prior finding. As such, we preliminarily determine that the log export ban continues to provide a countervailable subsidy to pulp and paper producers. The ban constitutes a financial contribution in accordance with sections 771(5)(B)(iii) and 771(5)(D)(iii) of the Act through the GOI's entrustment or direction of forestry/harvesting companies to provide goods (*i.e.*, logs and chipwood). It provides a benefit in accordance with section 771(5)(E)(iv) of the Act to the extent that the prices paid by APP/SMG to unaffiliated forestry/harvesting companies for its purchases of logs and chipwood are less than the benchmark price. Our benefit analysis is discussed in detail below. Furthermore, the log export ban is *de facto* specific pursuant to section 771(5A)(D)(iii)(I) of the Act because the industries receiving subsidies from the operation of the ban are limited in number.

To determine whether the log export ban provided a benefit to APP/SMG during the POI, the Department compared the price paid by APP/SMG for the logs it purchased during the POI from unaffiliated forestry/harvesting companies to a benchmark price based on the criteria stipulated in 19 CFR 351.511(a)(2).

The Department's regulations at 19 CFR 351.511(a)(2) set forth the basis for identifying comparative benchmarks for determining whether a government good or service is provided for less than adequate remuneration. 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. The most direct means of determining whether the government required adequate remuneration is by comparison with private transactions for a comparable good or service in the country. Thus, the preferred benchmark in the hierarchy is 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 (the latter transaction would be in the form of an import). This is because such prices generally would be expected to reflect most closely the commercial environment of the purchaser under investigation.

In the instant case, there are no meaningful or usable private domestic prices for logs or actual import prices to evaluate for purposes of identifying a "first tier" benchmark (*i.e.*, market prices from actual transactions within the country under investigation). As discussed above, the GOI did not place any updated information on the record concerning the fact that the GOI owns 99 percent of the harvestable forest land in Indonesia. *See Indonesia CFS Final Determination* and *CFS IDM* at 18. Furthermore, the GOI reported that the harvest from privately owned forest lands is 2,007,156 m^3 out of a total of 31,984,443 m^3 (or only 6.27 percent) of the total harvest. *See GOI Initial Questionnaire Response*, dated December 29, 2009 at 18. We also note that all logs, including logs harvested from private land, are subject to the export ban. Therefore, because of the GOI's predominant role in the Indonesian market for logs, we find that it is not possible to determine a private domestic log benchmark price in Indonesia, pursuant to 19 CFR 351.511(a)(2)(i), for the GOI's log export ban. Accordingly, Indonesian import prices likewise would not reflect market prices.

Because there are no market prices from actual transactions in the country to use as a benchmark, we next looked for a "second tier" benchmark which, according to the regulations, relies on world market prices that would be available to the purchasers in the country in question, though not necessarily reflecting prices of actual transactions involving that particular producer. In selecting a world market price under this second approach, the Department examines the facts on the record regarding the nature and scope of the market for that good to determine if that market price would be available to an in–country purchaser. The Department finds that the public export statistics of Malaysian pulpwood reported in the World Trade Atlas are reliable for establishing a benchmark under the "second tier" as a world market price that would be available in Indonesia.

As we noted in CFS, Indonesia and Malaysia share the same geographic

proximity and similarities of forest conditions, climate, and tree species. *See Indonesia CFS Final Determination* and *CFS IDM* at 20. During the POI, both pulpwood and logs were exported from Malaysia to a number of countries. Accordingly, we have selected as our "second tier" benchmark species–specific Malaysian export prices, as published in the World Trade Atlas, as representative of market–determined prices for pulpwood and logs. Although respondents submitted a number of alternative sources for pulpwood prices (*see* discussion above in the "Provision of Standing Timber for Less than Adequate Remuneration" section), we do not find these alternative benchmark sources to be appropriate to establish a world market price because they are not species specific, and the prices reported by APP/SMG for its purchases of logs from unaffiliated forestry/harvesting companies appear to be species specific. The other reasons why the Department is not using the proposed alternative benchmark sources are discussed in the "Provision of Standing Timber for Less than Adequate Remuneration" section above.

Therefore, we are using the species–specific Malaysian export statistics as the starting point for calculating the benchmark price for pulpwood and logs. For the reasons discussed above, where appropriate, we are deducting from these statistics exports to Indonesia. *See CCP Preliminary Calculation Memorandum*. However, we will further evaluate this approach for the final determination and we intend to gather additional information with respect to a benchmark source that does not reflect prices into Indonesia. We also note that under the Department's regulations, applicable ocean and inland freight, import duties, and any other taxes should be added to the benchmark price before determining whether the Indonesian price for pulpwood confers a benefit. *See* 19 CFR 351.511(a)(2); *see also U.S. Steel Corp. v. United States*, Slip Op. 2009–152 at 17–18 (CIT Dec. 30, 2009). We currently do not have this information on the record; however, we plan to gather it prior to the final determination.

When we compare the revised Malaysian export prices to the prices APP/SMG paid to the unaffiliated pulpwood suppliers on a per–unit basis, we find that there is a benefit conferred through the GOI's provision of logs to pulp and paper producers. To calculate the subsidy, we first calculated a per cubic meter benefit for each species of logs. We then multiplied the volume of each species purchased by APP/SMG from unaffiliated forestry/harvesting companies in order to calculate the total benefit.

We capped the quantity for each type of log used in the benefit calculation by the lower of the total quantity, by species, purchased by IK and Lontar during the POI (after deducting the harvest quantity by the cross–owned APP/SMG forestry companies used in the stumpage calculation) or the total quantity, by species, purchased by the APP/SMG forestry companies from unaffiliated suppliers during the POI. We consider the application of this cap appropriate because, based on the reported pulpwood and log purchase and sales information, there is insufficient information to include in the benefit calculation any quantity beyond what the APP/SMG forestry companies purchased from unaffiliated suppliers. We will continue to gather information to ensure that the application of this cap is appropriate.

We then summed the benefit for each species and divided this amount by the total FOB external sales values of the APP/SMG pulp and paper producers. We have not included in the denominator any external sales by the APP/SMG forestry companies because, just as with stumpage, we are capturing in our benefit calculation only pulpwood sold to APP/SMG pulp and paper companies. Furthermore, we have not included in this log export ban calculation any APP/SMG forestry companies' harvested pulpwood, since we have captured any benefit they receive from the log export ban in the stumpage benefit calculation. On this basis, we calculate a net countervailable subsidy rate of 4.39 percent ad valorem for TK/PD/IK. *See CCP Preliminary Calculation Memorandum.*

C. Debt Forgiveness through the Indonesian Government's Acceptance of Financial Instruments with No Market Value

Petitioners alleged that, in the CFS investigation, the Department found that the GOI provided countervailable debt forgiveness by accepting COEs, which had no value, as payment for a portion of APP/SMG's debt. In *Indonesia CFS Final Determination,* the Department determined that the GOI's acceptance in 2002 of COEs as partial repayment of APP/SMG's debt constituted a financial contribution, in the form of debt forgiveness, in accordance with section 771(5)(D)(i) of the Act because the GOI allowed APP/SMG's shareholders to repay debts with COEs that had no market or commercial value. The Department also determined that the GOI's acceptance of COEs as partial repayment of APP/SMG's debt provided a benefit in accordance with section 771(5)(E) of the Act and 19 CFR 351.508(a) in the amount of the debt repaid with the valueless COEs. The Department determined that the GOI's acceptance of COEs as partial repayment of APP/SMG's debt was specific under section 771(5A)(D)(iii) of the Act. *See Indonesia CFS Final Determination* and *CFS IDM* at 38.

In 1999, the Indonesia Bank Restructuring Agency (IBRA), the GOI agency responsible for the restructuring of the Indonesian banking sector, assumed non–performing loans of Bank Internasional Indonesia (BII), which had previously been controlled by APP/SMG. When IBRA assumed a bank's loans, it issued COEs to the bank's former shareholders. *See id.* at 38. COEs were financial instruments that represented a bank's former shareholders' right to repurchase bank shares. The COEs functioned as options that, if exercised, required these shareholders to repurchase their shares in the bank from IBRA using the proceeds of IBRA's sale of the bank's loan assets which were distributed to the shareholders. Although, in the CFS investigation, APP/SMG reported that COEs had not been used to reduce the debt of any companies in the APP/SMG group, at verification in that investigation the Department learned that such debt was in fact repaid with COEs in 2002. *See id.* at 38. Therefore, the Department found the reported non–use of COEs by cross–owned companies to repay debt was unverifiable, forcing the Department to rely upon facts available for its analysis of this program in accordance with sections 776(a) and (b) of the Act. *See id.* at 38–39. Record information from the verification report shows that the COEs were non–transferable, non–negotiable, and had no market or commercial value. *See* Memorandum to the File from the Verification Team, *Countervailing Duty Investigation of Coated Free Sheet (CFS) Paper from Indonesia: Verification of the Questionnaire Responses Submitted by the Ministry of Forestry and the Ministry of Finance*, dated August 24, 2007 (*CFS Verification Report*) at 27, on the record as Exhibit 32 of GOI Initial Questionnaire Response, dated December 29, 2009. According to the Department's analysis in *Indonesia CFS Final Determination*, COEs only had value to the extent they were used to repurchase previously–owned bank shares back from IBRA. *See Indonesia CFS Final Determination* and *CFS IDM* at 39. Therefore, holding companies with shareholdings in companies in APP/SMG were able to use COEs to pay

off some of the debt owed to its affiliated bank, BII, which had been assumed by the GOI. As a result, APP/SMG's creditor, the GOI, in turn allowed APP/SMG to repay a portion of its debt with COEs that had no market value. Accordingly, the Department found that the GOI's acceptance of valueless COEs as debt repayment provided a countervailable subsidy to APP/SMG.

In the November 3, 2009 questionnaire issued to the GOI, we asked if there was any new information or evidence of changed circumstances with respect to the GOI's administration of this program that would warrant a reconsideration of the Department's prior countervailability finding. We also requested that the GOI provide all of the relevant information and documentation. The GOI stated that it disagreed with the Department that the COEs had no value, and provided some documents related to the valuation of the COEs. *See GOI Initial Questionnaire Response*, dated December 29, 2009 at 27. The documents submitted only showed that the GOI assigned a value to the COEs; they did not demonstrate that the COEs had a market value as a financial instrument that was equivalent to cash. *See id.* at Exhibits 31–32. In our January 29, 2010 supplemental questionnaire, we asked the GOI to provide further documentation to support its claim that the COEs had value in a secondary market or other commercial environment. In its February 16, 2010 response to that questionnaire, the GOI stated that, while it still disagreed with the Department's determination that the COEs had no value, it would not contest the Department's prior determination in *Indonesia CFS Final Determination* due to the complexity of the issues, the passage of time, and the impracticality of translating large volumes of information. *See GOI Supplemental Questionnaire Response*, dated February 16, 2009 at 8.

Because the GOI has not provided any new information that calls into question our determination in *Indonesia CFS Final Determination* that the GOI's acceptance in 2002 of valueless COEs as partial payment for some of APP/SMG's debt was countervailable, we preliminarily determine that the GOI's acceptance of COEs constituted a financial contribution, in the form of debt forgiveness, within the meaning of section 771(5)(D)(i) of the Act. A benefit was conferred upon respondents equal to the value of the debt repaid with the valueless COEs within the meaning of section 771(5)(E) of the Act and 19 CFR 351.508(a). We also determine that the GOI's acceptance of COEs as partial debt repayment by APP/SMG was a company–specific action of the GOI in accordance with section 771(5A)(D)(iii) of the Act.

To calculate the benefit received under this program, 19 CFR 351.508(a) provides that a benefit exists equal to the amount of the principal and/or interest that the government has forgiven (*i.e.*, the amount of the debt repaid in 2002 with the valueless COEs), and that we treat this benefit as a non–recurring subsidy in accordance with 19 CFR 351.508(c)(1). Under 19 CFR 351.508(b), in the case of debt forgiveness, we normally will consider the benefit as having been received on the date on which the debt was forgiven. Because this debt was forgiven in 2002 and was allocated over time, there is a benefit from this program attributable to the 2008 POI in this investigation.[8] Therefore, the calculation for this subsidy program in the CFS investigation includes the benefit amount from this program received during the POI in this investigation. At our request, APP/SMG placed the calculation memorandum from *Indonesia CFS Final Determination* on the record in the instant investigation. As explained in *Indonesia CFS Final Determination* and *Final CFS Calculation Memorandum, to calculate the benefit, we applied the methodology set forth in 19 CFR 351.524(d)(1) for non–recurring benefits. We allocated the am*ount of the debt forgiven over an AUL of 13 years. *See Final CFS Calculation Memorandum* and the "Allocation Period" section above. Because APP/SMG was uncreditworthy at the time IBRA accepted the COEs as partial repayment for its debt obligations, we have added a risk premium to the discount rate used to allocate the debt forgiveness benefit, calculated according to the methodology described in 19 CFR 351.505(a)(3)(iii). *See* "Creditworthiness" section above and *Final CFS Calculation Memorandum*.

Because we are making no changes to the methodology that was used in the CFS investigation to calculate the benefit stream from this debt forgiveness, we have taken the benefit amount attributable to the POI from the *Final CFS Calculation Memorandum* and divided it by the total external sales of the cross–owned APP/SMG group as discussed above in the "Cross–Ownership" section. *See also CCP Preliminary Calculation Memorandum*. On this basis, we preliminarily determine the net countervailable subsidy rate to be 0.40 percent *ad valorem* for TK/PD/IK.

D. Debt Forgiveness through APP/SMG's Buyback of Its Own Debt from the Indonesian Government

Petitioners alleged that in *Indonesia CFS Final Determination*, the Department found that the GOI provided countervailable debt forgiveness when it sold approximately US $880 million worth of APP/SMG debt for US $214 million to Orleans, a company which the Department determined was affiliated with APP/SMG. *See* Petition Volume V, dated September 23, 2009 at 16. In *Indonesia CFS Final Determination*, the Department determined that the GOI's 2003 sale of APP/SMG's debt to an affiliate constituted a financial contribution, in the form of debt forgiveness, within the meaning of section 771(5)(D)(i) of the Act. A benefit was received equal to the difference between the value of the outstanding debt and the amount Orleans paid for it, within the meaning of 19 CFR 351.508(a). Furthermore, we found the debt forgiveness to be specific in accordance with 771(5A)(D)(iii) of the Act because a company's repurchase of its own debt from the GOI at a steep discount, when such a transaction was prohibited, means that this financial contribution and benefit are specific to a company, APP/SMG. We further found that because a special program, the Strategic Asset Sales Program, was created, with special rules and obligations, to handle the debt sales of five large and significant obligors, including APP/SMG, this sale was limited to a group of enterprises in accordance with section 771(5A)(D)(iii)(I) of the Act.

In the CFS investigation, the Department found that, under the GOI's Regulation SK–7/BPPN/0101 (Regulation SK–7), IBRA was prohibited from selling assets that were under its control back to the original owner, or to a company affiliated with the original owner. *See Indonesia CFS Final Determination* and *CFS IDM* at 42. At verification, the GOI did not provide crucial documentation that Orleans would have provided to IBRA as a condition of the debt sale, and was necessary for determining that Orleans was not affiliated with APP/SMG. This information included Orleans' registration and bid documents, and Orleans' articles of association, which

[8] *See APP/SMG Initial Questionnaire Response*, dated December 29, 2009 at Exhibit 65: *Final Affirmative Countervailing Duty Determination: Coated Free Sheet Paper from Indonesia: Calculations for PT. Pabrik Kertas Tjiwi Kimia Tbk and PT. Pindo Deli Pulp and Paper Mills*, dated October 17, 2007 (*Final CFS Calculation Memorandum*).

would have identified its shareholders. *See id.* at 42. *See also CFS Verification Report* at 30. During verification, the GOI explained that Orleans would have been required to submit such documentation, and that IBRA would have reviewed a bidder's articles of association, which would contain ownership information, as part of its bid package. *See CFS Verification Report* at 51. *See also Indonesia CFS Final Determination* and *CFS IDM* at 108 and 111, respectively. The GOI informed the Department at verification that IBRA, as part of its due diligence, would have received and reviewed information regarding a bidder's ownership and access to financing to determine whether a bidder was qualified. *See Indonesia CFS Final Determination* and *CFS IDM* at 112. Thus, because IBRA's files reportedly would contain documentation which would have identified Orleans' shareholders, access to the complete file on the sale to Orleans was a crucial starting point for the Department's attempt to verify the claim by APP/SMG that Orleans was not affiliated with APP/SMG. *See id.* at 112. Due to the absence of these documents from the record, in accordance with sections 776(a) and (b) of the Act, the Department determined that the GOI withheld information that had been requested and did not cooperate to the best of its ability in complying with the Department's request for necessary documentation to determine whether Orleans was affiliated with APP/SMG. *See id.* at 44. Therefore, as discussed above, we found Orleans to be affiliated with APP/SMG and determined that the GOI had provided countervailable debt forgiveness to APP/SMG.

In the November 3, 2009 questionnaire issued to the GOI, we asked if there was any new information or evidence of changed circumstances with respect to the GOI's administration of this program that would warrant a reconsideration of the Department's prior countervailability finding. We also requested that the GOI provide all of the relevant information and documentation. On December 29, 2009, the GOI responded that it believed the Department's finding in *Indonesia CFS Final Determination* to be both factually and legally incorrect, but it provided no new information with respect to the debt buyback program. *See GOI Initial Questionnaire Response*, dated December 29, 2009 at 29–30. The GOI also stated that it would continue to review archived documents regarding this allegation and would provide any new information that might develop. In the supplemental questionnaires issued to the GOI on January 29, 2010, and to APP/SMG on January 30, 2010, we stated that if the GOI or APP/SMG disagreed with the Department's determination in *Indonesia CFS Final Determination*, they should provide complete information about the sale to Orleans and provide documentation demonstrating that Orleans had no affiliation with APP/SMG. In the questionnaire issued to the GOI, we instructed the GOI to "provide the Department with Orleans' registration and bid package, including Orleans' articles of association showing Orleans' shareholders." *See Supplemental Questionnaire to the GOI*, dated January 29, 2010 at 10.

In its February 22, 2010 response, the GOI stated that IBRA structured its bidding policy to ensure that only qualified parties would be allowed to bid. Requirements for bidding included: (1) the submission of a Letter of Compliance as part of the bid package, confirming that the bidder was not affiliated with the original debtor; (2) a contractual representation that served as a self–certification from the bidder that it was not affiliated with the original debtor; and (3) an opinion letter from outside counsel confirming the eligibility of the bidder to bid on the assets. These three documents were provided with *GOI Supplemental Questionnaire Response*, dated February 22, 2010 as Exhibits 28, 29, and 27, respectively. The Department has previously noted that Article 3 of Regulation SK–7 contains a provision for IBRA to conduct due diligence "on the status of its affiliation with the Original Owner." *See Indonesia CFS Final Determination* and *CFS IDM* at 42. According to the GOI's February 22, 2010 questionnaire response, the GOI's due diligence consisted of ensuring its ability to enforce the contractual obligations of the asset sale, including the provision related to affiliation. *See GOI Supplemental Questionnaire Response*, dated February 22, 2010 at 31–32.

The GOI also included the articles of association, as Exhibit 25, which were not made available during the course of the Indonesia CFS investigation. However, the GOI points out that the articles of association, as with the other documents submitted by the GOI, does not disclose, or contain any information about, Orleans' shareholders or its ownership structure. *See id.* at 34. In this same response, the GOI states that the officials who informed the Department at the Indonesia CFS verification that the purchaser would be required, through the documentation it submitted, to establish that it was not affiliated with the company whose debt it was purchasing, did not have full knowledge about all of the possible types of purchasers. *See id.* at 34. The GOI also states that it has identified senior officials involved in the sale of APP/SMG's debt to Orleans who were not involved in the prior verification and who will be made available to answer the Department's questions at the verification of the current investigation. *See id.* at 26. The GOI claims that the totality of documents submitted in this investigation, when properly understood in context, plus the expected availability of officials involved in the debt sale, should have more probative weight than any factors the Department relied on in *Indonesia CFS Final Determination. See id.* at 26.

The identification of Orleans' shareholders is pivotal to the Department's ability to analyze the alleged affiliation between APP/SMG and Orleans. The articles of association, which we understood would reveal Orleans' shareholders, but which, in fact, do not contain ownership information, do not constitute sufficient new factual information to warrant changing our prior determination. Although the GOI is now discounting statements made at the CFS verification by former IBRA officials that ownership information would be part of a purchaser's file,[9] we find those statements from verification more probative at this point in the investigation, because those officials were discussing overall IBRA procedures with which they were familiar. While they may have not been the officials responsible for the Strategic Assets Sales Program, the GOI was unable at the CFS verification to locate any officials who participated in the due diligence determination with respect to APP/SMG's debt sale nor was the Department able to examine the entire file on the APP/SMG debt sale. *See CFS Verification Report* at 50 and 36–41, respectively. Furthermore, there is other information on the record to indicate that Orleans is affiliated with APP/SMG.[10]

In addition, the documents filed by the GOI, which the Department repeatedly requested in the CFS investigation three years ago and which were again requested in this investigation, were only filed a week

[9] *See CFS Verification Report* at 51.

[10] *See* Memorandum to the File from Dana S. Mermelstein, Program Manager: *Countervailing Duty Investigation of Coated Free Sheet Paper from Indonesia: Meeting with an Independent Expert*, dated August 24, 2007, on the record as Exhibit 52 of *APP/SMG Supplemental Questionnaire Response*, dated February 22, 2010.

before this preliminary determination. Based on our initial review of the documents, there appear to be some gaps in the documentation and they raise additional questions about how IBRA handled the APP/SMG sale. Therefore, we preliminarily find that the documentation submitted by the GOI concerning Orleans is not sufficient to overcome our prior determination in *Indonesia CFS Final Determination* that in 2003 IBRA sold APP/SMG's own debt back to it at a significant discount. We therefore preliminarily determine that the GOI's sale of APP/SMG's debt to an affiliate constituted a financial contribution, in the form of debt forgiveness, within the meaning of section 771(5)(D) of the Act. A benefit was received equal to the difference between the value of the outstanding debt and the amount Orleans paid for it, within the meaning of 19 CFR 351.508(a). Because we find Orleans to be affiliated with APP/SMG, and because the GOI maintained a general prohibition against a company, including its affiliates, buying back its own debt, we preliminarily determine that the sale by IBRA of APP/SMG's debt to Orleans was company–specific, consistent with section 771(5A)(D)(iii)(I) of the Act. Furthermore, because a special program was created, with special rules and obligations, to handle the debt sales of five large and significant obligors, including APP/SMG, we also find that this sale was limited to a group of enterprises in accordance with section 771(5A)(D)(i) of the Act.

To calculate the benefit received under this program, 19 CFR 351.508(a) provides that a benefit exists equal to the total value of the debt sold, minus the amount Orleans paid for the debt (the remainder is the value of the debt forgiven), and that we treat this benefit as a non–recurring subsidy in accordance with 19 CFR 351.524(d). Under 19 CFR 351.508(b), in the case of debt forgiveness, we normally will consider the benefit as having been received on the date on which the debt was forgiven. Because this debt was forgiven in 2003 and was allocated over time, there is a benefit from this program attributable to the 2008 POI in this investigation. Therefore, the calculation performed for this subsidy program in the CFS investigation includes the benefit amount from this program applicable in this investigation. As explained in *Indonesia CFS Final Determination* and *Final CFS Calculation Memorandum*, to calculate the benefit, we applied the methodology set forth in 19 CFR 351.524(d)(1) for non–recurring benefits. We allocated the amount of the debt forgiven over an AUL of 13 years. *See Final CFS Calculation Memorandum* and the "Allocation Period" section above. Because APP/SMG was uncreditworthy at the time IBRA accepted the COEs as partial repayment for its debt obligations, we added a risk premium to the discount rate used to allocate the debt forgiveness benefit, calculated according to the methodology described in 19 CFR 351.505(a)(3)(iii). *See* "Creditworthiness" section above and *Final CFS Calculation Memorandum*. Because we are making no changes to the methodology that was used in the CFS investigation to calculate the benefit stream from this debt forgiveness, we have taken the benefit amount attributable to the POI from *Final CFS Calculation Memorandum* and divided it by the total external sales of APP/SMG in the POI, to determine a net countervailable subsidy rate of 2.39 percent ad valorem for TK/PD/IK. *See CCP Preliminary Calculation Memorandum*.

II. Programs Preliminarily Determined To Be Not Used

We preliminarily determine that APP/SMG did not apply for or receive any benefits during the POI under the following programs:

A. Government Provision of Interest–Free Reforestation Loans

Respondents stated that in *Indonesia CFS Final Determination* the countervailable subsidy during 2005 was only 0.01 percent. Information on the record indicates that the loans to cross–owned APP/SMG companies were repaid prior to 2008 and respondents did not have any outstanding loans under this program during the POI. We therefore preliminarily determine that this program was not used during the POI.

B. Government Forgiveness of Stumpage Obligations

C. Tax Incentives for Investment in Priority Business Lines and Designated Regions

a. Corporate Income Tax Deduction
b. Accelerated Depreciation and Amortization
c. Extension of Loss Carryforward
d. Reduced Withholding Tax on Dividends

Verification

In accordance with section 782(i)(1) of the Act, we intend to verify the information submitted by the GOI and respondents prior to making our final determination.

Suspension of Liquidation

In accordance with section 703(d)(1)(A)(i) of the Act, we have calculated a single subsidy rate for TK, PD, and IK, the three cross–owned producers/exporters of the subject merchandise. Sections 703(d) and 705(c)(5)(A) of the Act state that, for companies not investigated, we will determine an all others rate by weighting the individual company subsidy rate of each of the companies investigated by each company's exports of subject merchandise to the United States. However, the all others rate may not include zero and *de minimis* rates or any rates based solely on the facts available.[11] In this investigation, the single rate calculated for TK/PD/IK meets the criteria for the all others rate. Therefore, we have assigned this rate to all other producers and exporters. We preliminarily determine the total estimated net countervailable subsidy rates to be:

Manufacturer/Exporter	Net Subsidy Rate
PT. Pabrik Kertas Tjiwi Kimia, Tbk./ PT. Pindo Deli Pulp and Paper Mills/ PT. Indah Kiat Pulp and Paper, Tbk.	17.48 percent ad valorem
All Others	17.48 percent ad valorem

In accordance with sections 703(d)(1)(B) and (2) of the Act, we are directing U.S. Customs and Border Protection to suspend liquidation of all entries of certain coated paper from Indonesia that are entered, or withdrawn from warehouse, for consumption on or after the date of the publication of this notice in the **Federal Register**, and to require a cash deposit or bond for such entries of merchandise in the amounts indicated above.

ITC Notification

In accordance with section 703(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non–privileged and non–proprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative

[11] Pursuant to 19 CFR 351.204(d)(3), the Department must also exclude the countervailable subsidy rate calculated for a voluntary respondent. In this investigation, we had no producers or exporters request to be voluntary respondents.

protective order, without the written consent of the Assistant Secretary for Import Administration. In accordance with section 705(b)(2)(B) of the Act, if our final determination is affirmative, the ITC will make its final determination within 45 days after the Department makes its final determination.

Disclosure and Public Comment

In accordance with 19 CFR 351.224(b), we will disclose to the parties the calculations for this preliminary determination within five days of its announcement. Unless otherwise notified by the Department, case briefs for this investigation must be submitted no later than 50 days after the date of publication of the preliminary determination. *See* 19 CFR 351.309(c) (for a further discussion of case briefs). Rebuttal briefs must be filed within five days after the deadline for submission of case briefs, pursuant to 19 CFR 351.309(d)(1). A list of authorities relied upon, a table of contents, and an executive summary of issues should accompany any briefs submitted to the Department. Executive summaries should be limited to five pages total, including footnotes. Section 774 of the Act provides that the Department will hold a public hearing to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs, provided that such a hearing is requested by an interested party. If a request for a hearing is made in this investigation, the hearing will tentatively be held two days after the deadline for submission of the rebuttal briefs, pursuant to 19 CFR 351.310(d). Any such hearing will be held at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230. Parties should confirm, by telephone, the date, time, and place of the hearing 48 hours before the scheduled time.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, within 30 days of the publication of this notice, pursuant to 19 CFR 351.310(c). Requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs.

This determination is issued and published pursuant to sections 703(f) and 777(i) of the Act and 19 CFR 351.221(b)(4).

Dated: March 1, 2010.

Carole A. Showers,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 2010–4986 Filed 3–8–10; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

(C–570–959)

Certain Coated Paper Suitable For High–Quality Print Graphics Using Sheet–Fed Presses from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Countervailing Duty Determination with Final Antidumping Duty Determination

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce preliminarily determines that countervailable subsidies are being provided to producers and exporters of certain coated paper suitable for high–quality print graphics using sheet–fed presses from the People's Republic of China ("PRC"). For information on the estimated subsidy rates, *see* the "Suspension of Liquidation" section of this notice.

EFFECTIVE DATE: March 9, 2010.

FOR FURTHER INFORMATION CONTACT: David Neubacher, Jennifer Meek, Mary Kolberg, AD/CVD Operations, Office 1, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–5823, (202) 482–2778, (202) 482–1785, respectively.

SUPPLEMENTARY INFORMATION:

Case History

The following events have occurred since the publication of the Department of Commerce's ("Department") notice of initiation in the **Federal Register**. *See Certain Coated Paper Suitable For High–Quality Print Graphics Using Sheet–Fed Presses from the People's Republic of China: Initiation of Countervailing Duty Investigation*, 74 FR 53703 (October 20, 2009) ("*Initiation Notice*"), and the accompanying Initiation Checklist.

On November 16, 2009, the Department selected two Chinese producers/exporters of certain coated paper suitable for high–quality print graphics using sheet–fed presses ("coated paper") as mandatory respondents: 1) Gold East Trading (Hong Kong) Company Limited ("GEHK"), Gold East Paper (Jiangsu) Co., Ltd. ("GEP") and Gold Huasheng Paper Co., Ltd. ("GHS") (collectively, "Gold companies") and 2) Shandong Sun Paper Industry Joint Stock Co., Ltd. ("Sun Paper") and its affiliate Yanzhou Tianzhang Paper Industry Co., Ltd. ("Yanzhou Tianzhang") (collectively, "Sun Paper companies"). *See* Memorandum to John M. Andersen, Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations (November 16, 2009). A public version of this memorandum is on file in the Department's Central Records Unit in Room 1117 of the main Department building ("CRU").

On November 17, 2009, we issued questionnaires to the Government of the PRC ("GOC"), Gold companies and Sun Paper companies. On December 8, 2009, the Department postponed the deadline for the preliminary determination in this investigation until February 22, 2009. *See Certain Coated Paper Suitable for High–Quality Print Graphics Using Sheet–Fed Presses from the People's Republic of China: Postponement of Preliminary Determination in the Countervailing Duty Investigation*, 74 FR 64669 (December 8, 2009).

We received responses to our questionnaire from the GOC, Gold companies and Sun Paper companies on January 7 and 8, 2010. *See* the GOC's Original Questionnaire Response (January 7, 2010) ("GQR"), Gold companies' Original Questionnaire Response (January 7, 2010) ("GEQR"), Sun Paper's Original Questionnaire Response (January 7, 2010) ("SPQR"), and Yanzhou Tianzhang's Original Questionnaire Response (January 7, and 8, 2010) ("YTQR").

We sent supplemental questionnaires to the Gold companies, Sun Paper companies and the GOC on February 4, 2010. We received responses to these supplemental questionnaires on February 12, 2010. *See* GOC's First Supplemental Questionnaire Response (February 12, 2010) ("G1SQR"), Sun Paper companies' First Supplemental Questionnaire Response (February 12, 2010) ("SP1SQR"), and Gold companies' First Supplemental Questionnaire Response (February 12, 2010).

On January 7, 2010, Appleton Coated LLC, NewPage Corporation, S.D.Warren Company d/b/a Sappi Fine Paper North America, and United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union (collectively, "Petitioners") requested that the Department extend the deadline for the submission of new subsidy