Yücel maintains a file that documents the order confirmations for each of its sales to the United States. At verification, the Department attempted to corroborate this claim by verifying a sample of the order confirmations, which would enable a comparison to the reported shipment sale dates. However, Yücel was unable to produce all the e–mail confirmations requested by the Department and Yücel was unable to substantiate its claim that order confirmation date (''contract date'') was representative of the date on which the material terms of sale were finalized. Therefore, for purposes of the preliminary results, we have used the invoice date reported by Yücel as the basis for Yücel's U.S. date of sale.

Preliminary Results of Review

As a result of this review, we preliminarily determine that the following margins exist for the period May 1, 2003, through April 30, 2004:

Manufacturer/Exporter	Margin (percent)
Yücel	12.11
Borusan	0.86

We will disclose the calculations used in our analysis to parties to this proceeding within five days of the publication date of this notice. *See* section 351.224(b) of the Department's regulations. Interested parties are invited to comment on the preliminary results. Interested parties may submit case briefs within 30 days of the date of publication of this notice. Rebuttal briefs, limited to issues raised in the case briefs, may be filed no later than 37 days after the date of publication of this notice. Parties who submit arguments are requested to submit with each argument: (1) a statement of the issue, (2) a brief summary of the argument, and (3) a table of authorities. Further, parties submitting written comments should provide the Department with an additional copy of the public version of any such comments on a diskette. Any interested party may request a hearing within 30 days of publication of this notice. *See* section 351.310(c) of the Department's regulations. If requested, a hearing will be held 44 days after the publication of this notice, or the first workday thereafter. The Department will publish a notice of the final results of this administrative review, which will include the results of its analysis of issues raised in any written comments or hearing, within 120 days from publication of this notice.

Assessment

Pursuant to section 351.212(b) of the Department's regulations, the Department calculated an assessment rate for each importer of subject merchandise. Upon completion of this review, the Department will instruct CBP to assess antidumping duties on all entries of subject merchandise by those importers. We have calculated each importer's duty assessment rate based on the ratio of the total amount of antidumping duties calculated for the examined sales to the total calculated entered value of examined sales. Where the assessment rate is above *de minimis*, the importer–specific rate will be assessed uniformly on all entries made during the POR.

Cash Deposit Requirements

The following cash deposit rates will be effective upon publication of the final results of this administrative review for all shipments of welded pipe and tube from Turkey entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(1) of the Act: (1) the cash deposit rates for the companies listed above will be the rates established in the final results of this review, except if the rates are less than 0.5 percent and, therefore, *de minimis*, the cash deposit will be zero; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company–specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the less–than-fair–value (''LTFV'') investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) if neither the exporter nor the manufacturer is a firm covered in this or any previous review or the LTFV investigation conducted by the Department, the cash deposit rate will be 14.74 percent, the ''All Others'' rate established in the LTFV investigation. These cash deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice serves as a preliminary reminder to importers of their responsibility under section 351.402(f)(2) of the Department's regulations to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This determination is issued and published in accordance with sections 751(a)(1) and 777(I)(1) of the Act.

Dated: May 27, 2005.

Holly A. Kuga,

Acting Assistant Secretary for Import Administration.

[FR Doc. E5–2887 Filed 6–6–05; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

(C–122–839)

Notice of Preliminary Results of Countervailing Duty Administrative Review: Certain Softwood Lumber Products from Canada

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

SUMMARY: The Department of Commerce (the Department) is conducting an administrative review of the countervailing duty order on certain softwood lumber products from Canada for the period April 1, 2003, through March 31, 2004. If the final results remain the same as these preliminary results of administrative review, we will instruct U.S. Customs and Border Protection (CBP) to assess countervailing duties as detailed in the ''Preliminary Results of Review'' section of this notice. Interested parties are invited to comment on these preliminary results. (*See Public Comment* section of this notice.)

EFFECTIVE DATE: June 7, 2005.

FOR FURTHER INFORMATION CONTACT: Stephanie Moore at (202) 482–3692, or Robert Copyak at (202) 482–2209, AD/CVD Operations, Office 3, Import Administration, International Trade Administration, U.S. Department of Commerce, Room 4012, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

On May 22, 2002, the Department published in the **Federal Register** (67 FR 36070) the amended final affirmative countervailing duty (CVD) determination and CVD order on certain softwood lumber products from Canada (67 FR 37775, May 30, 2002). On May 3, 2004, the Department published a notice of opportunity to request an administrative review of this CVD order.

See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review, 69 FR 24117 (May 3, 2004). The Department received requests that it conduct an aggregate review from, among others, the Coalition for Fair Lumber Imports Executive Committee (petitioners) and the Government of Canada (GOC), as well as requests for review covering an estimated 263 individual companies.[1] On June 25, 2004, we initiated the review covering the period April 1, 2003, through March 31, 2004. *See* 69 FR 39409.

On July 30, 2004, we determined to conduct this administrative review on an aggregate basis consistent with section 777A(e)(2)(B) of the Tariff Act of 1930, as amended (the Act). *See* the memorandum to James J. Jochum, Assistant Secretary for Import Administration, from Jeffrey May, Deputy Assistant Secretary for Import Administration, entitled, ''Methodology for Conducting the Review,'' dated July 30, 2004, which is a public document on file in the Central Records Unit (CRU) in room B–099 of the main Commerce building. The Department further determined that it was not practicable to conduct any form of company–specific review. *Id.*

On September 8, 2004, we issued our initial questionnaire to the GOC as well as to the Provincial Governments of Alberta (GOA), British Columbia (GOBC), Manitoba (GOM), New Brunswick (GONB), Newfoundland (GON), Nova Scotia (GONS), Ontario (GOO), Prince Edward Island (GOPEI), Quebec (GOQ), and Saskatchewan (GOS).

On September 30, 2004, we extended the period for completion of these preliminary results until May 31, 2005, pursuant to section 751(a)(3)(A) of the Act. *See Certain Softwood Lumber Products From Canada: Extension of Time Limit for Preliminary Results of Countervailing Duty Administrative Review*, 69 FR 58394 (September 30, 2004).

On November 22, 2004, the GOC, GOA, GOBC, GOM, GONB, GON, GONS, GOO, GOPEI, GOQ, and GOS submitted their initial questionnaire responses.

From February through May 2005, we issued a series of supplemental questionnaires to the GOC, GOBC, GOA, GOS, GOM, GOO, GOQ, GONS, and GONB. The Federal and Provincial Governments of Canada responded to all supplemental questionnaires in a timely manner.

Pursuant to 19 CFR 351.301, the deadline for interested parties to submit factual information is 140 days after the last day of the anniversary month. However, both petitioners' and the Canadian parties requested that the Department extend this due date. After a series of extensions, we established that the deadline for interested parties to submit factual information would be March 2, 2005. Accordingly, the due date for submitting rebuttal and/or clarifying information was extended to March 15, 2005. Both petitioners and the Canadian parties submitted factual information by the March 2 and March 15 deadlines.

Period of Review

The period of review (POR) for which we are measuring subsidies is April 1, 2003, through March 31, 2004.

Scope of the Review

The products covered by this order are softwood lumber, flooring and siding (softwood lumber products). Softwood lumber products include all products classified under headings 4407.1000, 4409.1010, 4409.1090, and 4409.1020, respectively, of the Harmonized Tariff Schedule of the United States (HTSUS), and any softwood lumber, flooring and siding described below. These softwood lumber products include:

(1) Coniferous wood, sawn or chipped lengthwise, sliced or peeled, whether or not planed, sanded or finger–jointed, of a thickness exceeding six millimeters;

(2) Coniferous wood siding (including strips and friezes for parquet flooring, not assembled) continuously shaped (tongued, grooved, rabbeted, chamfered, v–jointed, beaded, molded, rounded or the like) along any of its edges or faces, whether or not planed, sanded or finger–jointed;

(3) Other coniferous wood (including strips and friezes for parquet flooring, not assembled) continuously shaped (tongued, grooved, rabbeted, chamfered, v–jointed, beaded, molded, rounded or the like) along any of its edges or faces (other than wood moldings and wood dowel rods) whether or not planed, sanded or finger–jointed; and

(4) Coniferous wood flooring (including strips and friezes for parquet flooring, not assembled) continuously shaped (tongued, grooved, rabbeted, chamfered, v–jointed, beaded, molded, rounded or the like) along any of its edges or faces, whether or not planed, sanded or finger–jointed.

Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise subject to this order is dispositive.

As specifically stated in the Issues and Decision Memorandum accompanying the *Notice of Final Determination of Sales at Less Than Fair Value: Certain Softwood Lumber Products from Canada*, 67 FR 15539 (April 2, 2002) (*see* comment 53, item D, page 116, and comment 57, item B–7, page 126), available at www.ia.ita.doc.gov, drilled and notched lumber and angle cut lumber are covered by the scope of this order.

The following softwood lumber products are excluded from the scope of this order provided they meet the specified requirements detailed below:

(1) *Stringers* (pallet components used for runners): if they have at least two notches on the side, positioned at equal distance from the center, to properly accommodate forklift blades, properly classified under HTSUS 4421.90.98.40.

(2) *Box–spring frame kits*: if they contain the following wooden pieces—two side rails, two end (or top) rails and varying numbers of slats. The side rails and the end rails should be radius–cut at both ends. The kits should be individually packaged, they should contain the exact number of wooden components needed to make a particular box spring frame, with no further processing required. None of the components exceeds 1'' in actual thickness or 83'' in length.

(3) *Radius–cut box–spring-frame components*, not exceeding 1'' in actual thickness or 83'' in length, ready for assembly without further processing. The radius cuts must be present on both ends of the boards and must be substantial cuts so as to completely round one corner.

(4) *Fence pickets* requiring no further processing and properly classified under HTSUS heading 4421.90.70, 1'' or less in actual thickness, up to 8'' wide, 6' or less in length, and have finials or decorative cuttings that clearly identify them as fence pickets. In the case of dog–eared fence pickets, the corners of the boards should be cut off so as to remove pieces of wood in the shape of isosceles right angle triangles with sides measuring 3/4 inch or more.

(5) *U.S. origin lumber* shipped to Canada for minor processing and

[1] Of these 263 company-specific requests, 116 were for zero/*de minimis* rate reviews under 19 CFR 351.213(k)(1).

imported into the United States, is excluded from the scope of this order if the following conditions are met: 1) the processing occurring in Canada is limited to kiln–drying, planing to create smooth–to-size board, and sanding, and 2) if the importer establishes to the satisfaction of CBP that the lumber is of U.S. origin.

(6) *Softwood lumber products contained in single family home packages or kits*,[2] regardless of tariff classification, are excluded from the scope of this order if the importer certifies to items 6 A, B, C, D, and requirement 6 E is met:

A. The imported home package or kit constitutes a full package of the number of wooden pieces specified in the plan, design or blueprint necessary to produce a home of at least 700 square feet produced to a specified plan, design or blueprint;

B. The package or kit must contain all necessary internal and external doors and windows, nails, screws, glue, sub floor, sheathing, beams, posts, connectors, and if included in the purchase contract, decking, trim, drywall and roof shingles specified in the plan, design or blueprint.

C. Prior to importation, the package or kit must be sold to a retailer of complete home packages or kits pursuant to a valid purchase contract referencing the particular home design plan or blueprint, and signed by a customer not affiliated with the importer;

D. Softwood lumber products entered as part of a single family home package or kit, whether in a single entry or multiple entries on multiple days, will be used solely for the construction of the single family home specified by the home design matching the entry.

E. For each entry, the following documentation must be retained by the importer and made available to CBP upon request:

i. A copy of the appropriate home design, plan, or blueprint matching the entry;

ii. A purchase contract from a retailer of home kits or packages signed by a customer not affiliated with the importer;

iii. A listing of inventory of all parts of the package or kit being entered that conforms to the home design package being entered;

iv. In the case of multiple shipments on the same contract, all items listed in E(iii) which are included in the present shipment shall be identified as well.

Lumber products that CBP may classify as stringers, radius cut box–spring-frame components, and fence pickets, not conforming to the above requirements, as well as truss components, pallet components, and door and window frame parts, are covered under the scope of this order and may be classified under HTSUS subheadings 4418.90.45.90, 4421.90.70.40, and 4421.90.97.40.

Finally, as clarified throughout the course of the investigation, the following products, previously identified as Group A, remain outside the scope of this order. They are:

1. Trusses and truss kits, properly classified under HTSUS 4418.90;
2. I–joist beams;
3. Assembled box spring frames;
4. Pallets and pallet kits, properly classified under HTSUS 4415.20;
5. Garage doors;
6. Edge–glued wood, properly classified under HTSUS item 4421.90.98.40;
7. Properly classified complete door frames;
8. Properly classified complete window frames;
9. Properly classified furniture.

In addition, this scope language has been further clarified to now specify that all softwood lumber products entered from Canada claiming non–subject status based on U.S. country of origin will be treated as non–subject U.S.-origin merchandise under the countervailing duty order, provided that these softwood lumber products meet the following condition: upon entry, the importer, exporter, Canadian processor and/or original U.S. producer establish to CBP's satisfaction that the softwood lumber entered and documented as U.S.-origin softwood lumber was first produced in the United States as a lumber product satisfying the physical parameters of the softwood lumber scope.[3] The presumption of non–subject status can, however, be rebutted by evidence demonstrating that the merchandise was substantially transformed in Canada.

Subsidies Valuation Information

Allocation Period

In the underlying investigation and pursuant to 19 CFR 351.524(d)(2), the Department allocated, where applicable, all of the non–recurring subsidies provided to the producers/exporters of subject merchandise over a 10-year average useful life (AUL) of renewable physical assets for the industry concerned, as listed in the Internal Revenue Service's (IRS) 1977 Class Life Asset Depreciation Range System, as updated by the Department of the Treasury. *See Notice of Preliminary Affirmative Countervailing Duty Determination, Preliminary Affirmative Critical Circumstances Determination, and Alignment of Final Countervailing Duty Determination With Final Antidumping Determination: Certain Softwood Lumber Products From Canada*, 66 FR 43186 (August 2001) (*Preliminary Determination*); *see also Notice of Final Affirmative Countervailing Duty Determination and Final Negative Critical Circumstances Determination: Certain Softwood Lumber Products From Canada*, 67 FR 15545 (April 2, 2002) (*Final Determination*). No interested party challenged the 10-year AUL derived from the IRS tables. Thus, in this review, we have allocated, where applicable, all of the non–recurring subsidies provided to the producers/exporters of subject merchandise over a 10-year AUL.

Recurring and Non–Recurring Benefits

The Department has previously determined that the sale of Crown timber by Canadian provinces confers countervailable benefits on the production and exportation of the subject merchandise under 771(5)(E)(iv) of the Act because the stumpage fees at which the timber is sold are for less than adequate remuneration. *See, e.g.*, ''Recurring and Non–Recurring Benefits'' section of the March 21, 2002, Issues and Decision Memorandum the accompanied the *Final Determination (Final Determination Decision Memorandum); see also Notice of Preliminary Results of Countervailing Duty Administrative Review: Certain Softwood Lumber Products from Canada*, 69 FR 33204 (June 14, 2004) (*Preliminary Results of 1st Review*). For the reasons described in the program sections, below, the Department continues to find that Canadian provinces sell Crown timber for less than adequate remuneration to softwood lumber producers in Canada. Pursuant to 19 CFR 351.524(c)(1), subsidies conferred by the government provision of a good or service normally involve recurring benefits. Therefore, consistent with our regulations and past practice, benefits conferred by the provinces' administered Crown stumpage programs

[2] To ensure administrability, we clarified the language of exclusion number 6 to require an importer certification and to permit single or multiple entries on multiple days as well as instructing importers to retain and make available for inspection specific documentation in support of each entry.

[3] *See* the scope clarification message (# 3034202), dated February 3, 2003, to CBP, regarding treatment of U.S. origin lumber on file in the CRU.

have, for purposes of these preliminary results, been expensed in the year of receipt.

In this review the Department is also investigating other programs that involve the provision of grants to producers and exporters of subject merchandise. Under 19 CFR 351.524, benefits from grants can either be classified as providing recurring or non–recurring benefits. Recurring benefits are expensed in the year of receipt, while grants providing non–recurring benefits are allocated over time corresponding to the AUL of the industry under review. However, under 19 CFR 351.524(b)(2), grants which provide non–recurring benefits will also be expensed in the year of receipt if the amount of the grant under the program is less than 0.5 percent of the relevant sales during the year in which the grant was approved (referred to as the 0.5 percent test). We have preliminarily determined to expense all grants under non–stumpage programs in the year of receipt.

Benchmarks for Loans and Discount Rate

In selecting benchmark interest rates for use in calculating the benefits conferred by the various loan programs under review, the Department's normal practice is to compare the amount paid by the borrower on the government provided loans with the amount the firm would pay on a comparable commercial loan actually obtained on the market. *See* section 771(5)(E)(ii) of the Act; 19 CFR 351.505(a)(1) and (3)(i). However, because we are conducting this review on an aggregate basis and we are not examining individual companies, for those programs requiring a Canadian dollar–denominated, short–term or long–term benchmark interest rate, we used for these preliminary results the national average interest rates on commercial short–term or long–term Canadian dollar–denominated loans as reported by the GOC.

The information submitted by the GOC was for fixed–rate short–term and long–term debt. For short–term debt, the GOC provided monthly weight–averaged short–term interest rates based on the prime business rate, small and medium enterprise (SME) rate, three-month corporate paper rate, and one-month bankers' acceptance rate, as reported by the Bank of Canada. For long–term debt, the GOC provided quarterly implied rates calculated from long–term debt and the interest payments made on long–term debt as reported by Statistics Canada (STATCAN). Based on these rates, we derived simple averaged POR rates for both short–term and long–term debt.

Some of the reviewed programs provided long–term loans to the softwood lumber industry with variable interest rates instead of fixed interest rates. Because we were unable to gather information on variable interest rates charged on commercial loans in Canada, we have used as our benchmark for those variable loans the rate applicable to long–term fixed interest rate loans for the POR as reported by the GOC.

Aggregate Subsidy Rate Calculation

As noted above, this administrative review is being conducted on an aggregate basis. We have used the same methodology to calculate the country–wide rate for the programs subject to this review that we used in the *Final Determination and 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) (*Final Results of 1st Review*).

Provincial Crown Stumpage Programs

For stumpage programs administered by the Canadian provinces subject to this review, we first calculated a provincial subsidy rate by dividing the aggregate benefit conferred under each specific provincial stumpage program by the total stumpage denominator calculated for that province. For further information regarding the stumpage denominator, *see* ''Numerator and Denominator Used for Calculating the Stumpage Programs' Net Subsidy Rates'' section, below. As required by section 777A(e)(2)(B) of the Act, we next calculated a single country–wide subsidy rate. To calculate the country–wide subsidy rate conferred on the subject merchandise from all stumpage programs, we weight–averaged the subsidy rate from each provincial stumpage program by the respective provinces' relative shares of total exports to the United States during the POR. As in *Final Determination* and the *Final Results of the 1st Review*, these weight–averages of the subject merchandise do not include exports from the Maritime Provinces or sales of companies excluded from the countervailing duty order.[4] We then summed these weight–average subsidy rates to determine the country–wide rate for all provincial Crown stumpage programs.

Other Programs

We also examined a number of non–stumpage programs administered by the Canadian Federal Government and certain Provincial Governments in Canada. To calculate the country–wide rate for these programs, we used the same methodology employed in the first administrative review. For federal programs that were found to be specific because they were limited to certain regions, we calculated the countervailable subsidy rate by dividing the benefit by the relevant denominator (*i.e.*, total production of softwood lumber in the region or total exports of softwood lumber to the United States from that region), and then multiplying that result by the relative share of total softwood exports to the United States from that region. For federal programs that were not regionally specific, we divided the benefit by the relevant country–wide sales (*i.e.*, total sales of softwood lumber, total sales of the wood products manufacturing industry (which includes softwood lumber), or total sales of the wood products manufacturing and paper industries).

For provincial programs, we calculated the countervailable subsidy rate by dividing the benefit by the relevant sales amount for that province (*i.e.*, total exports of softwood lumber from that province to the United States, total sales of softwood lumber in that province, or total sales of the wood products manufacturing and paper industries in that province). That result was then multiplied by the relative share of total softwood exports to the United States from that province.

Where the countervailable subsidy rate for a program was less than 0.005 percent, the program was not included in calculating the country–wide countervailing duty rate.

Numerator and Denominator Used for Calculating the Stumpage Programs' Net Subsidy Rates[5]

1. Aggregate Numerator and Denominator

As noted above, the Department is determining the stumpage subsidies to the production of softwood lumber in Canada on an aggregate basis. The methodology employed to calculate the *ad valorem* subsidy rate requires the use of a compatible numerator and denominator. In the final results of the first review, the Department explained that in the numerator of the net subsidy rate calculation, the Department

[4] The Maritime provinces are Nova Scotia, New Brunswick, Newfoundland, and Prince Edward Island.

[5] The denominators used for non-stumpage programs are discussed below in the individual program write-ups.

included only the benefit from those softwood Crown logs that entered and were processed by sawmills during the POR (*i.e.*, logs used in the lumber production process). *See* ''Denominator'' section of the December 13, 2004, Issues and Decision Memorandum that accompanied the Final Results of 1st Review (Final Results of 1st Review Decision Memorandum). Accordingly, the denominator used for the final calculation included only those products that result from the softwood lumber manufacturing process. *Id.* For purposes of these preliminary results, we continue to calculate the numerator and denominator using the approach adopted in the final results of the first review.[6]

Consistent with the Department's previously established methodology, we included the following in the denominator: softwood lumber, including softwood lumber that undergoes some further processing (so–called ''remanufactured'' lumber), softwood co–products (*e.g.*, wood chips and sawdust) that resulted from softwood lumber production at sawmills, and residual products produced by sawmills that were the result of the softwood lumber manufacturing process, specifically, softwood fuelwood and untreated softwood ties.

We would have included in the denominator those softwood co–products produced by lumber remanufacturers that resulted from the softwood lumber manufacturing process. However, the GOC failed to separate softwood co–products that resulted from the softwood lumber manufacturing process of lumber remanufacturers from those resulting from the myriad of other production processes performed by producers in the remanufacturing category that have nothing to do with the production of subject merchandise. Lacking the information necessary to determine the value of softwood co–products that resulted from the softwood lumber manufacturing process of lumber remanufacturers during the softwood lumber manufacturing process, we have preliminarily determined not to include any softwood co–product values from the non–sawmill category. *See Final Results of 1st Review Decision Memorandum* at Comment 16.

2. Adjustments to Account for Companies Excluded from the Countervailing Duty Order

In the investigation, we deducted from the denominator sales by companies that were excluded from the countervailing duty order. The Department has since also concluded expedited reviews for a number of companies, pursuant to which a number of additional companies have been excluded from the countervailing duty order. *See Final Results of Countervailing Duty Expedited Reviews: Certain Softwood Lumber Products from Canada: Notice of Final Results of Countervailing Duty Expedited Reviews*, 68 FR 24436, (May 7, 2003); *see also Notice of Final Results of Countervailing Duty Expedited Reviews of the Order on Certain Softwood Lumber from Canada*, 69 FR 10982 (March 9, 2004). In the final results of the first review, we removed the sales of companies excluded from the countervailing duty order from the relevant sales denominators of our country–wide rate calculations. *See* ''Excluded Companies'' section of the *Final Results of 1st Review Decision Memorandum*.

In its case briefs submitted for consideration in the final results of the first review, the GOC argued for the first time in that proceeding that, for the numerator and denominator to match, the Department must also reduce the numerator to account for any *de minimis* benefits received by the excluded companies.[7] *See, e.g.*, Final Results of 1st Review Decision Memorandum at Comment 15. We agreed with the GOC in principle. *Id.* However, because the GOC first raised the issue in its case briefs, the Department was unable to solicit the information from the excluded Canadian parties regarding the appropriate numerator. Thus, we placed the exclusion calculations from the underlying investigation and expedited reviews on the record of the first review. *Id.* We then multiplied the countervailable volumes of logs and lumber reported by the excluded companies by each subject provinces' weight–average unit benefit. The resulting products were then removed from provincial stumpage benefit of each of the corresponding province. *See Final Results of 1st Review Decision Memorandum* at Comment 15.

In the current review, we requested benefit and sales data, on an aggregate basis for each province, as they pertained to the excluded companies during the POR. \ page 2 of our April 8, 2005 supplemental questionnaire. The GOC, GOO, and GOQ responded that they did not have the requested POR sales data. *See* page 2 of the GOC's April 28, 2005 questionnaire response. Regarding the benefit information we requested, the GOQ and GOO stated that the excluded companies in their respective provinces did not harvest Crown timber during the POR. The GOC stated the same with respect to the excluded companies in the Yukon Territories. *Id.* at page 6. The GOC, GOO and GOQ further claimed they did not have any information regarding the volume of lumber and/or Crown logs purchased by the excluded companies during the POR.

Pursuant to our prior practice and, as discussed above, we have deducted the sales of all companies excluded from the countervailing duty order from the relevant sales denominators used to calculate the country–wide subsidy rates. Because we lack POR sales data from the excluded companies, we have, consistent with our approach in the final results of first review, indexed the excluded companies' sales data to the POR using province–specific lumber price indices obtained from STATCAN. We then subtracted the indexed sales data of the excluded companies from the corresponding provincial denominators. *See Preliminary Results of 1st Review*, 69 FR at 33207 and the ''Excluded Companies'' section of the *Final Results of 1st Review Decision Memorandum*.

Because the Canadian parties have stated that the excluded companies did not acquire Crown timber during the POR and because they have not provided any other additional benefit data from the companies, we have not adjusted the aggregate numerator data from the relevant provinces.

3. Pass–through

In the first administrative review, the Canadian parties claimed that a portion of the Crown timber processed by sawmills was purchased by the mills in arm's–length transactions with independent harvesters. The Canadian parties further claimed that such transactions must not be included in the subsidy calculation unless the Department determines that the benefit to the independent harvester passed through to the lumber producers. In the first review, we determined that Alberta, British Columbia (B.C.), Manitoba, Ontario, and Saskatchewan each failed

[6] In the case of Alberta and British Columbia, it was necessary to derive the volume of softwood Crown logs that entered and were processed by sawmills during the POR (*i.e.*, logs used in the lumber production process). Our methodology for deriving those volumes is described in the Calculation of Provincial Benefits section of these preliminary results.

[7] Though excluded from the countervailing duty order, many companies involved in the exclusion and/or expedited review processes received *de minimis* levels of countervailable benefits.

to substantiate this claim. *See Preliminary Results of 1st Review*, 69 FR at 33208, 33209 and Comments 10 and 11 of the *Final Results of 1st Review Decision Memorandum*.

The basis of our determination in the first administrative review was that transactions cannot be considered arm's–length transactions if they are characterized by limitations that constrain buyers and sellers of harvested Crown timber or other conditions that render those sales ineligible for the pass–through analysis. The limitations and other conditions we identified include (1) government–imposed appurtenancy and local processing requirements; (2) government–mandated wood supply agreements; (3) the structure of certain log purchase agreements; (4) fiber exchanges between Crown tenure holders; and (5) the payment of Crown stumpage fees by sawmills for logs purchased from independent harvesters. Thus, the starting point of our analysis was to examine whether in these log sale transactions the ability of a buyer or seller to bargain freely with whomever they chose was encumbered by government mandates or other conditions that render those sales not at arm's–length or otherwise ineligible for the pass–through analysis. If a transaction was conducted under the constraint(s) of one or more of these factors, we determined that it was not conducted at arm's–length or otherwise is ineligible for a pass–through analysis, and no adjustment to the stumpage calculation was warranted. For example, where we found that the sawmills paid the Crown for stumpage fees for logs acquired from so–called independent harvesters, no pass–through analysis was warranted because any benefits go directly to the sawmill. *Id.*

In anticipation of a similar claim in this administrative review, we requested in the initial questionnaire that each of the Canadian provinces report, by species, the volume and value of Crown logs sold by independent harvesters to unrelated parties during the POR. *See e.g.*, page III–22 of the Department's September 8, 2004, initial questionnaire. In response to the Department's original questionnaire, the Canadian parties provided two sets of information for us to analyze. The GOA, GOBC, British Columbia Lumber Trade Counsel (BCLTC), and GOO each provided an ''aggregate'' claim (with accompanying information) of the amount of Crown timber that was obtained by the sawmills through arm's–length transactions. The Ontario Lumber Manufacturers Association (OLMA) also provided company–specific transaction data and supporting information for us to analyze with respect to Ontario and Manitoba. Regarding Quebec, the GOQ asserted that the Department would have to conduct a pass–through analysis before it included any softwood log volumes harvested under Forest Management Contracts (FMCs) and Forest Management Agreements (FMAs).[8]

We have reviewed and considered all of the information provided on the record of this administrative review. We determine that none of the provinces or parties provided any new information regarding their aggregate claims which warrants a change in or departure from the methodology we used in the first administrative review. As in the first administrative review, we determine that Alberta, B.C., Manitoba, Ontario, and Saskatchewan each failed to provide the information necessary to demonstrate that the transactions included in their respective ''aggregate'' claims were in fact conducted at arm's length. Consistent with our determination in the first administrative review, we also determine that no pass–through analysis is warranted for many of the transactions, *e.g.*, where the sawmill paid the stumpage fee directly to the Crown, and for fiber exchanges between Crown tenure holders. We therefore preliminarily determine that changes to the subsidy calculation based on the provinces' ''aggregate'' claims are not warranted.

However, for purposes of these preliminary results, we preliminarily determine that, based our analysis of the company–specific data and information provided by the OLMA, a reduction in the Ontario subsidy benefit is warranted. Our analysis and preliminary findings with respect to these claims are detailed, by province, below.

a. Alberta

In the first review, the GOA claimed that the numerator of Alberta's provincial subsidy rate calculation should be reduced to account for fair–market, arm's length sales of Crown logs between unrelated parties. The GOA based its claim on a survey of TDA transactions that was conducted by a private consulting firm hired by the GOA. *See Preliminary Results of 1st Review*, 69 FR at 33208. In the final results of the first review, the Department found that it is common for sawmills in Alberta to enter into agreements where a tenure–holding independent harvester will supply timber to the sawmills but the sawmill will pay the stumpage directly to the GOA. *Id.*; see also *Final Results of 1st Review Decision Memorandum* at Comment 11. Accordingly, we found that in such transactions, known as ''delegation of signing authority'' or SA agreements, any stumpage benefit would go directly to the sawmill paying the stumpage fee, just as if the sawmill were drawing from its own tenure and contracting out for harvesting and hauling services. We therefore found that the GOA failed to substantiate that the volumes in the TDA survey were free of any volumes associated with SA agreements and, thus, the GOA's pass–through claim was not warranted. *Id.*

In the current review, we stated that for any pass–through claim, the GOA had to provide a breakdown by species of the total volume and value that it claims did not pass–through to the purchasing sawmill. *See* page III–22 of our September 8, 2004 questionnaire. We also instructed the GOA not to include in its pass–through claim any purchases for which the mills paid the stumpage fee to the Crown. *Id.*

The GOA claimed in its initial questionnaire response that ''at least by 1.7 million cubic meters of softwood logs were purchased by Alberta mills in arm's length, cash only transactions with unrelated parties.'' *See* page XII–1 and AB–S–76 of the GOA's November 22, 2004 questionnaire response. As in the first review, the GOA based its contention on the TDA survey, as updated for the POR. We note that the updated TDA survey and the GOA's questionnaire responses do not indicate whether the volumes it analyzed were subject to SA agreements. *See* page 45 of the GOA's April 8, 2005 supplemental questionnaire response.

In fact, regarding the TDA survey, the GOA stated that ''Alberta does not have access to the detailed information on log sales collected on a company–by-company basis by the independent private consultant . . .'' hired by the GOA to conduct the TDA survey. *See* page XII–2 of the GOA's November 22, 2004 questionnaire response.

Given the GOA's failure to indicate whether the sales in the TDA survey were made pursuant to SA agreements, and the GOA's statement that it lacked access to company–specific data collected by the consultant it hired to conduct the TDA survey, we asked the GOA to respond to the pass–through

[8] The GOM and GOS did not claim that their sawmills purchased Crown logs in arm's length transactions. *See* page MB–69 of the GOM's November 22, 2004 questionnaire response and page SK–99 of the GOS's November 22, 2004 questionnaire response. Therefore, we have preliminarily concluded that a pass-through analysis is not warranted for Manitoba and Saskatchewan.

questions contained in our initial questionnaire without reliance on the TDA survey. *See* page 9 of our March 16, 2005 supplemental questionnaire. In particular, we instructed the GOA to:

> . . . breakout all data on arm's length log transactions and include information regarding the volume, value, species, corporate affiliations of the parties subject to the transaction, {as well as} a chart identifying whether or not the transaction is subject to a delegation of signing authority (SA) agreement.

Id. The GOA responded that it did not maintain or collect such information as any part of its normal function and that it had no means on its own to respond to our pass–through questions aside from the TDA survey. *See* page 45 of the GOA's April 8, 2005 supplemental questionnaire response.

In our subsequent supplemental questionnaire, we noted the GOA's claims regarding its inability to respond to our pass–through questions without reliance on the TDA survey and pointed out that in the concurrent Section 129 proceeding the GOA was, indeed, able to report company–specific data separate from the TDA survey in response to the same pass–through questions.[9] We therefore asked the GOA to provide in this review the same type of company–specific data, updated for the POR. *See* page 2 of the Department's April 21, 2005 supplemental questionnaire. In response to our request for company–specific pass–through information that was not reliant on the TDA survey, the GOA answered that the Province ''does not keep the information requested here'' and it reiterated its assertion that the Department should conduct its pass–through analysis for Alberta using the TDA survey. *See* page 2 of its May 2, 2005 questionnaire response.

The GOA further stated that, ''in an effort to provide some additional information,'' it contacted PricewaterhouseCoopers LLP (PwC) to provide a ''limited'' update of the survey that was included in the pass–through claim the GOA made in the context of the Section 129 proceeding. *Id.* PWC performed this update of the Section 129 data using information held by the GOA on volumes of section 80/81 wood purportedly transferred to tenure–holding sawmills from unrelated parties. *Id.*

In regard to the volume represented in the TDA survey, we note that the GOA failed to indicate whether the sales in the TDA survey were made pursuant to SA agreements and the GOA explained that it lacks access to the underlying company–specific data. Regarding the claimed lack of access, the GOA has been unable or unwilling to demonstrate that it made reasonable efforts to obtain the necessary company–specific data. Consequently, we preliminarily find that we are unable to rely on the TDA survey as a basis for the GOA's pass–through claim.

Regarding the data supplied by the PwC, we note that, by the GOA's own admission, the data constitutes a ''limited'' survey population and, thus, does not reflect the total volumes included in the pass–through claim made by the GOA in this review. *See* page 2 and Exhibit AB–S–102 of the GOA's May 2, 2005 supplemental questionnaire response. Further, the information from PwC does not include any documentation regarding purchase agreements, as requested in our April 21, 2005 questionnaire.[10] *See* pages 1–3 and Exhibit AB–S–102 of the GOA's May 2, 2005 supplemental questionnaire response. Moreover, the information from PwC lacks any corresponding value information that would enable the Department to conduct its pass–through analysis on a transaction–specific basis. *Id.* The GOA has been unable or unwilling to explain why it has not supplied the necessary information. Therefore, we preliminarily determine to reject the information from the PwC as a basis for the GOA's pass–through claim.

Therefore, based on our findings above, we preliminarily determine that a pass–through analysis for Alberta is not warranted.

b. British Columbia

The GOBC claims that 14.7 million cubic meters of Crown timber, or 22 percent of the total Crown softwood log harvest, was harvested by so–called independent harvesters, *i.e.*, harvesters that do not own and are not affiliated with sawmills during the POR. The GOBC further claims that no subsidy that may be attributable to this harvest volume passed through to purchasing sawmills and, thus, the volumes should not be included in the numerator of British Columbia's provincial subsidy rate calculation. *See* page BC–XIV–2 of the GOBC's November 22, 2004 questionnaire response. In support of this claim, the GOBC provided survey data on what were purported to be B.C.'s primary sawmills' arm's–length log purchases. These data, covering the prior review period, were originally placed on the record of the first review by the BCLTC. *See* ''Norcon Forestry Ltd. Survey of Primary Sawmills' Arm's Length Log Purchases in the Province of British Columbia,'' which was placed on the record of this review at Volume IV, Exhibit 24 A, B of the BCLTC's February 24, 2005 submission (Norcon Study).[11]

In the first review, the Department found that the transactions in the Norcon Study involved sales of Crown logs through Section 20 auctions as well as sales to mills by small woodlot owners. *See e.g.*, Preliminary Results of 1st Review, 69 FR 33208 and *Final Results of 1st Review Decision Memorandum* at Comment 10. In the first review, we further found that most of the Section 20 transactions are structured under standard contracts called ''Log Purchase Agreements'' in which sawmills purchasing the Crown timber are billed for the Crown stumpage fee directly by the B.C. Ministry of Forests. *Id.* As explained above, in the first review, we determined that no pass–through analysis is warranted where the sawmill or some third–party company pays Crown stumpage fees for logs purchased from independent harvesters. *See Final Results of 1st Review Decision Memorandum* at Comment 10.

In addition to the information in the Norcon Study, evidence obtained in this review further supports our finding that sawmills pay the stumpage fee directly to the Crown for logs purchased from so–called independent harvesters. *See* Exhibits BC–S–245, 246, and 247 of the GOBC's April 21, 2005 questionnaire response, which contain source documents illustrating how sawmills pay for stumpage on Section 20 sales. Thus, under such arrangements, any stumpage benefit would go directly to the sawmills paying the stumpage fee, just as if the sawmill were drawing from its own tenure and contracting out for harvesting and hauling services, thereby eliminating the need for a pass–through analysis.

[9] In our April 21, 2005 supplemental questionnaire, we inadvertently referred to the first administrative review of the countervailing duty order when we should have instead referred to the Section 129 proceeding concerning the pass-through issue in the underlying investigation.

[10] As explained above, it is necessary to examine purchase contacts in order to determine whether they were structured as SA agreements. In addition, it is necessary to review the purchase contracts to ensure that the transactions were made at arm's length, *i.e.*, were not affected by any additional factors we previously identified, including: (1) limitations on log sales that may be contained in Crown tenure contracts such as appurtenancy requirements (2) local processing requirements, or (3) fiber exchanges between Crown tenureholders.

[11] In its initial questionnaire response, the GOBC claimed that the BCLTC would provide a Norcon Study updated for the POR of this review. *See* page BC-XIV–1 of the GOBC's November 22, 2004 questionnaire response.

In the prior review, we determined that log sales cannot be considered to be arm's–length transactions where there are restrictive government–imposed appurtenancy and local processing requirements that dictate to the harvester those entities to whom it may sell, thereby severely hampering the ability of the harvesters to bargain freely with willing purchasers in the marketplace. *See Final Results of 1st Review Decision Memorandum* at Comment 10. However, in this review the GOBC has stated that amendments to the Forest Act, effective November 2003, nullified the timber processing and appurtenancy clauses for replaceable and non–replaceable licenses older than 10 years. For licenses in effect fewer than 10 years, the timber processing and appurtenancy clauses will expire with the licenses or be nullified upon the license's tenth anniversary. Further, the GOBC claims that no new licenses advertised after November 4, 2003 contain any of these clauses. *See* GOBC's November 22, 2004 questionnaire response at BC–III–11 and GOBC's April 13, 2005 questionnaire response at page 60.

In light of the GOBC's new legislation and because pre–existing licenses continued to retain the appurtenancy clauses we identified in the prior review, we requested that the GOBC demonstrate that none of the tenure agreements for which it claimed no benefits passed through from the independent harvesters to the sawmills contained any of these restrictive clauses. In response, the GOBC claimed that the timber processing and appurtenancy clauses have no impact on the arm's length transactions and are therefore irrelevant to the Department's pass–through analysis. As to our request that it demonstrate that none of the tenure agreements included in its pass–through claim contained any restrictive clauses, the GOBC claimed that it could not provide such information because it would be burdensome. *See* page 61 of the GOBC's April 13, 2005 questionnaire response. Instead, the GOBC provided some copies of the types of tenure agreements that may have been held by so–called independent harvesters during the POR. However, regarding these agreements, the GOBC provided no information linking the tenure agreements it submitted to those transactions included in its no–pass-through claim (*e.g.*, several of the submitted agreements were merely blank templates). Therefore, for purposes of these preliminary results, we find that the GOBC has failed to demonstrate that the restrictive clauses were eliminated as a consequence of the amendments to the Forest Act. We also continue to disagree with the GOBC that these restrictions are irrelevant to the pass–through analysis. These government–imposed restrictions severely limit the ability of buyers and sellers of logs to bargain freely with whomever they choose or to bargain on terms that are not encumbered by government mandates.

For the reasons explained above, and the fact that the GOBC has not submitted any new information that warrants reconsideration of the Department's prior findings, we preliminarily conclude that the GOBC has failed to adequately substantiate its pass–through claim, and no adjustment to the provincial numerator has been made.

c. Ontario

As mentioned above, in response to the Department's initial questionnaire, the GOO submitted an ''aggregate'' claim of the portion of the Crown timber processed by Ontario sawmills that was purchased in arm's–length transactions. The GOO made a claim of no pass–through for 2,459,812 cubic meters or 23.55 percent of the total invoiced volume of Crown timber entering the largest 25 sawmills in Ontario during the POR. In support of this claim, the GOO provided a breakdown of log transactions between the 25 largest mills in Ontario and tenure holders that do not own a sawmill, and certifications from officials of three mills each stating that their mill is not affiliated with its timber suppliers. The OLMA separately submitted company–specific information for one harvester and eight mills. The information included transaction–specific data, statements and certification of non–affiliation, and additional supporting documentation.

For the reasons described below, we preliminarily determine that the GOO failed to substantiate its ''aggregate'' no–pass-through claim. Although the Department accepts the three certifications of non–affiliation provided by the GOO, the GOO's submission is lacking certifications for the other mills it included in its claim. Furthermore, in the initial questionnaire, we requested that the GOO ''not include (as part of its claim) any transactions that were made pursuant to wood supply commitments or purchases for which the mills paid the stumpage to the Crown rather than the harvester.'' page VI–22 of the Initial Questionnaire at ''Section VI: Questionnaire for the Province of Ontario. However, the GOO did not delineate the transactions in which the mills paid the stumpage fees directly to the Crown or the transactions that were made under a wood supply commitment letter or a wood supply agreement. *See* pages ON–237 and ON–238 of Vol. 1 of 19 and exhibit ON–PASS–1 of Vol. 17 of 19 of the GOO's November 22, 2004, initial questionnaire response. Due to these deficiencies, we are unable to conduct a pass–through analysis using the ''aggregate'' data provided by the GOO. We therefore preliminarily determine that changes to the subsidy calculation based on the GOO's ''aggregate'' no–pass-through claim are not warranted.

With respect to the company–specific data and information provided by the OLMA, we preliminarily determine that these are sufficient for purposes of conducting a pass–through analysis. We accept the certifications by the companies that the transactions they reported were between unaffiliated parties. In addition, the company–specific data clearly identified those transactions for which the harvesters (rather than the mills) paid the stumpage fees and those that were not subject to other restrictions, such as government–mandated wood supply commitments or fiber exchange agreements. Accordingly, we determine that a portion of the log sale transactions reported by the OLMA were conducted at arm's–length and were otherwise not affected by other conditions during the POR.

For these transactions, we then performed the next step of our pass–through analysis by examining whether the mill received a competitive benefit from the purchase of the subsidized logs. This competitive benefit analysis is guided by the provisions of the Department's regulation on upstream subsidies. *See* 19 CFR 351.523. Under this analysis, a competitive benefit exists when the price for the input is lower than the price for a benchmark input price. The Department's regulations provide for the use of actual or average prices for unsubsidized input products, including imports, or an appropriate surrogate as the benchmark input price.

We have previously determined that the record in the first administrative review did not contain any private prices in Ontario that were suitable for use as benchmarks to measure the adequacy of remuneration for Crown provided stumpage. *See* ''Private Provincial Market Prices'' section and *Final Results of 1st Admin Review* at Comments 20, 21. As explained in ''Provincial Stumpage Programs'' below, we have reached the same conclusion

based on the record in this proceeding. We have also explained in the first administrative review with respect to British Columbia, that ''stumpage and log markets are closely intertwined and therefore Crown stumpage prices affect both stumpage and log prices, ''and that subsidized prices in the stumpage market would result in price suppression in log markets. *Id.* at ''B.C. Log Prices Are Not An Appropriate Benchmark.'' We have reached the same conclusion with respect to the log markets in Ontario. In Ontario, Crown timber supplies a dominant portion of the market, and the unit cost of this supply effectively determines the market prices of logs in Ontario. As shown on the record in this review and the prior review, the prices harvesters charge for logs are derived directly from the prices they pay for stumpage plus harvesting costs. Because of the relationship between timber (stumpage) and log prices, prices for logs in Ontario would be suppressed by the subsidized prices in the timber markets. As such, log prices in Ontario are unsuitable for purposes of measuring whether a competitive benefit has passed–through in transactions involving sales of Crown logs.

Instead, we have turned to private stumpage prices in the Maritimes, which we have determined are market–determined, in–country prices. However, because we are measuring the competitive benefit for the sale of subsidized logs, we have derived species–specific benchmark log prices by combining the unsubsidized Maritimes stumpage prices with the various harvest, haul, road, and management costs reported by the GOO.

We then compared the per unit prices listed for each transaction reported by the OLMA that we determined was eligible for a competitive benefit analysis with our benchmark log prices. If the price per cubic meter was equal to or higher than the benchmark price, we determined that no competitive benefit passed through and the corresponding volume was excluded from the numerator of our calculations. Where the per unit price was lower than the benchmark price, and where the difference between the benchmark and actual log prices was greater than that province–specific per–unit stumpage benefit (*e.g.*, C$8.74 for Ontario SPF), we capped the amount of the subsidy considered to have ''passed–through'' by the province–specific per–unit stumpage benefit. As such, the amount of the competitive benefit that calculated as was not passed though in the transaction was never greater than the subsidy granted by the Crown. The result of these calculations is that only a small portion of the Crown harvest volume originally included in the numerator is excluded from the numerator of our revised subsidy calculations. Accordingly, a small reduction in the Ontario subsidy benefit is warranted. The calculations are business proprietary. *See* the May 31, 2005, Preliminary Calculations Memorandum for Ontario. As noted above, if we were unable to determine that the transaction qualified as an arm's–length transaction or was subject to other conditions (*e.g.*, the stumpage for the log was paid by the harvester), we did not conduct a competitive benefit analysis and the corresponding volume associated with these transactions was not excluded from the subsidy calculation.

d. Manitoba

The Canadian parties and the GOM did not make an ''aggregate'' claim of the portion of the Crown timber processed by Manitoba sawmills that was purchased in arm's–length transactions. Rather, the OLMA submitted company–specific information on behalf of Tembec Inc.

We determine that the company–specific data and information provided by the OLMA are sufficient for purposes of our analysis and that a portion of the transactions in Manitoba constitute arm's–length sales of logs by independent harvesters to unaffiliated sawmills during the POR. We accept the statement that ''with respect to its operations in Manitoba, Tembec is an independent harvester.'' *See* page 4 of Volume 1 of the OLMA''s November 22, 2004, submission. In addition, the information and data provided indicate that the transactions were not characterized by the limitations which constrain buyers and sellers of harvested Crown timber from free negotiation, described above. Accordingly, we determine that a portion of the transactions in Manitoba constitute arm's–length sales of logs by independent harvesters to unaffiliated sawmills during the POR.

We applied the same methodology as described above in the Ontario pass–through section when conducting our competitive benefit analysis. Because the GOM did not submit any log pricing data on the record, we derived the species–specific benchmark log price by combining the private market–determined, in–country Maritime stumpage prices with the various costs reported by the GOM. Because the GOM did not report certain harvesting costs and hauling costs, we used, where necessary, harvesting and hauling costs placed on the record by the GOO as surrogates. The result of these calculations is that none of the Crown harvest volume originally included in the numerator is excluded from the numerator of our revised subsidy calculations. Accordingly, no reduction in the Manitoba subsidy benefit is warranted. The calculations contain business proprietary information and, thus, cannot be discussed in further detail in these preliminary results. Therefore, for further details, *see* the May 31, 2005, Preliminary Calculations Memorandum for Manitoba.

e. Quebec

In the first review, the Department did not include Crown timber harvested by FMC and FMA licensees in the numerator of Quebec's provincial subsidy rate calculation. While we acknowledged that evidence on the record of the first review demonstrated that some of the timber harvested under FMCs was sold to sawmills during the POR, such transactions may have included sales of logs from non–sawmill owning tenure holders to sawmills and, thus, would have required a pass–through analysis. *SeeFinal Results of the 1st Review Decision Memorandum* at Comment 13. Because in the first review we did not examine the relationship between the harvesters and sawmills or the terms and conditions of the timber sales in the context of a pass–through analysis, we found that we were unable to reach a determination as to whether the volume of timber harvested under FMCs should be included in the numerator. *Id.* However, we indicated that we would reconsider the issue in the course of the second review. *Id.*

In this review, petitioners assert that the Department must include in the numerator of the Quebec provincial subsidy rate calculation the volumes of Crown timber harvested by FMC and FMA licensees on the grounds that the GOQ has refused to answer the Department's questions concerning these licensees. *See* page 112 through 114 of petitioners' April 29, 2005 submission.

For purposes of these preliminary results, we have included the volume of Crown timber harvested under the FMC license program in the numerator of Quebec's provincial subsidy rate calculation. In our initial questionnaire, we explained to the GOQ that if it wished to claim that any portion of the reported volume of Crown timber harvested under the FMC and FMA licences was sold in arm's length transactions and that any subsidies provided for that portion of timber of the Crown harvest did not ''pass–

through'' to purchasing sawmill(s), it had to provide a breakdown, by species, of the total volume and value of this harvested timber during the POR. In addition, we instructed the GOQ to respond to a series of questions regarding the terms and conditions of the transactions covered by any pass–through claim and to identify any affiliations between the buyer and seller of the logs in question. *See* VII–30 of our September 8, 2005 questionnaire. In its response, the GOQ stated:

> At this time, the Gouvernment of Quebec is not claiming that any portion of the reported volume of Crown harvest was sold in arms' length transactions. This is not to suggest that there are no such transactions. To the contrary, the volumes of Crown timber harvested pursuant to FMCs and FMAs, and subsequently sold in open market transactions are undoubtedly arm's length transactions. . . Because the volume of standing timber harvested under FMCs and FMAs is negligible, the Department's consistent practice has been to base its calculations on the volumes harvested pursuant to TSFMAs. Adherence to this practice obviates the need for pass–through analysis in Quebec.

See page QC–157 through QC–158 of the GOQ's November 22, 2004 questionnaire response. The GOQ added that if the Department decided to include FMC and FMA volumes in its calculations, then it would have to undertake a pass–through analysis. *Id.*

In our initial questionnaire, we further asked the GOQ to indicate the total volume and value of Crown timber billed to any person or company that did not own or operate a sawmill and was not affiliated with a sawmill that the GOQ permitted to harvest Crown timber during the POR. *See* page VII–6 of our September 8, 2004 questionnaire. In response, the GOQ provided a list of FMC holders that it claimed did not own or operate sawmills during the POR. *See* Exhibit 50 of its November 22, 2004 questionnaire response. Many of the FMC holders identified in Exhibit 50 were municipalities. The GOQ also provided consolidated volume and value harvest data for FMC holders that ''paid no stumpage'' and those that ''paid stumpage.'' *See* Exhibit 57 of the GOQ's November 22, 2004 questionnaire response. However, this exhibit did not list the volume and value data separately for each FMC holder, as instructed by our initial questionnaire.

In our initial questionnaire, we also asked the GOQ to identify the volume and value, by species and grade, of Crown log sales by FMC holders to companies that own sawmills. *See* page VII–7 of our September 8, 2004 questionnaire. In its questionnaire response, the GOQ stated:

> The requested volume and value data is collected by the {Ministry of Natural Resources} as part of an annual process. The data for the POR are not yet available. The {Ministry} does not know the specific arrangements entered into by holders of FMCs and FMAs and, therefore, cannot describe the nature of those agreements or provide the representative contracts.

See page QC–48 of the GOQ's November 22, 2004 questionnaire response.

FMC Licences

Pursuant to section 102 of the Forestry Act, the GOQ may grant a FMC license to any ''person.'' *See* QC–S–13 and page QC–44 of the GOQ's November 22, 2004 questionnaire response. Thus, FMC license holders may or may not own sawmills. However, cross–referencing a list of FMC holders, as provided in Exhibit 32 of the GOQ's November 22, 2004 questionnaire response, with a list of sawmills with GOQ authorization to consume softwood timber, reveals that several sawmills did hold FMCs during the POR. For authorized consumption data, see page 55, Attachment III, of the June 2, 2004 ''Quebec Private Price Documentation Memo'' from the *Preliminary Results of the 1st Review*, which was placed on the record of this review the February 28, 2005 memorandum to the file from Maura Jeffords, Case Analyst.

In addition, evidence indicates that the GOQ often grants FMCs to municipalities in the province. *See* page QC–24 of the GOQ's November 22, 2005 questionnaire response and *Preliminary Results of 1st Review*, 69 FR at 33225. Further, sections 104.2 and 104.3 of the GOQ's Forestry Act stipulate that the holder of a FMC license must supply standing timber covered by the license to timber wood processing plants in Quebec in the amount specified on the license's management permit. This stipulation is also reflected in the standard language of the FMC contract. *See e.g.*, page 3 and 10 of the sample FMC contract contained in Exhibit 31 of the GOQ's November 22, 2004 questionnaire response. Therefore, based on the information discussed above, we preliminarily determine that the FMC volume reported by the GOQ includes FMC licenses held by sawmills as well as softwood log volumes that were sold directly by government entities in Quebec (*e.g.*, municipalities) to sawmills.

As explained above, we provided the GOQ an opportunity to substantiate its claim that Crown logs were sold in arm's length transactions and that any subsidies did not ''pass–through'' to purchasing sawmills. We also specifically instructed the GOQ not to include in its pass–through claim any logs sold directly by government entities holding FMCs. The GOQ did not do so. Rather, the GOQ reported the entire volume of timber harvested under FMC licenses, which, apart from government municipalities, may also include timber harvested by sawmills with tenure. The volume of timber harvested by government entities and sawmills with tenure is not be eligible for a pass–through analysis. The sale by government municipalities of Crown–harvested logs is no different from the provincial government itself selling the logs and thus does not involve an ''indirect'' subsidy. Further, timber harvested by sawmills with tenure would be used by these mills to produce lumber in their own facilities rather than for the sale of logs to other sawmills. Because the GOQ did not break out separately the volume of Crown timber harvested by government entities and sawmills with tenure from the volume harvested by independent harvesters that sold logs to sawmills during the POR, we preliminarily determine that a pass–through analysis is not warranted. Therefore, we have included all of the FMC harvest volume in the numerator of our subsidy calculations.

Petitioners have further argued that the GOQ's questionnaire response indicates that no stumpage fees at all were paid for a portion of FMC harvest volume and that the Department should reflect that lack of payment in our calculations. *See* Exhibit QC–S–82 of the GOQ's November 22, 2004 questionnaire response. We disagree. In cases where the FMC licensee is a municipality, the municipality collects dues for the cutting rights, not the GOQ. *See* QC S—92 of the GOQ's November 22, 2004 questionnaire response. Thus, the information contained in Exhibit QC–S–82 reflects the FMC harvest volumes sold by government municipalities and non–profit organizations but not the corresponding prices charged to the buyers of the logs. Therefore, lacking the price information for these FMC volumes, as facts available we are applying the unit prices

that the GOQ reported for the remaining amount of the FMC volume.

FMA Licenses

We are not including the timber volumes harvested under FMA licenses in the numerator of our calculations. Under section 84.1 of the Forest Act, an FMA licensee may not be the holder of a wood processing permit nor be affiliated with the holder of a wood processing permit. *See* QC–S–13 of the GOQ's November 22, 2004 questionnaire response. Although the record does not contain the prices which the FMA license holders charge their customers for Crown logs even if the full amount of the subsidy is assumed to pass–through to its customer, inclusion of this volume in the numerator has no impact on the portion of the country–wide rate attributable to Quebec. Therefore, we have not included any of the FMA harvest volume in our calculations.

Analysis of Programs

I. Programs Preliminarily Determined to Confer Subsidies

A. Provincial Stumpage Programs

In Canada, the vast majority of standing timber sold originates from lands owned by the Crown. Each of the reviewed Canadian provinces, *i.e.*, Alberta, British Columbia, Manitoba, Ontario, Quebec and Saskatchewan,[12] has established programs through which it charges certain license holders ''stumpage'' fees for standing timber harvested from these Crown lands. With the exception of British Columbia, these administered stumpage programs have remained largely unchanged. Thus, for a description of the stumpage programs administered by the GOA, GOS, GOM, GOO, and GOQ, *see* ''Description of Provincial Stumpage Programs'' section of the *Preliminary Results of 1st Review*. Changes to British Columbia administered stumpage system are discussed below.

Legal Framework

In accordance with section 771(5) of the Act, to find a countervailable subsidy, the Department must determine that a government provided a financial contribution and that a benefit was thereby conferred, and that the subsidy is specific within the meaning of section 771(5A) of the Act. As set forth below, no new information or argument on the record of this review has resulted in a change in the Department's determinations from the final results of the first review that the provincial stumpage programs constitute financial contributions provided by the provincial governments and that they are specific.

Financial Contribution and Specificity

In the underlying investigation, the Department determined, consistent with section 771(5)(D)(iii) of the Act, that the Canadian provincial stumpage programs constitute a financial contribution because the provincial governments are providing a good to lumber producers, and that good is timber. The Department further noted that the ordinary meaning of ''goods'' is broad, encompassing all ''property or possessions'' and ''saleable commodities.'' *See* ''Financial Contribution'' in the *Final Determination Decision Memorandum*. Further, the Department found that ''nothing in the definition of the term 'goods' indicates that things that occur naturally on land, such as timber, do not constitute 'goods.'" To the contrary, the Department found that the term specifically includes ''. . . growing crops and other identified things to be severed from real property.'' *Id.* The Department further determined that an examination of the provincial stumpage systems demonstrated that the sole purpose of the tenures was to provide lumber producers with timber. Thus, the Department determined that regardless of whether the provinces are supplying timber or making it available through a right of access, they are providing timber. *Id.* No new information has been placed on the record of this review warranting a change in our finding that the provincial stumpage programs constitute a financial contribution in the form of a good, and that the provinces are providing that good, *i.e.*, timber, to lumber producers. Consistent with our findings in the underlying investigation, we preliminarily continue to find that the stumpage programs constitute a financial contribution provided to lumber producers within the meaning of section 771(5)(D)(iii) of the Act.

In the investigation, the Department determined that provincial stumpage subsidy programs were used by a ''limited number of certain enterprises'' and, thus, were specific in accordance with section 771(5A)(D)(iii)(I) of the Act. More particularly, the Department found that stumpage subsidy programs were used by a single group of industries, comprised of pulp and paper mills, and the sawmills and remanufacturers that produce the subject merchandise. *See* ''Specificity'' section of the *Final Determination Decision Memorandum*. This was true in each of the reviewed provinces. No information in the record of this review warrants a change in this determination and, thus, we preliminarily continue to find that the provincial stumpage programs are specific within the meaning of section 771(5A)(D)(iii)(I) of the Act.

Benefit

Section 771(5)(E)(iv) of the Act and 19 CFR 351.511(a) govern the determination of whether a benefit has been conferred from subsidies involving the provision of a good or service. Pursuant to section 771(5)(E)(iv) of the Act, a benefit is conferred by a government when the government provides a good or service for less than adequate remuneration. Section 771(5)(E) further states that the adequacy of remuneration:

> . . . shall be determined in relation to prevailing market conditions for the good or service being provided . . . in the country which is subject to the investigation or review. Prevailing market conditions include price, quality, availability, marketability, transportation, and other conditions of . . . sale.

The hierarchy for selecting a benchmark price to determine whether a government good or service is provided for less than adequate remuneration is set forth in 19 CFR 351.511(a)(2). The hierarchy, in order of preference, is: (1) market–determined prices from actual transactions within the country under investigation or review; (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.

Under this hierarchy, we must first determine whether there are actual market–determined prices for timber sales in Canada that can be used to measure whether the provincial stumpage programs provide timber for less than adequate remuneration. Such benchmark prices could include prices resulting from actual transactions between private parties, actual imports, or, in certain circumstances, actual sales from competitively–run government auctions. *See* 19 CFR 351.511(a)(2)(i).

The Preamble to the CVD Regulations provides additional guidance on the use of market–determined prices stemming from actual transactions within the country. *See* ''Explanation of the Final Rules ''*Countervailing Duties, Final Rule*, 63 FR 65348, 65377 (November

[12] In this review, we did not examine the stumpage programs with respect to the Yukon Territory, Northwest Territories, and timber sold on federal land because the amount of exports to the U.S. is insignificant and would have no measurable effect on any subsidy rate calculated in this review.

25, 1998) (the Preamble). For example, the Preamble states that prices from a government auction would be appropriate where the government sells a significant portion of the good or service through competitive bid procedures that are open to everyone, that protect confidentiality, and that are based solely on price. The Preamble also states that the Department normally will not adjust such competitively bid prices to account for government distortion of the market because such distortion will normally be minimal as long as the government involvement in the market is not substantial. 63 FR at 65377.

The Preamble also states that ''[w]hile we recognize that government involvement in the marketplace may have some impact on the price of the good or service in that market, such distortion will normally be minimal unless the government provider constitutes a majority or, in certain circumstances, a substantial portion of the market. Where it is reasonable to conclude that actual transaction prices are significantly distorted as a result of the government's involvement in the market, we will resort to the next alternative in the hierarchy.''[13]

The guidance in the Preamble reflects the fact that, when the government is the predominant provider of a good or service there is a likelihood that it can affect private prices for the good or service. Where the government effectively determines the private prices, a comparison of the government price and the private prices cannot capture the full extent of the subsidy benefit. In such a case, therefore, the private prices cannot serve as an appropriate benchmark.

In the first administrative review, the Department determined that there were no usable private market stumpage prices in the provinces whose stumpage programs are under review that could serve as benchmarks. *See* ''Private Provincial Market Prices'' section of the *Final Results of 1st Review Decision Memorandum*. For the reasons discussed below, the Department continues to find that there are no private stumpage market prices in the provinces under review that can serve as first–tier benchmarks in Alberta, British Columbia, Manitoba, Ontario, Quebec, and Saskatchewan.

There Are No Useable First–Tier Benchmarks in the Subject Provinces Measuring the Benefit on Stumpage Programs Administered by the GOA, GOBC, GOO, GOQ, GOM, and GOS

In this administrative review, the GOA reported private price data and government competitive bid data as reported in Alberta's 2004 Timber Damage Assessment (TDA) update; the GOO provided an updated survey of private prices prepared by Demers Gobeil Mercier & Associes Inc. (DGM); the GOQ provided private stumpage prices charged in its province; and the GOBC provided prices from auctions the government administers under the B.C. Timber Sales (BCTS) program. As discussed below, we have preliminarily determined that pricing data reported by the GOA, GOO, GOQ, and GOBC are not suitable for use as a benchmark within the meaning of 19 CFR 351.111(a)(2)(i).

Province of Alberta

In response to the Department's request for private timber prices, the GOA explained that it is not involved in private party transactions and does not know the process by which private timber is sold. *See* GOA's November 22, 2004 response, Volume 1 at page VIII–1. However, the GOA submitted the TDA as a source of data for arm's–length, cash only private log sales. *See* GOA's November 22, 2003 response at Exhibit AB–S–76. We have examined Alberta's TDA private price data and government ''competitive'' bid data reported in Alberta's TDA 2004 update and continue to find that the TDA prices are not actual market–determined prices, as required by the CVD regulations, and, thus, cannot be used as a benchmark. *See Preliminary Results of 1st Review*, 69 FR at 33214 and ''Private Provincial Market Prices'' section of the *Final Results of 1st Review Decision Memorandum* and at Comment 19.

The GOA explains that the TDA began in the mid–1990's as a means for mediating disputes between timber operators and other industrial operators concerning the value of standing timber adversely affected by industrial operations on timber tenures. Pursuant to these efforts, a consultant has collected information on log purchases which does not differentiate between private and Crown sources. The GOA describes the methodology, stating that ''the values on the {TDA} table are derived by consultants from a two year average of competitive Commercial Timber Permit (CTP) sales values, as well as the value of arm's length log purchases, adjusted to stumpage values by backing out harvesting and haul costs.'' *See* the GOA's November 22, 2004, Questionnaire Response at Volume 1, page I–8.

The GOA's response indicates that the methodology used to report the TDA private timber transaction data for this administrative review is consistent with and has not changed since the period covered by the prior administrative review. *Id.* As previously explained by the Department, the vast majority of the CTP prices do not reflect competition for the right to harvest timber and the CTP prices underlying the TDA calculations do not reflect market determined prices. *See Final Results of 1st Review Decision Memorandum* at Comment 19.

There is no new evidence offered by the GOA that would result in a reconsideration of the Department's decision to reject the use of TDA as a provincial benchmark. Moreover, due to the fact that the TDA data does not differentiate private and Crown sources in its survey, there is no method for the Department to identify the potentially private transactions captured by the TDA survey (which would only represent a maximum of 203,041 cubic meters or 2 percent of Alberta's total softwood sawmill Section 80/81 harvest volume that is reported as harvested from private lands). *See* GOA's November 22, 2003 response Table 1 at Exhibit AB–S–1. Therefore,

based on the record evidence and consistent with the Department's prior determinations, we find that the TDA prices are not actual market–determined prices, as required by the CVD regulations, and, thus, cannot be used as a benchmark. *See* 19 CFR 351.511(a)(2).

Province of British Columbia

British Columbia did not provide private stumpage prices for the record of this proceeding. Instead, the Province provided prices from auctions the government administers under section 20 of the Forest Act. These auctions were formerly conducted under the Small Business Forest Enterprise Program (SBFEP). In the investigation and first administrative review, the Department determined that the auction prices under the SBFEP program were not suitable for use as benchmarks in determining whether the GOBC sold Crown timber for less than adequate remuneration because the SBFEP auctions were only open to small business forest enterprises. As such, we determined that these prices did not reflect prices from a competitively run government auction, as required by our regulations. *See* 19 CFR 351.511(a)(2)(i) and the Preamble, 63 FR at 65377; see also the ''Private Provincial Market

[13] *Preamble*, 63 FR at 65377–78 (emphasis added); *see also Hot-Rolled Carbon Steel Flat Products from Thailand*, 66 Fed. Reg. at 20259.

Prices'' section of the *Final Results of 1st Review Decision Memorandum* and *Preliminary Results of 1st Review*, 69 FR at 33214.

The GOBC has explained in this proceeding that the Forest Act was amended effective November 4, 2003. The amendments include specific changes to the section 20 auction program, under which the SBFEP was replaced by the new B.C. Timber Sales (BCTS) program. The GOBC claims that pursuant to these changes, section 20 auction prices may serve as first–tier benchmarks for the November 2003 to April 2004 period to determine whether Crown timber in British Columbia was sold for less than adequate remuneration. *See* GOBC November 22, 2004 Questionnaire Response, BC–III–1. *See also* GOBC May 18, 2005 Comments at page 2.

To support its claim, the GOBC highlights an amendment that eliminated the limitation of section 20 auctions to small businesses. Before the amendment, section 20 sales under the SBFEP were classified under three categories. The second and third categories were subsumed into the new BCTS program largely unchanged, and continue to contain the same restrictions on participants as before the amendments to the law. According to the GOBC, the first category, however, was broadened to include individuals or corporations that own a timber processing facility. Previously, these participants were excluded. This change effectively eliminated the restriction of section 20 auction sales to small businesses allowing them to include all applicants in the Province. *See* GOBC November 22, 2004 Questionnaire Response, BC–III–2.

As explained in detail, below, the Department preliminarily determines that record evidence does not support the use of prices for Crown timber auctioned under section 20 of the Forest Act, as amended, as benchmarks to measure the adequacy of remuneration for Crown stumpage. Firstly, the volume sold at auction does not meet the standard set out in the Department's Regulations. Secondly, the auction prices submitted by the GOBC are not market determined prices as they are effectively limited by Crown stumpage prices paid by Crown tenure–holding sawmills. The Department's analysis cannot utilize a benchmark that would reflect any underlying subsidy to determine whether and to what extent that very subsidy exists.

Section 351.511(a)(2)(i) of the CVD Regulations states that in measuring the adequacy of remuneration the benchmark may be derived from actual sales from competitively run government auctions and that, when choosing from such auction prices, product similarity, quantities sold, and other factors affecting comparability will be considered. The Preamble to the CVD Regulations further elaborates on this as it requires the use of market determined prices which may include actual sales prices from government–run auctions where such sales are competitive, account for a significant portion of the total market, and are based solely on price. *See* Preamble, 63 FR at 65377. Record evidence does not support the use of prices for Crown timber auctioned under section 20 of the Forest Act, as amended, as benchmarks because the volumes sold under the auctions are not ''significant.'' As such, these prices do not meet this part of the standard as stipulated in the CVD Regulations.

Specifically, since the amendments to the Forest Act became effective, on November 4, 2003, to the end of the POR, on March 31, 2004, participants in the BCTS program, including all auction sales (*i.e.*, section 20 and section 21), accounted for 7.1 percent of the total Crown harvest and volume billed, while participants in the newly ''unrestricted'' category 1 auction sales accounted for only 1.1 percent of the total Crown harvest and volume billed. *See* GOBC April 13, 2005, Exhibit BC–S–225. Thus, the volume of Crown timber sold by the GOBC through the section 20 auctions during the POR cannot be considered to represent a ''significant'' portion of the timber sold in British Columbia during the POR, and the prices from these auctions therefore do not meet a key requirement for their consideration as benchmarks for measuring the adequacy of remuneration for government provided goods.

Our determination that the prices for Crown timber auctioned under section 20 of the Forest Act, as amended, are not market–determined prices, but rather reflect prices for administratively–set Crown stumpage, is based on a number of factors. First, participants in the auctions included Crown tenure holding sawmills but, most often, were loggers who then sold the timber to Crown tenure holding sawmills. Second, the price that Crown tenure holding mills are willing to pay at auction or, more frequently, to loggers is determined by the price they pay for Crown stumpage because of the non–binding Annual Allowable Cut (AAC) in B.C. Third, the price loggers bid at the auctions is limited by the price they receive from their customers, the largest of whom are tenure–holding sawmills. Therefore, the auction prices represented directly or indirectly by sales to Crown tenure–holding sawmills are effectively determined by Crown stumpage prices. The substantial presence of valuations by Crown tenure–holding sawmills within the BCTS prices means that the BCTS auction prices are not market–determined prices as required in the Department's Regulations and are not useable as benchmarks for measuring the adequacy of remuneration.

Record information demonstrates that the participants in BCTS section 20 auctions were primarily logging firms but included some limited participation by Crown tenure–holding sawmills . In a study prepared by Susan Athey and Peter Cramton of Market Design Inc, titled ''Competitive Auction Markets in British Columbia,'' (BCLTC Study), the authors state at pages 6—7, that ''most of the bidders in the auctions during this time period were not the major timber companies or tenure–holders, but rather most bidders were logging firms.'' *See* BCLTC's March 2, 2005, factual submission. A footnote in the study clarifies that ''about two–thirds of the 34 Coast tracts were won by log brokers or market loggers, while about four–fifths of the 142 Interior tracts were won by log brokers or market loggers.'' *Id*

The record further shows that a large portion of the Crown timber purchased in the auctions by loggers was, in turn, sold to Crown tenure–holding sawmills in the province. The BCLTC Study explains that because of the nature of the industry in B.C.:

> the efficient industry structure has specialized logging firms and manufacturing firms. The logging firms place bids in BCTS auctions, and they sell the timber directly to mills, through log markets, or some combination thereof. Mills occasionally participate in auctions directly, but this participation is the exception rather than the rule. *Id.*

During the course of this proceeding, we specifically asked the GOBC for additional information concerning the identity of the BCTS section 20 auctions bidders and the use of the timber obtained from these auctions. *See* the Department's requests for information in the questionnaires to the GOBC, dated March 16, 2005, March 23, 2005, and April 5, 2005. The GOBC contacted the Department on March 21, March 28, and on April 8, to advise that it was unable to respond fully to these questionnaires because of the voluminous data associated with each of the timber sale

licences (TSL) associated with the section 20 auctions sales.[14]

In light of this, the Department requested information from 14 randomly selected TSLs, including a copy of ''payment distribution,'' of the Ministry of Forests (MOF) invoices. The GOBC provided the requested information for ten of these TSLs, stating that no invoices were issued during the POR for the remaining four TSLs selected by the Department. The information from these 10 TSLs shows that the winning bidders of the Crown timber under BCTS section 20 auctions sold at least 65 percent of the timber to large Crown tenure holders with sawmills. *See* Exhibits BC–S–245 and 246 of the GOBC's April 21, 2005 questionnaire response.

The evidence that the auction winning loggers' principal customers are large tenure–holding sawmills is supported by the dominance of the B.C. timber market by the large Crown tenure–holding sawmills. This is significant to the extent that it limits the loggers' ability to sell timber bought at the auctions to other customers. Record information demonstrates that a small number of these large tenure–holding sawmills harvest the majority of the Crown timber in B.C. For example, the ten largest licensees by AAC (Canadian Forest Products Ltd., Weyerhaeuser Company Limited, Slocan Forest Products Ltd., West Fraser Mills Ltd., Doman Industries, International Forest Products, Riverside Forest Products Limited, Weldwood of Canada Limited, Tolko Industries Ltd., and Tembec Industries Inc) account for approximately 59 percent of the Crown harvest and 52 percent of all timber harvested in the province. *See* BC–III–14 of the GOBC's November 22, 2004 questionnaire response and Exhibits BC–S–1 and BC–S–10. These large Crown tenure–holding sawmills, and the timber harvested from administratively–set Crown logs, thus dominate a significant portion of the timber market in British Columbia.

The idea that the customers of loggers bidding at the auctions are large tenure–holding sawmills is further supported with other information on the record. For example, West Fraser, a large Crown tenure–holding sawmill, claims that it purchased logs from market loggers who won bids in section 20 small business or BCTS auctions; in such purchases, West Fraser also claims that other sawmills participated. *See* BCLTC's February 28, 2005 submission at Appendix C, page 2. Other sawmills submitted statements that they too purchased section 20 auction logs from winning bidders. *Id.* at Appendices B—G.

On the basis of the record information described above showing that most of the participants in the auctions were loggers who sold most of the timber bought at auction to Crown tenure–holding sawmills, we determine that it is reasonable to conclude that most of the Crown timber sold in BCTS section 20 auctions was ultimately purchased and used by Crown tenure–holding sawmills.

The AAC in the province effectively limits the amount that Crown tenure–holding mills are willing to pay for timber from the auctions or pay to loggers who win bids at the auctions. The AAC in BC is not an effective limitation on timber supply for Crown tenure–holding sawmills, as sawmills can just decide to harvest more from their Crown tenure, the price they pay for auctioned timber would be limited by what they pay for Crown stumpage. The record shows that these large Crown tenure–holding sawmills did not exhaust the amount of timber they could harvest from their tenures during the POR. As such, they were not forced to obtain timber from other sources, such as the BCTS section 20 auctions, because of a scarcity of available timber on their own tenure.

Specifically, the Crown tenure–holding sawmills, who hold forest licenses and tree farm licenses, were allocated 61.0 million cubic meters of timber or 85 percent of the AAC, which is the annual rate of timber harvesting specified in each Timber Supply Area (TSA), during the POR. However, these licensees harvested only 42.4 million cubic meters or 70 percent of their AAC, a shortfall of 18.6 million cubic meters. *See* GOBC's November 22, 2004, Questionnaire Response at BC–S–139. Moreover, since Crown tenure holders are allowed to overcut their AAC, even meeting their AAC would not have necessitated their buying from the auctions as additional timber could have been harvested under their tenures. *See* GOBC November 22, 2004, Questionnaire Response at BC–S–88. The mills' willingness to pay for timber from other sources, such as the auctions, will be limited by their costs for obtaining timber from their own tenures.

The price that loggers bid at the auctions is limited by the price they receive from tenure–holding sawmills because these sawmills are major purchasers of timber from the loggers and the major producers of softwood lumber in B.C. That loggers consider the price they will receive from tenure–holding sawmills and that this price determines what they bid in the BCTS auctions is demonstrated in the record by the fact that logging firms negotiate with the Crown tenure holding sawmills prior to placing a bid in the BCTS auction. *See* GOBC's November 22, 2004, Questionnaire Response at BC–IV–43 and April 13, 2005, Supplemental Response at page 47, and GOBC's November 22, 2004, Questionnaire Response at BC–S–26. *See also* the BCLTC Study at page 6–7, which states that:

> The BCTS auctions during this time period restricted bidders to hold no more than three BCTS timber licenses simultaneously. .. In addition, if a [saw]mill is unable to bid on a tract due to the restriction, the market loggers participating in the BCTS auctions will still take into account the mill's valuation for the logs, since the loggers anticipate being able to sell the harvested logs directly to the mill or through the log market (where log market prices will reflect the valuations of all local mills). Thus, a mill's valuation for the logs is still reflected in the auction prices, even it if does not bid directly. (Emphasis added.)

As stated previously, our analysis cannot utilize a benchmark that would reflect any underlying subsidy to determine whether and to what extent that very subsidy exists. As described above, the prices for timber auctioned under section 20 are effectively limited by Crown stumpage prices paid by Crown tenure–holding sawmills. These sawmills purchase the predominant amount of the timber bought in the auctions by logging companies at prices that are negotiated with the loggers prior to the auction in addition to being minor participants in the auctions. Moreover, the sawmills are in a position to establish these timber prices in a manner that reflects the prices they pay for Crown stumpage on their own tenures, *i.e.*, administratively–set prices, because they are not faced with a scarcity of timber from their tenure.

For these reasons, we preliminarily determine that the prices of Crown timber auctioned under section 20 of the Forest Act, as amended during the POR, are effectively limited by prices for administratively–set Crown timber. As such, these prices cannot serve as benchmarks to measure the adequacy of remuneration for Crown provided timber, because they do not reflect

[14] TSLs grant the right to harvest timber within a specific Timber Supply Area or TFL Area. TSLs have a duration of no more than 10 years. TSLs under Section 20 and 23 typically have a one-year term while TSLs under Section 21 have terms averaging four or five years.

market–determined prices from competitively run government auctions, a key requirement of the CVD regulations. *See* 19 CFR 351.511(a)(2)(i).

Province of Ontario

In the first administrative review, we determined that the prices for private standing timber in Ontario placed on the record by the GOO could not be used for benchmark purposes. Specifically, we determined that the prices reported in a survey prepared by DGM could not be used as benchmarks because the prices are effectively determined by the price for public timber. *See Preliminary Results of 1st Review*, 69 FR at 33215–33217; and *Final Results of 1st Review Decision Memorandum* at Comments 20 and 21.

In this review, the GOO submitted estimates (based on mill return data) of the volumes of private timber delivered to the various mills and a survey of prices of standing timber from private lands conducted by Bearing Point. In addition, the GOO submitted an economic analysis written by Charles River Associates and a map which shows the distribution of private forest lands in Ontario.

This new information has not led us to alter our findings from the first review. As in the prior review, we determine that the prices for private standing timber in Ontario are effectively determined by the price for public timber and, thus, cannot be used as benchmarks for determining whether the GOO sells Crown timber for less than adequate remuneration.

Information on the record indicates that sawmills in Ontario rely on Crown timber for the vast majority of their timber supply needs and use private timber in small quantities. According to mill return data provided by the GOO, 70 out of 75 mills reported usage of both Crown timber and timber from private lands, accounting for 99.7 percent of the total volume reported. *See* Exhibit ON–SUPP–3 of the GOO's April 15, 2005, supplemental questionnaire response. Also according to data provided by the GOO, the twenty–five largest sawmills, which account for about 74 percent of the volume reported, used approximately 10 million cubic meters of Crown timber during POR and less than one half million cubic meters of private timber. Information provided on the record by the GOO also indicates that tenure holders in Ontario are virtually unconstrained in the amount of Crown timber they can obtain. During the POR, loggers and mills in Ontario harvested only 70 percent of the annual allowable cut set by the GOO. *See* exhibit ON–TNR–3 of the GOO's April 15, 2005, supplemental questionnaire response. In each of the last four years, the harvest level ranged from as low as 56 percent to no more than 88 percent of the annual allowable cut. *Id.*

With no constraints on the amount of Crown timber that sawmills can obtain, the price that loggers are willing to bid on private stumpage is dictated by the difference of the expected sale price of the log and their harvesting costs plus profit. Loggers who sell to tenure–holding mills cannot expect to charge more for their private logs than the cost of the logs that the mills can source from their public tenure. The largest 25 softwood sawmills, producing 92 percent of the lumber in Ontario, have Crown tenure for which they pay government–set stumpage prices. *See* page ON–236 of the GOO's November 22, 2004 initial questionnaire response. Because the AAC in Ontario is not binding, mills with public tenure can always harvest more timber from their tenure and are not driven to the private market by demand that cannot be met from their tenure–holdings. *See Final Results of 1st Review Decision Memorandum* at Comment 20. Their willingness to pay for logs from other sources will be limited by their costs for obtaining timber from their own tenures. Therefore, the prices loggers bid for private stumpage are limited by the public stumpage prices paid by these mills. For these reasons, the Department finds that the transactions recorded in the Bearing Point Survey are effectively determined by the Crown stumpage prices and are, hence, not suitable benchmarks for assessing adequacy of remuneration.

Our analysis cannot utilize a benchmark that would reflect any underlying subsidy to determine whether and to what extent that very subsidy exists. Because the prices in the Bearing Point Survey are dictated by the price for Crown timber, they are not useable under tier one of our regulatory hierarchy.

Province of Quebec

In the first administrative review, we concluded that prices for private standing timber in Quebec could not serve as benchmarks for determining whether the GOQ sells Crown timber for less than adequate remuneration because the incentives that tenure holders face vis–a-vis the private market are distorted. We based our conclusion on the following factors:

- Tenure–holding sawmills have an interest in maintaining a low value of standing trees in private forests, as this value provides the basis for calculating Crown timber prices (the Feedback Effect)
- Sawmills with access to Crown timber can avoid sourcing in the private forest because, among other things, the annual allowable cut on Crown land is not binding.
- Tenure–holding sawmills dominate the private market
- Sawmills without access to Crown timber account for small harvest volume in the private forest

See Preliminary Results of 1st Review, 69 FR at 33215–33217. *See also Final Results of 1st Review Decision Memorandum* at Comments 22 through 33.

A review of the information on the record of this review has not led us to alter this finding. Similar to the first administrative review, the GOQ provided the aggregate sourcing patterns of Quebec's 1,020 softwood sawmills during 2003. The mills were divided into four categories: mills sourcing exclusively from public sources (purely public mills), mills sourcing exclusively from private sources (purely private mills), mills sourcing from public and private sources, and mills sourcing from public, private, and other (*e.g.*, imports) sources (public/private/other mills). Analysis of the data provided shows that purely private mills sourced 534,769 cubic meters of softwood timber which accounted for only 1.7 percent of the volume of softwood harvested in the province. *See* Exhibit 162 of the GOQ's April 19, 2005 supplemental questionnaire response; see also Table 1 of the May 31, 2005, Memorandum to the File from Eric B. Greynolds, ''Quebec Internal Price Memorandum'' (Quebec Internal Price Memorandum) Further, record evidence indicates that the average consumption rate of the 819 purely private mills continues to be small, on average approximately 653 cubic meters, relative to the 146 dual–source mills, whose consumption rate was approximately 171,421 cubic meters (a.k.a., mills that source from public and private sources). *Id.*

In addition, evidence on the record of this review indicates that dual–source mills dominate the market for private standing timber. The 146 dual–source mills accounted for 85.9 percent of the private timber harvested in 2003. *Id.* At the same time, dual–source mills obtained only a small percentage of their total harvest during 2003 from private lands. For instance, public/private/other mills obtained 17.6 percent of their total harvest from the private forest while public/private mills sourced just 10.6 percent of their softwood from the private forest. *Id.* Thus, the data continue to indicate that

the public stumpage market is a much more important sourcing component for dual–source mills and, thus, continues to be the market on which these mills focus the majority of their interests and operations.

As in the first administrative review, record evidence indicates that the dominance of the dual–source mills is pronounced at the corporate level. In Exhibit 120 of its March 15, 2005 questionnaire response, the GOQ provided actual consumption data for 440 of Quebec's softwood sawmills.[15] The data in Exhibit 120 indicate that in 2003 six corporations, whose mills source from both public and private sources, consumed approximately 54 percent of the total timber harvest, 63 percent of the public harvest, and 31 percent of the private harvest. *See* Table 2 of the Quebec Internal Price Memorandum. Further, sorting the data in Exhibit 120 by private timber consumption indicates that 20 corporations (15 of which operate dual–source mills) account for over 70 percent of the private timber harvest. *See* Table 3 of the Quebec Internal Price Memorandum. However, while these corporations consume the majority of private timber in Quebec, private–origin timber accounts, on a weighted–average basis, for 12 percent of their inputs while public timber accounts for 83 percent.

In addition, information on the record of this review indicates that there have been no changes to Quebec's Forestry Act that would lead us to alter our previous findings that feedback effects inherent in the GOQ's administered stumpage system encourage tenure holders to maintain low prices for private timber. We also continue to find that sawmills with access to Crown timber can avoid sourcing in the private forest. Therefore, for purposes of these preliminary results, we find that private prices for standing timber in Quebec cannot serve as benchmarks within the meaning of 19 CFR 351.511(a)(2)(i) when determining whether the GOQ sells Crown timber for less than adequate remuneration, because these prices are distorted by a combination of the GOQ's administered stumpage system, the relative size of public and private markets, feedback effects between the private and public markets, and a non–binding AAC. *See* ''Private Provincial Market Prices'' section of the *Final Results of 1st Review Decision Memorandum*.

Provinces of Manitoba and Saskatchewan

With respect to Manitoba and Saskatchewan, the provincial governments did not supply private market timber prices upon which to base a first–tier benchmark arising from those provinces.

Private Stumpage Prices in New Brunswick and Nova Scotia May Serve as a First–Tier Benchmarks in the Subject Provinces

As in the first administrative review, private stumpage prices for New Brunswick and Nova Scotia (together, the Maritimes) were submitted on the record of this review by the GONB and GONS, respectively. These prices are contained in separate price surveys prepared by AGFOR, Inc. Consulting (AGFOR) for each of the Maritimes' governments. *See* New Brunswick AGFOR Report at Exhibit 1 of the GONB's November 22, 2004 questionnaire response. *See* Nova Scotia AGFOR Report at Exhibit 4 of the GONS's November 22, 2004 questionnaire response.

In the first administrative review, we determined that private stumpage prices in the Maritimes constituted market determined, in–country prices consistent with the first–tier of the adequate remuneration hierarchy of 19 CFR 351.511(a)(2). Therefore, we used these prices to assess the adequacy of remuneration of the Crown stumpage provided by the GOA, GOM, GOO, GOQ, and GOS. *See Preliminary Results of 1st Review*, 69 FR at 33218. *See also* ''Private Stumpage Prices in New Brunswick and Nova Scotia'' section of the *Final Results of 1st Review Decision Memorandum* and at Comments 34, 35, 37, and 38.

As explained in the first administrative review, Maritimes' stumpage price reports were prepared by AGFOR on behalf of the Maritimes' governments to establish the bases for their administered stumpage rates and not for the purpose of this proceeding. *Id.* Record evidence further indicated that in establishing their Crown stumpage rates, the Maritimes consider the prevailing prices for stumpage in the private market and the calculations for the Crown stumpage rates are thus directly linked to actual market–based transactions in the private market. *Id.* In addition, in the first administrative review, we found that the private supply standing timber constitutes a significant portion of the overall market in the Maritimes. *See Preliminary Results of 1st Review*, 69 FR at 33218. During the POR of this administrative review, private supply accounts for 49.2 percent of the total harvest in New Brunswick and over 89.4 percent in Nova Scotia. *See* Exhibit 1 of the GONB's May 2, 2005 submission; *see* page 2 of the GONS's November 23, 2004 submission.

Although interested parties have contested our use of Maritimes' private stumpage prices in this review, we find their comments do not contain any new evidence or argument which would warrant a reconsideration of our prior finding. For example, the argument that Maritimes' private stumpage prices do not reflect prevailing market conditions in the subject provinces is fully addressed in the first review. *See Final Results of 1st Review Decision Memorandum* at Comment 38. Thus, we preliminarily determine that the Maritimes' private prices are market–determined prices in Canada, and are therefore usable under the first tier of our adequate remuneration hierarchy, and consistent with our approach in the first administrative review, we have used Maritimes' private prices to measure the adequacy of remuneration of the stumpage programs administered by the GOA, GOS, GOM, GOO, and GOQ.[16]

Comparability of Maritimes Standing Timber to Standing Timber in Alberta, Manitoba, Ontario, Quebec, and Saskatchewan

The Nova Scotia and New Brunswick Reports contain prices for the general timber species category of eastern SPF.[17] The species included in eastern SPF are also the primary and most commercially significant species reported in the SPF groupings for Quebec, Ontario, Manitoba, Saskatchewan and a portion of Alberta, accounting for over 90 percent of the entire timber harvest across these provinces.[18]

In the first administrative review, we found that although there is some minor variation of the relative concentration of

[15] These mills accounted for nearly all (95 percent) of the softwood processed in the Province during the POR. Thus, we find that the data in Exhibit 120 provide a reasonable summary of the consumption patterns of Quebec's softwood sawmills in operation during 2003.

[16] In the first administrative review, we determined that Maritimes' private prices were not the most appropriate benchmark for British Columbia. *See* ''Benchmark Prices for B.C.'' section of the *Final Results of 1st Review Decision Memorandum*. We have continued to adopt this approach in the current review. *See* ''Maritimes Prices are not the most appropriate Benchmark for British Columbia'' section of these preliminary results for further discussion.

[17] This category includes, among other species, white spruce, black spruce, red spruce, jack pine, and balsam fir which represents the vast majority of the species harvested in the Maritimes.

[18] 98 percent for Quebec, 94 percent for Ontario, 99 percent for Saskatchewan, 99 percent for Manitoba, and 99 percent for Alberta.

individual species across provinces, this does not affect comparability for benchmark purposes. *See, e.g.*, Preliminary Results of 1st Review, 69 FR at 33219; and ''Private Stumpage Prices in New Brunswick and Nova Scotia'' section of the *Final Results of 1st Review Decision Memorandum* and at Comment 38. We further found that the provinces themselves do not generally differentiate between these species; rather, they tend to group all eastern SPF species into one category for data collection and pricing, *e.g.*, Quebec charges one stumpage price for ''SPF.'' *Id.*

In this review, petitioners contend that it is not appropriate to measure the adequacy of the GOA's administered stumpage system because a significant portion of Alberta's Crown harvest consists of species that are made into Western ''SPF'' lumber, which is superior and, therefore, not comparable to the Eastern ''SPF'' lumber produced from standing timber harvested in the Maritimes. *See* page 63 through 69 of petitioners' April 29, 2005, submission. Petitioners further argue that it is not appropriate to compare Maritimes' stumpage prices to Alberta's Crown stumpage prices because there is little commonality between western and eastern softwood species. *Id.*[19]

We note that petitioners' contentions are premised on the notion that there is a premium attached to Western ''SPF'' lumber, which results in a premium for Western ''SPF'' logs. On this point, we note that petitioners have themselves asserted the opposite. In a submission to the Department regarding the ruling of the NAFTA dispute settlement panel, petitioners urged the Department to measure the adequacy of remuneration of the subject provinces' administered stumpage system using a U.S.-based log benchmark. *See* petitioners' August 27, 2003 submission, a public document on file in the CRU. In support of their argument that the use of a U.S.-based log benchmark would be feasible, petitioners contended that minimal adjustments would be necessary to calculate the subsidy benefits for the subject provinces:

> Any comparisons based on log prices should be species–specific. With the exception of the BC Coast, however, the large majority of Canadian timber falls into the spruce–pine-fir (''SPF'') category, which is generally recognized as commercially interchangeable.

See page 72 of petitioners' August 27, 2003 submission. They further stated that because, ''. . . most Canadian lumber . . . is sold as part of the undifferentiated SPF lumber grouping, timber harvests are largely simply SPF as well.'' *Id.* Petitioners went on to cite a statement made by a major Canadian lumber company, Abitibi–Consolidated, Inc., in the context of the antidumping investigation in which it also attested to the interchangeability of eastern and western SPF lumber. *Id.* On this basis, petitioners concluded that in calculating a U.S.-based log benchmark, ''adjustments for species within the SPF group, therefore, are not necessary.'' *Id.* Further, in the context of the antidumping proceeding, the Department also found eastern and western SPF to be interchangeable. *See Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Certain Softwood Lumber Products from Canada*, 66 FR 56062 (November 6, 2001), where, in reference to lumber, the Department stated:

> . . . Eastern and Western Spruce–Pine-Fir are identical from the viewpoints of the markets and with respect to end–use. The ''eastern'' and ''western'' designations are simply a regional distinction which is irrelevant for purposes of product comparison in this investigation.

Regarding the comparability of the Maritimes to the subject provinces, in the first administrative review we also determined that the species maps for SPF demonstrate that the species group's range of growth stretches from the Maritimes to Alberta. *See Final Results of 1st Review Decision Memorandum* at Comment 38. We further determined that record evidence demonstrated that SPF trees are comparable across their entire growing range as demonstrated by tree diameter, which is one of the most important characteristics in terms of lumber use. *Id.* For example, we found comparable diameters among SPF trees grown from the Maritimes to Alberta. *Id.* In particular, we found that at the easternmost portion of their range, SPF's average diameter at breast height (DBH) in New Brunswick is 7.78 inches, at the westernmost portion of their range in Alberta, the DBH is 8.00 inches, and in Quebec, which accounts for the largest overall harvest, the DBH is 7.91. *Id.*

In their April 29, 2005 submission, petitioners contend that the diameter information the Department relied on in the first administrative review overstated the average diameter of the Maritimes' standing timber and understated the diameter of the subject provinces, namely that of Alberta. They argue that if the Department accounts for biases in the diameter data, it will find that, regardless of the preponderance of SPF, the Maritimes logs are too small relative to those of the subject provinces to be used as stumpage benchmark.

The Department continues to rely on the diameter data it relied on in the first review. We note that petitioners previously stated that:

> . . .for sawlog sizes up to the 10–inch diameter class—the vast bulk of relevant logs in both the U.S. and Canada, outside of the B.C. Coast—log prices do not substantially vary on a per–unit-basis, as long as the logs are of a sufficient size and quality to be sold to sawmills for milling into lumber.

Id. at 73.

For these reasons, we preliminarily determine that Maritimes' prices for eastern SPF are comparable to Crown stumpage prices for the SPF species groupings in Quebec,[20] Ontario, Manitoba, Saskatchewan, and Alberta. Accordingly, consistent with 19 CFR 351.511(a)(2)(i), we have compared these market–determined, in–country prices to the Crown stumpage prices in each of the provinces to determine whether the Crown prices were for less than adequate remuneration.

Application of Maritimes Prices

Having preliminarily found that the Maritimes' prices are in–country, market–determined prices, we next consider how to apply these prices in our benefit calculations.

1. Indexing

The Nova Scotia Report contains price data from 1999. The New Brunswick Report contains price data for the period July 1, 2002, to November 30, 2002. In the first administrative review, we indexed the data in the Nova Scotia Report using using a lumber–specific index reported for the Atlantic Region by STATCAN. *See Preliminary Results*

[19] Petitioners made similar contentions regarding the dissimilarity of logs and lumber from the Maritimes and Alberta during their April 14 and May 5 meetings with members of the Import Administration staff. *See* the attachments in the April 14 and May 6, 2005 memorandums to the file from Eric B. Greynolds, Program Manager, Office of AD/CVD Enforcement III, entitled, ''Meeting with Counsel to the Coalition for Fair Lumber Imports Concerning the Upcoming Preliminary Results.''

[20] Consistent with our approach in the first administrative review, we continue to find that Quebec's SPF basket includes larch. Accordingly, we constructed an SPF benchmark which includes larch for Quebec for this review. *See, e.g.*, Final Results of 1st Review Decision Memorandum at Comment 40.

of 1st Review, 69 FR at 33218.[21] In the current administrative review, petitioners have argued that it is incorrect to index stumpage prices using a lumber price index, especially since the evidence they submitted on the record purportedly indicates diverging lumber and log prices. *See* page 89 of petitioners' April 29, 2005 submission. Petitioners contend that we should instead rely on indices derived from log price data from the Atlantic Forestry Review (AFR), a Maritimes–based publication that reports softwood sawlog prices on a bi–annual basis, to index the pricing data from Nova Scotia and New Brunswick. They further argue that if we continue to use the STATCAN index for Nova Scotia, then we should index the private pricing data in the New Brunswick Report using a constructed lumber price index derived from lumber pricing data reported by Madison's Canadian Lumber Reporter (Madison's), a British Columbia–based lumber reporting publication, on the grounds that record evidence indicates that the GONB uses the Madison's publication to set their administered stumpage prices.

During the POR, the AFR published price information in July 2003 and January 2004. *See* the May 31, 2005, Memorandum to the File from Maura Jeffords, Case Analyst, AD/CVD Enforcement, Office 3 (*AFR Memorandum*). The July 2003 publication covered a one-week period in May 2003, while the January publication covered a one-week period in late November 2003. *Id.* According to officials at the AFR, their softwood log price surveys cover approximately 20 respondents, with five to ten percent of the selection varying between publications. *Id.* Regarding Madison's, officials from the publication stated that it does not collect lumber prices from entities in the Maritime provinces. *See* the May 31, 2005, Memorandum to the File from Maura Jeffords, Case Analyst, AD/CVD Enforcement, Office 3 (*Madison's Memorandum*).

For purposes of these preliminary results, we have determined to index the private price data from the New Brunswick and Nova Scotia Reports using the lumber–specific index reported for the Atlantic Region by STATCAN. First, information from Madison's indicates that it does not collect lumber price information for the Maritimes. We further note that the AFR and Madison's simply contain price information and are not indices in and of themselves. Thus, to use the publications in the manner requested by petitioners requires that the Department construct an index based on limited data. In contrast, the lumber index from STATCAN is prepared and maintained in the ordinary course of business and can be incorporated into our calculations without the added steps that would be necessary to construct an index using the data from AFR and Madison's. *See* the May 31, 2005, Memorandum to the File from Eric B. Greynolds, Program Manager, AD/CVD Enforcement, Office 3, ''Data on the Statistics Canada Obtained from the Internet and Placed on the Record.'' Further, STATCAN produces its lumber index using an established and consistent methodology from year to year that involves mandatory respondents, including a group of ''must take'' respondents that are included in every survey period. *Id.* In addition, STATCAN employs commodity specialists to conduct follow–up inquiries of outlier, incorrect, or suspicious prices. *Id.*

Thus, we acknowledge that, in an ideal situation, we would use a pre–existing stumpage or log index to adjust for price changes in the Maritime price data. However, in light of the evidence submitted on the record of this review, we preliminary determine that the constructed log index proposed by petitioners remains inferior to the lumber price index from STATCAN.

2. Costs That Must Be Paid in Order to Harvest Private Standing Timber in New Brunswick and Nova Scotia

In the first administrative review, we found that the pricing data for New Brunswick and Nova Scotia reflect the prices paid by harvesters for standing timber and include the value of the timber being purchased in addition to any landowner costs. *See Final Results of 1st Review Decision Memorandum* at Comment 39. We also found that harvesters in the Maritimes incur additional costs that must be paid in order to be able to acquire private timber. Specifically, we found that harvesters in New Brunswick are required to pay silviculture fees as well as administrative fees to the marketing board operating within the region. In Nova Scotia, in order to be able to acquire the standing timber, the registered buyer must either pay for or perform in–kind activities equal to C$3.00 for every cubic meter of private wood harvested. *Id.*[22] For purposes of these preliminary results, we find there has been no new information or arguments from interested parties that would warrant a reconsideration of these findings. Therefore, we added these costs to the indexed stumpage prices to obtain the average stumpage price for softwood logs from New Brunswick and Nova Scotia.

3. Weighting of Studwood in the Nova Scotia Benchmark

The GONS does not collect harvest volume data by log type (*i.e.*, studwood log, sawlog, or treelength log). Thus, in its Nova Scotia Report, AGFOR used a methodology which allowed it to allocate prices to the corresponding log type. Specifically, AGFOR, when it constructed the weighted prices found on page 23 of the AGFOR Nova Scotia Report, allocated an equal share of the volume to all of the log types harvested in a given region within Nova Scotia. *See, e.g.*, page 13 and 14 of the October 1, 2004 memorandum to Melissa G. Skinner, Director, Office of AD/CVD Enforcement 3, from Maura Jeffords, Case Analyst, Office of AD/CVD Enforcement 3, regarding, ''Verification of the Questionnaire Responses Submitted by Governments of New Brunswick (GONB) and Nova Scotia (GONS) and AGFOR Reports Submitted in Reference to Private Prices in New Brunswick and Nova Scotia,'' (Maritimes Verification Report), which was placed on the record of this review in the GOC's March 15, 2005 submission. In the first administrative review, we determined that it was reasonable to accept AGFOR's methodology for reporting the Nova Scotia stumpage prices. *See Final Results of 1st Review Decision Memorandum* at Comment 37.

Petitioners contend that it is not appropriate to weight the studwood prices in the manner described above. They argue that lumber production capacity data for Nova Scotia sawmills contained in a 2003 United States Forest Service (USFS) Survey demonstrate that the Department's approach in the first administrative review vastly overstates the amount of studwood in Nova Scotia. They assert that the data in the USFS survey demonstrate that a weight of 10.3 percent should be attributed to the studwood prices contained in the Nova Scotia Report. *See* petitioners' April 29, 2005 submission at page 97.

First, we acknowledge the difficulty involved in attaching a weight to the studwood prices contained in the

[21] It was not necessary to index the pricing data in the New Brunswick Report because it coincided with the POR of the first administrative review.

[22] In the final results of the first review, we also confirmed that harvesters of private standing timber in Nova Scotia and New Brunswick do not incur any other charges (*i.e.*, road building/maintenance costs, fire prevention costs, or land-owner related costs).

AGFOR report. In light of this fact, in these preliminary results we continue to rely on the approach adopted by AGFOR in the Nova Scotia Report. As noted in *Final Results of 1st Review Decision Memorandum*, AGFOR developed this approach in the ordinary course of business prior to the initiation of the CVD investigation. Moreover, the Department found AGFOR's approach to be reasonable in the first administrative review. Second, regarding the studwood weight that petitioners derived using mill capacity data from the USFS survey, we note that it is based on only 8 sawmills and, thus, does not account for dozens of additional mills in Nova Scotia that produce significant commercial quantities of lumber.

Benchmark Prices Used for British Columbia

Maritimes' Stumpage Prices Are Not the Most Appropriate Benchmarks for British Columbia

In the final results of the first review, we concluded that the Maritimes' private stumpage prices were not suitable as benchmarks for British Columbia because of the lack of commercial interchangeability between the species in British Columbia and the eastern SPF species in the Maritimes. *See* ''Maritimes Benchmarks Are Not the Most Appropriate for B.C.'' section of the *Final Results of 1st Review Decision Memorandum*. We preliminarily determine that the record does not contain any new evidence which would warrant a reconsideration of our finding from the final results of the first review.

B.C. Log Prices Are Not An Appropriate Benchmark

In the final results of the first review, we found that stumpage and log markets in British Columbia were closely intertwined and therefore Crown stumpage prices affected both stumpage and log prices. *See* ''B.C. Log Prices Are Not An Appropriate Benchmark'' section of the *Final Results of 1st Review Decision Memorandum*. We further found that Crown logs were, in fact, sold in substantial quantities on the log market. *Id.* For example, we found that the great majority of wood sold in B.C. (apart from allocated Crown wood) was purchased by large integrated tenure–holding producers who purchase wood for their sawmills following standard purchase contracts that were structured as log or stumpage purchases. Thus, we determined that these producers were indifferent as to which form of wood, *i.e.*, either timber or logs, they purchased for use in softwood lumber production and that the decision to purchase either timber or logs would instead ultimately depend on price.

In the final results of the first administrative review, we further determined that, because these companies simultaneously purchased and used both forms of wood, they must in principle view the cost of stumpage and logs as equivalent, *i.e.*, stumpage price plus the cost of harvesting should equate to the cost of a log. In addition, we explained that the fact these producers used both timber and logs throughout the period of the first review to produce softwood lumber meant that stumpage–log price equivalence was maintained throughout that review period and that this, in turn, suggested that the timber and log prices were linked (*e.g.*, low (or high) timber prices means low (or high) log prices). *Id.* On this basis, in the final results of the first review, we determined that there was sufficient record evidence to conclude that subsidized prices in the Crown stumpage market would result in price suppression in the sales of Crown logs. *Id.* For these reasons, we also determined that B.C. log prices are not market–determined prices independent from the effects of the underlying Crown stumpage prices and, therefore, cannot be used to assess the adequacy of remuneration of B.C.'s stumpage program. For purposes of these preliminary results, we find that the record does not contain any new evidence which would warrant a reconsideration of our finding from the final results of the first review.

U.S. Stumpage Prices Are Not the Most Appropriate Benchmark for British Columbia

In the first administrative review, we explained that we were cognizant of the fact that a NAFTA Panel, considering the B.C. benchmark employed in the underlying investigation, found that standing timber is not a good that is commonly traded across borders. *See* ''World Market Prices'' in *Final Results of 1st Review Decision Memorandum*. We also explained, in considering U.S. stumpage prices as a benchmark under our regulatory hierarchy, that using those prices would require complex adjustments to the available data. We therefore turned our analysis to U.S. log prices. *Id.* For purposes of these preliminary results, we find that the record of this review does not contain any new evidence that would warrant a reconsideration of our finding from the final results of the first review.

U.S. Log Prices Are a More Appropriate Benchmark

In the final results of the first administrative review, we found that U.S. log prices may constitute third–tier benchmarks when determining the adequacy of remuneration of the GOBC's administered stumpage program (*i.e.*, a benchmark that is consistent with market principles under 19 CFR 351.511(a)(2)(iii)). *See* ''U.S. Log Prices Are a More Appropriate Benchmark'' in *Final Results of 1st Review Decision Memorandum*. In the final results of the first review, we stated that a market principles analysis by its very nature depends on the available information concerning the market sector at issue, and must, therefore, be developed on a case–by-case basis. In this case, we found that using U.S. log prices is consistent with a market principles analysis, because (1) stumpage values are largely derived from the demand for logs produced from a given tree; (2) the timber species in the U.S. Pacific Northwest and British Columbia are very similar and, therefore, U.S. log prices, properly adjusted for market conditions in British Columbia, are representative of prices for timber in British Columbia; and (3) U.S. log prices are market determined. *Id.* For purposes of these preliminary results, we find that the record of the current review does not contain any new evidence which would warrant a reconsideration of our finding from the final results of the first review. We also continue to make the same adjustments to derive the market stumpage prices for British Columbia. *See* ''Calculation of the ''Derived Market Stumpage Price'' section below.

Application of U.S. Log Prices

1. Selection of Data Sources

In the final results of the first review, our U.S. log benchmark for the B.C. Coast consisted of *Log Lines* prices for Washington and Oregon, as well as Oregon prices from the Oregon Department of Forestry. Our U.S. log benchmark prices for the B.C. Interior consisted of prices from Northwest Management Inc.'s *Log Market Report* covering eastern Washington and Northern Idaho (Area 1) and western Montana (Area 4) as well as prices from the University of Montana's *Montana Sawlog & Veneer Log Report* that contains log prices for western Montana.

In this review, interested parties have submitted updated U.S. log prices from the four sources covering the same regions listed above. Interested parties have also submitted additional U.S. log price data for the current review period

from the following sources: Oregon Log Market Report, Washington Log Market Report, Pacific Rim Wood Market Report, Timber Data Company, and Idaho Department of Lands.

We preliminarily determine to continue to use the U.S. log price sources listed above for the B.C. Coast and Interior, as updated for the current POR. In addition, we preliminarily determine to include the following additional U.S. log price data sources for the B.C. coast: Oregon Log Market Report, Washington Log Market Report, and Pacific Rim Wood Market Report (which cover the coast, northwest, and southwest Oregon and Washington). For the B.C. interior, we preliminarily determine to include the following additional U.S. log price data sources: Oregon Log Market Report and Washington Log Market Report (which cover eastern Oregon, eastern Washington, Idaho, and Montana). We have preliminarily decided not to use the Western Washington log prices reported by the Timber Data Company and the Idaho Department of Lands' ''pond value'' log prices, as prepared by the Timber Data Company. For additional information concerning our selection of the additional data sets, *see* the May 31, 2005, Memorandum to the File regarding the Preliminary Calculations for the Province of British Columbia.

2. Derivation of U.S. Log Prices on a Per Unit Basis For Use in Comparison to Log Prices on the B.C. Coast and Interior

a. Weighting of U.S. Log Price Sources

As explained above, in the final results of the first review, we used a total of four sources to derive our U.S. log price benchmarks (*i.e.*, two sources for the B.C. Coast and two sources for the B.C. Interior). For both the B.C. Coast and Interior, we derived the U.S. log benchmark prices by taking the average unit price of the two respective data sources. *See* the February 28, 2005, Memorandum to the File regarding the Amended Final Results Calculations for B.C. at Table 3A.

The GOBC argues that if the Department continues to use U.S. logs as the benchmark for British Columbia, it should calculate simple averages using a different methodology from the one it employed in the first administrative review. *See* GOBC and BCLTC's February 28, 2005 Factual Submission at Vol. 1, p.76. The GOBC asserts that the methodology employed by the Department in the final results of the first review overstates the significance of log price data in certain states based on nothing other than the availability of data for those states. They argue that it is more appropriate to develop a simple average for each state within each benchmark area, and then calculate a simple average of those prices. *Id.*

We preliminarily find that the GOBC's proposed simple–averaging methodology creates additional complications and we have not made the requested changes. For example, some U.S. log data sources report log prices for regions or areas which include two U.S. states. However, we welcome comments from interested parties on the simple–average methodology previously employed and on the GOBC and BCLTC comments on this issue. We will continue to examine the manner in which we average the benchmark U.S. log prices used in measuring the adequacy of remuneration of the GOBC's stumpage programs on the B.C. Coast and Interior.

b.Conversion of U.S. Log Prices into Canadian Dollar (CAD) / cubic meter

The U.S. log price data was expressed in U.S. dollars (USD) per thousand board feet (mbf). Therefore, it was necessary to convert our benchmark data so that they were expressed in the same currency and unit of measure as the B.C. administered stumpage prices. In the final results of the first review, we converted U.S. log price data for the B.C. Coast using a conversion factor of 6.76 USD / cubic meter. For the B.C. Interior, we used a conversion factor of 5.93 USD / cubic meter. We then converted the benchmark prices into Canadian currency based on the average of the daily USD / CAD daily exchange rate, as published by the Federal Reserve Bank of New York. For purposes of these preliminary results, we find that the record does not contain any new evidence which would warrant a reconsideration of our approach from the final results of the first review. Therefore, we continue to apply the same conversion factors and exchange approach that was employed in the final results of the first review.

Calculation of Provincial Benefits

Adjustment to Administrative Stumpage Unit Price

In the final results of the first review, we established a methodology for adjusting the unit prices of the Crown stumpage programs administered by the GOA, GOS, GOM, GOO, and GOQ. *See, e.g.*, Final Results of 1st Review Decision Memorandum at Comment 39. Under this methodology, we focused on those costs that are assumed under the timber contract (*e.g.*, the Crown tenure agreement) and those costs that are necessary to access the standing timber for harvesting (but that may differ substantially depending on the location of the timber). Where such costs are incurred by harvesters in either the Maritimes or the subject provinces, we included them in our benefit calculations. We did not, however, make adjustments for costs that might be necessary to access the standing timber for harvesting but that do not differ substantially based on the location of the timber (*e.g.*, costs for tertiary road construction and harvesting). Because the Maritimes data reflect prices at the point of harvest, we also did not include post–harvest activities such as scaling and delivering logs to mills or market. *Id.* In this manner, we adjusted the unit stumpage prices of the GOA, GOS, GOM, GOO, and GOQ such that they were on the same ''level'' as the private stumpage prices we obtained from the Maritimes. We preliminarily determine that the record does not contain any new evidence which would warrant a reconsideration of our finding from the final results of the first review.

1. Province of Alberta

a. Derivation of Administered Stumpage Unit Prices

To derive Alberta's administratively established stumpage rate, we divided the total timber dues charged to tenure holders during the POR for each species by the total softwood stumpage billed under each tenure for each species. In this manner, we obtained a weighted–average stumpage price per species that was paid by tenure holders during the POR.

b. Adjustments to Administered Stumpage Unit Price

Pursuant to the methodology established in the final results of the first review, we have added the following costs to Alberta's administered stumpage unit price:[23]

- Costs for Primary and Secondary Roads (*e.g.*, Permanent Road Costs in Road Classes 1 Through 4)
- Basic Reforestation
- Forest Management Planning
- Holding and Protection

[23] For a description of the derivation of the unit costs added to the GOA's administered stumpage price, see the May 31, 2005, Preliminary Calculations Memorandum for Alberta. The derivation of the unit costs for the GOS, GOM, GOO, and GOQ are also described in this calculation memorandum. The categories of costs added to the administered stumpage prices of the GOA, GOS, GOM, GOO, and GOQ are the same as those used in the final results of the review. *See Final Results of 1st Review Decision Memorandum* at Comment 39.

- Environmental Protection
- Forest Inventory
- Reforestation Levy
- Fire, Insect, and Disease Protection

c. Calculation of the Benefit

To calculate the unit benefit under this program, we compared the species–specific benchmark prices (the Maritimes private stumpage prices described above) to the GOA's corresponding adjusted administered stumpage prices. In this manner, we calculated a unit benefit for each species group. Next, we calculated the species–specific unit benefit by the total species–specific softwood timber billed volume in Alberta during the POR.

Regarding the softwood timber billed volume used in the benefit calculations, the GOA claims that its stumpage classification system does not allow the province to isolate the wood volumes going strictly to sawmills and used to produce lumber. Thus, it is necessary to derive the volume of softwood Crown logs that entered and were processed by Alberta's sawmills during the POR (*i.e.*, logs used in the lumber production process). We performed a similar calculation in the first administrative review. However, upon identifying additional information discussed below, we determined that it is necessary to alter our approach to the calculations for Alberta.

The GOA argues that this volume amount harvested by non–sawmill-owning tenure holders should not be included in our calculations. However, by the GOA's own admission, this volume amount includes logs that were subsequently sold to sawmills. *See, e.g.*, page 8 of the GOA's May 2, 2005 supplemental questionnaire response. Further, with respect to this volume amount, the GOA provided no means by which we could identify the portion of the volume that went to sawmills and the portion that was exported or went to non–sawmills. Thus, because there is no way to break out this volume amount and because the GOA has offered no information on whether any subsidies attributable to this softwood timber did or did not pass through to any sawmills, we have, as a starting point, included the entire timber volume in question when determining the volume of Crown logs to include in the numerator of Alberta's provincial subsidy rate calculation.

In order to determine the volume of Crown logs that went to sawmills (*a.k.a.*, ''net–down'' approach), we have slightly revised the methodology that was used in the first administrative review. Specifically, we have used the GOA's Section 80/81 timber data from Table 39, Exhibit AB–S–87 that has not been ''netted down'' as the basis for Alberta's benefit calculation. This data differs from the data set reported in the first review (Alberta Verification Exhibit, GOA–3, AR Table 43, Exhibit AB–S–70) because it represents the Section 80/81 basket category of timber which has not been ''netted down'' to exclude the volumes from tenure holders who do not own sawmills.

We subsequently added the volumes of certain non–lumber categories to the Crown Section 80/81 data to capture the universe of timber going to sawmills which corresponds to the provincial softwood billed volume identified in the PwC survey and reported by the GOA in Exhibit AB–S–107. The resulting aggregate Crown softwood billed volume was then ''netted down'' using the ''percentage of survey billed volume as lumber'' reported in the PwC survey results. This calculation enabled the Department to derive the Alberta's total Crown stumpage billed volume on a species–specific basis, which reflects the volume of provincial stumpage cut by tenure holders and sent to sawmills for processing into lumber and co–products. For further discussion, see the Preliminary Calculation Memorandum.[24] Finally, we summed the species–specific benefits to calculate the total stumpage benefit for the province.

d. Calculation of Provincial and Country–Wide Rate

To calculate the province–specific subsidy rate, we divided the total stumpage benefit by Alberta's POR stumpage program denominator. For a discussion of the denominator used to derive the provincial rate for stumpage programs, see ''Numerator and Denominator Used for Calculating the Stumpage Programs' Net Subsidy Rates'' in these preliminary results. As explained in ''Aggregate Subsidy Rate Calculation,'' we weight–averaged the benefit from this provincial subsidy program by Alberta's relative share of total exports of softwood lumber to the United States during the POR. The total countervailable subsidy for the provincial stumpage programs can be found in ''Country–Wide Rate for Stumpage.''

[24] We note that this volume of timber is separate from the volume of timber included in the GOA's pass through claim. For further information regarding the GOA's pass through claim, see the ''Pass Through'' section of these preliminary results.

2. Province of Manitoba

a. Adjustments to Administered Stumpage Unit Price

The GOM reported average, per unit stumpage prices for the POR. Thus, our next step was to adjust the per unit stumpage prices pursuant to the methodology described above in ''Calculation of Provincial Benefits.'' Specifically, we have added the following costs to Manitoba's administered stumpage unit price:

- Forest Renewal Charge
- Forest Management License Silviculture
- Costs for Permanent Roads (*e.g.*, Primary and Secondary Roads)
- Forest Inventory
- Forest Management Planning
- Environmental Protection
- Fire Protection.

b. Calculation of the Benefit

To calculate the unit benefit conferred under the GOM's administered stumpage program, we subtracted from the species–specific benchmark prices the cost–adjusted weighted average stumpage price per species. Next, we calculated the species–specific benefit by multiplying the species–specific unit benefit by the total softwood timber harvest volume for that species during the POR. We then summed the species–specific benefits to calculate the total stumpage benefit for the province.

c. Calculation of Provincial and Country–Wide Rate

To calculate the province–specific subsidy rate, we divided the total stumpage benefit for Manitoba by the POR stumpage program denominator. For a discussion of the denominator used to derive the provincial rate for stumpage programs, *see* ''Numerator and Denominator Used for Calculating the Stumpage Programs' Net Subsidy Rates.'' As explained in ''Aggregate Subsidy Rate Calculation,'' we weight–averaged the benefit from this provincial subsidy program by Manitoba's relative share of total exports of softwood lumber to the United States during the POR. The total countervailable subsidy for the provincial stumpage programs can be found in ''Country–Wide Rate for Stumpage.''

3. Province of Saskatchewan

a. Derivation of Administered Stumpage Unit Prices

To derive Saskatchewan's administratively established stumpage rate, we divided the total stumpage collections for each species by the corresponding volume of Crown softwood timber destined to sawmills.

In this manner, we obtained a weighted–average stumpage price per species that was paid by tenure holders during the POR.

b. Adjustments to Administered Stumpage Unit Price

Next, we adjusted the administered stumpage unit prices pursuant to the methodology describe above in ''Calculation of Provincial Benefits.'' Specifically, we have added the following costs to Saskatchewan's administered stumpage unit price:

- Forest Management Fee
- Processing Facilities License Fee
- Forest Product Permit Application Fee
- Forest Management Activities
- Costs for Permanent Roads (*e.g.*, Primary and Secondary Roads).

c. Calculation of the Benefit

To calculate the unit benefit conferred under the GOS's administered stumpage program, we subtracted from the species–specific benchmark prices the cost–adjusted weighted average stumpage price per species. Next, we calculated the species–specific benefit by multiplying the species–specific unit benefit by the total softwood timber harvest volume for that species during the POR. We then summed the species–specific benefits to calculate the total stumpage benefit for the province.

d.Calculation of Provincial and Country–Wide Rate

To calculate the province–specific subsidy rate, we divided the total stumpage benefit for Saskatchewan by the POR stumpage program denominator. For a discussion of the denominator used to derive the provincial rate for stumpage programs, *see* ''Numerator and Denominator Used for Calculating the Stumpage Programs' Net Subsidy Rates.'' As explained in ''Aggregate Subsidy Rate Calculation,'' we weight–averaged the benefit from this provincial subsidy program by Ontario's relative share of total exports of softwood lumber to the United States during the POR. The total countervailable subsidy for the provincial stumpage programs can be found in ''Country–Wide Rate for Stumpage.''

4. Province of Ontario

a. Derivation of Administered Stumpage Unit Prices

To derive Ontario's administratively established stumpage rate, we divided the total stumpage collections for each species by the corresponding volume of Crown softwood timber destined to sawmills. In this manner, we obtained a weighted–average stumpage price per species that was paid by tenure holders during the POR.

b. Adjustments to Administered Stumpage Unit Price

Next, we adjusted the administered stumpage unit prices pursuant to the methodology describe above in the ''Calculation of Provincial Benefits'' section of these preliminary results. Specifically, we have added the following costs to Ontario's administered stumpage unit price:

- Forest Management Planning
- Construction and Maintenance of Primary and Secondary Roads
- Fire Protection.

b Calculation of the Benefit

To calculate the unit benefit conferred under the GOO's administered stumpage program, we subtracted from the species–specific benchmark prices the cost–adjusted weighted average stumpage prices per species. Next, we calculated the species–specific benefit by multiplying the species–specific unit benefit by the total softwood timber harvest volume for that species during the POR. We then summed the species–specific benefits to calculate the total stumpage benefit for the province.

c. Calculation of Provincial and Country–Wide Rate

To calculate the province–specific subsidy rate, we divided the total stumpage benefit for Ontario by the POR stumpage program denominator. For a discussion of the denominator used to derive the provincial rate for stumpage programs, see ''Numerator and Denominator Used for Calculating the Stumpage Programs' Net Subsidy Rates.'' As explained in ''Aggregate Subsidy Rate Calculation,'' we weight–averaged the benefit from this provincial subsidy program by Ontario's relative share of total exports of softwood lumber to the United States during the POR. The total countervailable subsidy for the provincial stumpage programs can be found in ''Country–Wide Rate for Stumpage.''

5. Province of Quebec

To derive Quebec's administratively established stumpage rate, we divided the total stumpage collections for each species by the corresponding volume of Crown softwood timber destined to sawmills. In this manner, we obtained a weighted–average stumpage price per species that was paid by tenure holders during the POR.

b. Adjustments to Administered Stumpage Unit Price

Next, we adjusted the administered stumpage unit prices pursuant to the methodology describe above in ''Calculation of Provincial Benefits.'' Specifically, we have added the following costs to Quebec's administered stumpage unit price:

- Forest Fund
- Administrative Forest Planning
- Non–Credited Silviculture
- Construction and Maintenance of Primary and Secondary Roads
- Fire and Insect Protection
- Logging Camps
- Silviculture Credits for Non–Mandatory Activities (Negative Adjustment).

b Calculation of the Benefit

To calculate the unit benefit conferred under the GOQ's administered stumpage program, we subtracted from the species–specific benchmark prices the cost–adjusted weighted average stumpage prices per species. Next, we calculated the species–specific benefit by multiplying the species–specific unit benefit by the total softwood timber harvest volume for that species during the POR. We then summed the species–specific benefits to calculate the total stumpage benefit for the province.

c. Calculation of Provincial and Country–Wide Rate

To calculate the province–specific subsidy rate, we divided the total stumpage benefit for Quebec by the POR stumpage program denominator. For a discussion of the denominator used to derive the provincial rate for stumpage programs, *see* ''Numerator and Denominator Used for Calculating the Stumpage Programs' Net Subsidy Rates.'' As explained in ''Aggregate Subsidy Rate Calculation,'' we weight–averaged the benefit from this provincial subsidy program by Ontario's relative share of total exports of softwood lumber to the United States during the POR. The total countervailable subsidy for the provincial stumpage programs can be found in ''Country–Wide Rate for Stumpage.''

6. Province of British Columbia

a. Derivation of Administered Stumpage Unit Prices

To derive British Columbia's administratively established stumpage rate, we divided the total stumpage collections for each species for the Coast and Interior by the corresponding Crown softwood sawlog volume. In this manner, we obtained a weighted–average stumpage price per species.

b. Calculation of the ''Derived Market Stumpage Price''

Consistent with our approach from the final results of the first review, we calculated a ''derived market stumpage price'' for each species by using U.S. log prices as the benchmark for standing timber prices to measure the adequacy of remuneration of B.C.'s administered stumpage system. *See supra* section on use of U.S. log prices as B.C. benchmarks. Specifically, we deducted from the U.S. log prices all B.C. harvesting costs, including costs associated with Crown tenure for calendar year 2003. As in the final results of the first review, we relied on cost data from surveys of major tenure holders prepared by PwC. Specifically, PwC was engaged by the B.C. Ministry of Forests (MOF) to collect calendar year 2003 logging and forest management cost data for the Coast and Interior regions of British Columbia. The cost data presented by PwC was derived from three separate surveys the MOF's 2004 annual Coast survey and two surveys (one for the Coast and the other for the Interior) conducted by PwC itself.

In these preliminary results, we have subtracted the following unit costs from the U.S. log price benchmarks used for the B.C. Coast:

- Tree–to-Truck
- Hauling
- Dump, Sort, Boom, and Rehaul
- Crew Transportation Labor
- Road Maintenance
- Towing/Barging
- Helicopter Logging
- Camp Operations and Overhead
- Road Construction
- Head Office, General Administration
- Logging Fees and Taxes
- Forestry, Engineering, and Fire Protection.

In these preliminary results, we have subtracted the following unit costs from the U.S. log price benchmarks used for the B.C. Interior:

- Tree–to-Truck
- Hauling
- Dump, Sort, and Boom
- Towing/Barging
- On–Block Road and Bridge Maintenance
- Mainline/Secondary Road and Bridge Maintenance
- Post Logging Treatment
- Administration/Overhead
- Camp Operation
- Depreciation, Depletion, and Amortization
- Mainline/Secondary Road and Bridge Construction
- Mainline/Secondary Road and Bridge Deactivation
- On–Block Road and Bridge Construction
- On–Block Road and Bridge Deactivation
- Protection (Fire, Insect, and Disease Control)
- Silviculture and Reforestation.

In the final results of the first review, we subtracted a per unit profit component from the ''derived market stumpage prices'' used in the benefit calculations for the B.C. Coast and Interior. Our decision to include a profit component for the B.C. Coast and Interior was based on the assumption that our cost data from the PwC survey report of B.C. logging and forest management costs did not account for any profit that may have been incurred by independent harvesters. Therefore, based on a 2001 study entitled, ''Ready for Change: Crisis and Opportunity in the Coast Forest Industry,'' by Dr. Peter H. Pearse (Pearse Study), we estimated that half of the reported costs for the B.C. Coast was based on payments from integrated sawmills to independent contractors acting has harvesters.[25] Because the ''fee for service'' payments made by the sawmills already included the independent harvesters' profit, we only added a profit adjustment for half of the reported costs. In other words, we reduced the profit rate applied to the ''derived market stumpage price'' by 50 percent to reflect our finding that half of the reported survey costs on the B.C. Coast (*e.g.*, those costs attributable to independent harvesters) already included a profit component. For the B.C. Interior, we treated the profit component in a similar manner.

As for the profit rate applied to the ''derived market stumpage prices,'' in the final results of the first review, we calculated the adjustment through the average of two profit figures on the record in the first administrative review: a five (5) percent profit figure for New Brunswick reported by the Atlantic Canada Opportunities Agency and a ten (10) percent profit figure for Southeast Alaska that was included in a submission by the GOBC. *Id.*

Information available on the record of the current review has led us to revise the profit methodology employed in the final results of the first review. In our initial questionnaire, we asked the GOBC to report for each of the ten largest tenure holders whether any of them hired independent contractors to conduct any basic silviculture, road building, forest management, or harvesting activities. *See* page IV–21 of the Department's September 8, 2004 questionnaire. In response, the GOBC stated:

> In British Columbia, the vast bulk of logging activity, including road construction, basic silviculture, and other forest management obligations, is undertaken by independent contractors. In the Interior, company crews are virtually non–existent—all work is done by contract and the tenure holders do not perform the work themselves. On the Coast, there are some company crews for some activities, but much of the work is done by contractors. Therefore, the cost report prepared by PricewaterhouseCoopers (PwC) . . . already reflects contractor costs for the Interior and contractor and some limited company costs for the Coast.

See page BC–VI–22, Volume I of the GOBC's November 22, 2004 questionnaire response.

Based on the GOBC's statements (*e.g.*, that all work is done by contract and that the tenure holders do not perform the work themselves), we find that the cost data contained in the PwC's survey of the B.C. Interior reflect ''fee for service'' costs and, thus, already include a profit component. Therefore, we preliminarily determine that no profit adjustment is appropriate for U.S. log benchmark prices used in the benefit calculation of the B.C. Interior.

As for the B.C. Coast, we note that the Pearse Study states that the ''Forest Act requires licensees to employ contractors to log at least 50 percent of their harvests under Tree Farm Licenses and a variable percentage—usually 50 percent also—under Forest Licenses.'' *See Pearse Study* at 15. Further, the GOBC stated in its initial questionnaire response that logging and harvesting costs attributable to company crews are ''limited'' and that ''. . .much of the work is done by contractors.'' *See* GOBC's November 22, 2004 questionnaire response. Based on the fact the Forest Act dictates that at least 50 percent of the harvesting activities must be conducted by independent contractors on the Coast, and in light of the GOBC's statements that company crew costs for logging activities on the B.C. Coast are limited (information that was not on the record of the first administrative review), we preliminarily determine that it is no longer appropriate to assume that tenure holders harvested half of the logs on the B.C. Coast. Lacking any other information and, based on the GOBC's characterization of company crew

[25] The Pearse Study was placed on the record of this review by the GOBC in its November 11, 2004, questionnaire response at Volume 6, Exhibit BC-S–20.

harvesting costs as being ''limited,'' we preliminarily determine that in–house company crews employed by tenure holders are used 25 percent of the time on the B.C. Coast and that the remaining amount is performed by independent contractors. Accordingly, we are assuming that 75 percent of the costs contained in the PwC survey for the B.C. Coast already contain a profit component and, thus, no profit adjustment is necessary for those costs.

We have, however, applied a profit component to the remaining 25 percent of the costs contained in the PwC survey for the B.C. Coast. Based on new information not available on the record of the first review, we have revised the manner in which we calculated the profit amount.

In our initial questionnaire, we asked the GOBC to provide the allowance for profit and risk for each tenure arrangement in effect which utilizes an appraisal system. *See* pages IV–12 and IV–13 of our September 8, 2004 initial questionnaire. In response, the GOBC stated:

> There is no allowance for profit and risk in the CVP system. All tables and formulas used for estimating costs are based upon average experienced licensee costs, without any additions for profit or risk. There is no allowance for profit and risk in the MPS. The system is based on bids from auction sales.

See page BC–IV–26 of the GOBC's November 22, 2004 questionnaire response. Further in the Log Export Restraint section of our initial questionnaire, for both domestic and export sales of softwood logs, we asked the GOBC to provide:

> . . . a weighted average value for each of the costs associated with harvesting and selling the logs during the POR (*i.e.*, logging costs, inventory, selling expenses, administrative and general expenses, transportation, marketing, etc.). In addition, what is the weighted average profit on the sale of softwood logs?

See pages 3—4 of the Log Export Ban Appendix of our September 8, 2004 initial questionnaire. In response, the GOBC stated that, ''the ministry does not have information on the average profit on the sale of softwood sawlogs.''

However, in spite of the GOBC's apparent inability to obtain any information on logging profit, we have managed to obtain publicly available profit data for the B.C. logging industry from ''Industry Canada,'' a department of the Canadian federal government, through its business and consumer site entitled ''strategis.gc.ca.''[26] Specifically, we obtained a 3.7 percent profit figure for the B.C. logging industry. This profit figure is an average calculated from financial data for the year 2002 (the most recent year for which data is available) from all small businesses (incorporated and unincorporated) in the B.C. logging industry.[27] Given that the data are specific to the industry and province in question, we find it more appropriate to use the profit data from Industry Canada rather than continuing to use the profit figures from Southeast Alaska and New Brunswick. Thus, in keeping with the approach described above, we have multiplied the per unit B.C. logging profit figure from Industry Canada by 25 percent and subtracted the resulting product from the per unit ''derived market stumpage price'' for the B.C. Coast.

c. Calculation of the Benefit

To calculate the unit benefit per species conferred under the GOBC's administered stumpage program, we subtracted from the cost–adjusted, ''derived market stumpage prices'' the corresponding average administered stumpage prices. Consistent with our approach in the final results of the first review, we reduced the total Crown harvest to capture that volume of logs destined to sawmills. Specifically, we multiplied the Coast and Interior Crown volumes by their respective percentage of logs entering sawmills for the calendar year 2003, *i.e.*, 58.1 percent and 85.2 percent, respectively. *See* GOBC's November 22, 2004 questionnaire response at BC–I–5. Next, we multiplied the species–specific unit benefit by the Crown volume destined to sawmills. We then summed the species–specific benefits for the Coast and the Interior to calculate the provincial benefit.

d. Calculation of Provincial and Country–Wide Rate

To calculate the province–specific subsidy rate, we divided the total stumpage benefit for British Columbia by the POR stumpage program denominator. For a discussion of the denominator used to derive the provincial rate for stumpage programs, *see* ''Numerator and Denominator Used for Calculating the Stumpage Programs' Net Subsidy Rates.'' As explained in ''Aggregate Subsidy Rate Calculation,'' we weight–averaged the benefit from this provincial subsidy program by British Columbia's relative share of total exports of softwood lumber to the United States during the POR. The total countervailable subsidy for the provincial stumpage programs can be found in ''Country–Wide Rate for Stumpage.''

Country–Wide Rate for Stumpage

The preliminary country–wide subsidy rate for the provincial stumpage programs is 7.97 percent *ad valorem*.

II. Other Programs Determined to Confer Subsidies

Non–Stumpage Programs Determined To Confer Subsidies
Programs Administered by the Government of Canada

1. Western Economic Diversification Program: Grants and Conditionally Repayable Contributions

Introduced in 1987, the Western Economic Diversification program (WDP) is administered by the GOC's Department of Western Economic Diversification headquartered in Edmonton, Alberta, whose jurisdiction encompasses the four western provinces of B.C., Alberta, Saskatchewan and Manitoba. The program supports commercial and non–commercial projects that promote economic development and diversification in the region.

In the first administrative review, we found that the provision of grants under the WDP constitutes a government financial contribution and confers a benefit within the meaning of sections 771(5)(D)(i) and 771(5)(E) of the Act, respectively. *See Preliminary Results of 1st Review*, 69 FR at 33228 and ''Western Economic Diversification Program Grants and Conditionally Repayable Contributions'' section of the *Final Results of 1st Review Decision Memorandum*. Further, we determined that the WDP is specific under section 771(5A)(D)(iv) of the Act, because assistance under the program is limited to designated regions in Canada. On this basis, we found recurring and non–recurring grants provided to softwood lumber producers under the WDP to be countervailable subsidies. No new information has been placed on the record of this review to warrant a change in our finding that the WDP is countervailable.

During the current POR, the WDP provided grants to softwood lumber producers or associations under two ''sub–programs,'' the International Trade Personnel Program (ITPP) and

[26] Strategis (www.strategis.gc.ca) offers interactive financial applications, *e.g.*, building industry profiles for specific provinces via Performance Plus, a software tool.

[27] Logging: industry classification # 1133 under the North American Industry Classification System (NAICS).

''Other WDP Projects.''[28] Under the ITPP and ''Other WDP Projects,'' companies were reimbursed for certain salary expenses in Alberta, British Columbia, Manitoba, Saskatchewan.

Consistent with our approach in the first administrative review, where the employee's activities were directed towards exports of softwood lumber to all markets, we attributed the subsidy to total softwood lumber exports. *See Final Results of 1st Review Decision Memorandum* at Comment 46 and ''Western Economic Diversification Program Grants and Conditionally Repayable Contributions.'' Where the employee's activities were directed towards exports of softwood lumber to the United States, we attributed the subsidy to U.S. exports. *Id.* Where the personnel promoted exports to non–U.S. markets, we did not attribute any of the benefit to U.S. sales. *Id.* In accordance with 19 CFR 351.524(b)(2), we determine that all ITPP and ''Other WDP Project'' grants were less than 0.5 percent of their corresponding denominator in the year of receipt.[29] Therefore, we are expensing all grants received during the POR under this program to the year of receipt.

To calculate the countervailable subsidy rate for this program, we summed the rates for the ITPP and ''Other WDP'' sub–projects. Next, as explained in ''Aggregate Subsidy Rate Calculation,'' we multiplied this amount by the four provinces' relative share of total exports of softwood lumber to the United States. We adjusted the provinces' total exports of softwood lumber to the United States to account for any excluded company sales. Using this methodology, we determine the countervailable subsidy from this program to be less than 0.005 percent *ad valorem*.

2. Natural Resources Canada (NRCAN) Softwood Marketing Subsidies

In 2002, the GOC approved a total of C$75 million in grants to target new and existing export markets for wood products and to provide increased research and development to supplement innovation in the forest products sector. This total was allocated to three sub–programs: Canada Wood Export Program (Canada Wood), Value to Wood Program (VWP), and the National Research Institutes Initiative (NRII). The programs were placed under the administration of NRCAN, a part of the Canadian Forest Service.[30]

The VWP is a five-year research and technology transfer initiative supporting the value–added wood sector, specifically through partnerships with academic and private non–profit entities. In particular, during the POR, NRCAN entered into research contribution agreements with Forintek Canada Corp. (Forintek) to do research on efficient resource use, manufacturing process improvements, product development, and product access improvement.

In the first administrative review, we found that grants provided to Forintek under the VWP constitute a government financial contribution and confer a benefit to softwood lumber producers within the meaning of sections 771(5)(D)(i) and 771(5)(E) of the Act, respectively. *See Preliminary Results of 1st Review*, 69 FR at 33229 and ''Natural Resources Canada (NRCAN) Softwood Marketing Subsidies'' in the *Final Results of 1st Review Decision Memorandum*. We also determined that, because VWP grants are limited to Forintek, which conducted research related to softwood lumber and manufactured wood products, the program is specific within the meaning of section 771(5A)(D)(i) of the Act. *Id.* Consequently, we found the grants under the NRCAN program to be countervailable.

The NRII is a two-year program that provides salary support to three national research institutes: the Forest Engineering Research Institute of Canada (FERIC), Forintek, and the Pulp & Paper Research Institute of Canada (PAPRICAN). In the first administrative review, we found that research undertaken by FERIC constitutes a government financial contribution to commercial users of Canada's forests within the meaning of section 771(5)(D)(i) of the Act. *Id.* Further, we found that FERIC's research covers harvesting, processing, and transportation of forest products, silviculture operations, and small–scale operations and, thus, we determined that government–funded R&D by FERIC benefits, *inter alia*, producers of softwood lumber within the meaning of section 771(5)(E) of the Act.

Similarly, we found that Forintek's NRII operations, which pertain to resource utilization, tree and wood quality, and wood physics, also constitute a government financial contribution and confer a benefit, *inter alia*, upon the softwood lumber industry within the meaning of sections 771(5)(D)(i) and 771(5)(E) of the Act. *Id.*

In the first administrative review, we determined that because grants offered under the NRII are limited to Forintek and FERIC, institutions that conducted research related to the forestry and logging industry, the wood products manufacturing industry, and the paper manufacturing industry, the program is specific within the meaning of 771(5A)(D)(i) of the Act. *Id.* On this basis, we found the Forintek and FERIC grants offered under the NRII are countervailable.[31] No new information has been placed on the record of this review to warrant a change in our finding that grants under the VWP and NRII programs are countervailable.

Consistent with our approach in the first administrative review and in accordance with section 19 CFR 351.524(b)(2), we first examined whether the non–recurring grants under the VWP and NRII programs should be expensed to the year of receipt. *Id.*, 69 FR 33229. We summed the funding approved for Forintek during the POR under the VWP and NRII programs, and divided this sum by the total sales of the wood products manufacturing industry during the POR. We also divided the funding approved for FERIC under the NRII program during the POR by the total sales of the wood products manufacturing and paper industries during the POR. In both cases, we adjusted the denominators to account for sales of excluded companies. Combining these two amounts, we preliminarily determine that the benefit under the NRCAN softwood marketing subsidies program should be expensed in the year of receipt.

Consistent with our approach in the first administrative review, we then calculated the countervailable subsidy rate during the POR by dividing the amounts received by Forintek during the POR under the VWP and NRII programs by Canada's total sales of the wood products manufacturing industry during the POR. We also divided the funding received by FERIC under the NRII during the POR by Canada's total sales of the wood products manufacturing and paper industries during the POR. We adjusted these sales amounts to account for any excluded company sales. *See Preliminary Results of 1st Review*, 69 FR at 33229. Combining these two amounts, we

[28] These are the same two sub-programs analyzed in the first administrative review.

[29] We reduced these denominators, where appropriate, to account for any excluded company sales.

[30] We found the Canada Wood program to be not countervailable in the first administrative review. *See Preliminary Results of 1st Review*, 69 FR at 33229.

[31] We found NRII's support of PAPRICAN to be not countervailable in the first administrative review. *See Preliminary Results of 1st Review*, 69 FR at 33229.

preliminarily determine the net subsidy rate from the NRCAN softwood marketing subsidies program to be 0.02 percent *ad valorem*.

Programs Administered by the Government of British Columbia

1. Forestry Innovation Investment Program (FIIP)

The Forestry Innovation Investment Program came into effect on April 1, 2002. On March 31, 2003, FIIP was incorporated as Forestry Innovation Investment Ltd. (FII). FII funds are used to support the activities of universities, research and educational organizations, and industry associations producing a wide range of wood products. FII's strategic objectives are implemented through three sub–programs addressing: research, product development and international marketing.

In the first administrative review, we determined that the FII grants provided to support product development and international marketing and, thus, constitute a government financial contribution and confer a benefit within the meaning of sections 771(5)(D)(i) and 771(5)(E) of the Act, respectively. *See Preliminary Results of 1st Review*, 69 FR at 33230. Further, we found that the grants are specific within the meaning of section 771(5A)(D)(i) of the Act because they are limited to institutions and associations conducting projects related to wood products generally and softwood lumber, in particular. *Id.* No new information has been placed on the record of this review to warrant a change in our finding that grants FIIP are countervailable.

To calculate the benefit from this program, we first determined whether these non–recurring subsidies should be expensed in the year of receipt. *See* 19 CFR 351.524(b)(2). For grants given to support product development for softwood lumber, we divided the amounts approved by total sales of softwood lumber (*i.e.*, lumber from primary and secondary mills as well as ''residual'' products from primary mills) for B.C. during the POR. For grants to support international marketing, we divided the grants approved by exports of softwood lumber from B.C. to the United States during the POR. *See* 19 CFR 351.525(b)(4). As explained in the first review, the GOBC did not report grants tied to other export markets. *See Preliminary Results of 1st Review*, 69 FR at 33230. For research grants, we divided the grants approved by total sales of the wood products manufacturing and paper industries from B.C. during the POR. Combining these three amounts, we have preliminarily determined that the FII benefit should be expensed in the POR.

Consistent with our approach in the first administrative review, we then calculated the countervailable subsidy rate during the POR by dividing the amounts disbursed during the POR by their corresponding sales denominator. For grants given to support product development for softwood lumber, we divided the amounts disbursed by total sales of softwood lumber for B.C. during the POR. For grants to support international marketing, we divided the amounts disbursed by exports of softwood lumber from B.C. to the United States during the POR. For research grants, we divided the amounts disbursed by total sales of the wood products manufacturing and paper industries for B.C. during the POR. *See Preliminary Results of 1st Review*, 69 FR at 33230–33231. We combined these three amounts and, as explained in ''Aggregate Subsidy Rate Calculation,'' we multiplied this total by B.C.'s relative share of total exports to the United States. On this basis, we have preliminarily determined the countervailable subsidy from the FIIP to be 0.08 percent *ad valorem*.

2. British Columbia Private Forest Property Tax Program

B.C.'s property tax system has two classes of private forest land—class 3, ''unmanaged forest land,'' and Class 7, ''managed forest land'' that incurred different tax rates in the 1990s through the POR. In the first review, we found that property tax rates for Class 7 were generally lower than for Class 3 land at all levels of tax authority for most, though not all, taxes. *See* ''British Columbia Private Forest Property Tax Program'' section of *Final Results of 1st Review Decision Memorandum*. We further found that the various municipal and district (a.k.a. regional) level authorities imposed generally lower rates for Class 7 than for Class 3 land. *Id.*

The tax program is codified in several laws, of which the most salient is the 1996 Assessment Act (and subsequent amendments). Section 24(1) of the Assessment Act contains forest land classification language expressly requiring that, *inter alia*, Class 7 land be ''used for the production and harvesting of timber.'' Additionally, Section 24(3) or 24(4) of the *Assessment Act*, depending on the edition of the statute, requires the assessor to declassify all or part of Class 7 land if ''the assessor is not satisfied. . .that the land meets all requirements'' for managed forest land classification. Amendments to the provision, enacted from 1996 through 2003, retained the same language stating these two conditions. Thus, the law as published during the POR required that, for private forest land to be classified and remain classified as managed forest land, it had to be ''used for the production and harvesting of timber.''

In the first review, we found that because the tax authorities impose two different tax rates on private forest land, the governments are foregoing revenue when they collect taxes at the lower rate, and we therefore determined that the program constitutes a government financial contribution as defined in section 771(5)(D)(ii) of the Act. *Id.* We also determined that the program confers a benefit in the form of tax savings within the meaning of section 771(5)(E) of the Act. *Id.* Further, we determined that because the Assessment Act expressly requires that Class 7 land be ''used for the production and harvesting of timber,'' and additionally requires the assessor to declassify any Class 7 land not meeting all the Class 7 conditions (of which timber use was one), the B.C. private forest land tax program is specific as a matter of law (*i.e.*, de jure specific) within the meaning of section 771(5A)(D)(i) of the Act. *Id.* No new information has been placed on the record of this review to warrant a change in our finding that the B.C. private forest land tax program is countervailable.

Consistent with our approach in the first review, and in accordance with 19 CFR 351.509(a), we find that the benefit received under this program is the sum of the tax savings enjoyed by Class 7 sawmill landowners at the provincial, regional, and sub–provincial (or. local) levels of tax authority in B.C. *Id.* With regard to the provincial tax, the assessed value is calculated as the sum of the land value and a formulaic valuation of the timber harvested from the land in the prior year. The tax is levied by applying the tax rate to this assessed value. The GOBC did not submit data on the timber value. Accordingly, the Department calculated the tax benefit at the provincial level based solely on the tax savings conferred upon Class 7 land with sawmills.

We determined the tax benefit at the local level using the data submitted by the GOBC on local tax rates, and on the value and acreage of Class 3 and Class 7 land held by sawmill landowners in the various jurisdictions. Only those jurisdictions with both Class 3 and Class 7 land in the assessment rolls for 2003 and 2004, and whose tax differential resulted in a tax savings for Class 7 sawmill landowners, were included in the benefit calculation.

With regard to a number of regional and hospital district jurisdictions that are between the provincial and local levels, in the first review we explained that the GOBC submitted data on their Class 3 and Class 7 tax rates, but did not provide assessment data on land value and acreage. *Id.* Consequently, in the first review, to the extent that any benefit may have accrued at that level, we did not include it in our calculation. *Id.* We went on to state that we would re–examine this aspect of the program in any subsequent review. In this review, we have sought and obtained assessment data on land value and acreage for the relevant regions that are between the provincial and local levels. Using this data, we have determined the benefit at the regional and hospital districts. However, while the GOBC was able to provide Class 3 and Class 7 tax rates and the value for Class 7 land value for the relevant regional and hospital districts, it was unable to provide the land values for Class land 7 with sawmills within those areas. Therefore, we derived the share of value of Class 7 land with sawmills at the provincial level for 2003 and 2004 and applied the ratios to the corresponding Class 7 land values of the regional and hospital districts. In this manner, we derived the portion of benefit attributable to Class 7 land with sawmills in the regional and hospital districts during the POR.

The provincial, regional, and local level benefit amounts were summed to produce an overall POR benefit amount. Consistent with our approach in the first review, we used the POR total value of B.C. sawmill softwood product shipments (*i.e.*, lumber, co–products, and ''residual'' products from primary sawmills) as the denominator, and, adjusting for B.C.'s share of the total exports to the United States, we determined the countervailable subsidy under this program to be 0.11 percent ad valorem during the POR.

Programs Administered by the Government of Quebec

Private Forest Development Program

In the first administrative review, we determined that the provision of grants to producers of softwood lumber under the Private Forest Development Program (PFDP) constitutes a government financial contribution and confers a benefit under sections 771(5)(D)(i) and 771(5)(E) of the Act, respectively. *See* ''Private Forest Development Program'' in *Final Results of 1st Review Decision Memorandum*. In addition, we determined that assistance provided under this program is specific under section 771(5A)(D)(i) of the Act because assistance is limited to private woodlot owners. *Id.*

Every holder of a wood processing plant operating permit must pay the fee of C$1.20 for every cubic meter of timber acquired from a private forest. These fees fund, in part, the PFDP. The recipients of payments under the PFDP are owners of private forest land. Thus, the sawmill operators that received assistance under the PFDP received assistance because they owned private forest land. Therefore, in the first administrative review, we determined that the fees paid to harvest timber from private land do not qualify as an offset to the grants received under the PFDP pursuant to section 771(6) of the Act. *Id.* Section 771(6) of the Act specifically enumerates the only adjustments that can be made to the benefit conferred by a countervailable subsidy and fees paid by processing facilities do not qualify as an offset against benefits received by private woodlot owners. *Id.* Consistent with our treatment of the PFDP in the first administrative review, we treated these payments as recurring in accordance with 19 CFR 351.524(c). *Id.*

Consistent with our approach in the first administrative review, to calculate the countervailable subsidy under the PFDP, we first summed the reported amount of grants provided to sawmills that produce softwood lumber (and other products) during the POR. Next, we reduced the total benefit amount to account for any PFDP benefits received by companies in Quebec that have been excluded from the countervailing duty order. We then divided the net benefit amount by total sales of softwood lumber (*i.e.*, lumber from primary mills and in–scope lumber from remanufacturers), hardwood lumber, and softwood co–products. *Id.* We adjusted the sales denominator to account for sales of excluded companies from Quebec. Next, as explained in ''Aggregate Subsidy Rate Calculation,'' we multiplied this amount by Quebec's relative share of exports to the United States, adjusted for sales of excluded companies. On this basis, we preliminary determine the countervailable subsidy from this program to be less than 0.005 percent *ad valorem*.

Programs Determined Not to Confer a Benefit

Government of Canada

1. Federal Economic Development Initiative in Northern Ontario (FEDNOR)

FEDNOR is an agency of Industry Canada, a department of the GOC, which encourages investment, innovation, and trade in Northern Ontario. A considerable portion of the GOC assistance under FEDNOR is provided to Community Futures Development Corporations (CFDCs), non–profit community organizations providing small business advisory services and offering commercial loans to small and medium enterprises (SMEs). Assistance in the form of grants is also provided under the FEDNOR program.

In the underlying investigation and first administrative review, we determined that grants and loans under the FEDNOR program constitute government financial contributions to softwood lumber producers within the meaning of section 771(5)(D)(i) of the Act. *See Preliminary Results of 1st Review*, 69 FR at 33228. In addition, we found that grants under the program confer a benefit to softwood lumber producers under section 771(5)(E) of the Act and that CFDC loans confer a benefit to softwood lumber producers under section 771(5)(E)(ii) of the Act to the extent that the amount they pay on CFDC loans are less than the amount they would pay on a comparable commercial loan that they could actually obtain on the market. *Id.* Furthermore, we found that the grants and loans provided under the FEDNOR program are specific within the meaning of section 771(5A)(D)(iv) of the Act, because assistance under the program is limited to certain regions in Ontario. *Id.* On this basis, we found the program to be countervailable. No new information has been placed on the record of this review to warrant a change in our findings.

In this administrative review, the GOC claims that no grants were disbursed during the POR. However, it reported several long and short–term CFDC loans that were outstanding during the POR.

Consistent with our approach in the first administrative review, to determine the benefit attributable to loans offered under the FEDNOR program, we compared the long–term and short–term interest rates charged on these loans during the POR to the long–term and short–term benchmark interest rates. *Id.* Our benchmark interest rates are described in ''Benchmarks for Loans & Discount Rates.'' As the interest amounts paid on the loans under the FEDNOR program were greater than what would have been paid on a comparable commercial loan, as indicated by our benchmark interest rate, we preliminarily determine that this program did not confer a benefit upon softwood lumber producers in

accordance with section 771(5)(E)(ii) of the Act during the POR.

2. Payments to the Canadian Lumber Trade Alliance (CLTA) & Independent Lumber Remanufacturing Association (ILRA)

In March 2003, the GOC's Department of Foreign Affairs and International Trade (DFAIT) approved a total of C$15 million in grants under separate agreements with the CLTA and ILRA to underwrite the administrative and communications costs incurred by these forest products industry associations as a result of the Canada–U.S. softwood lumber dispute. The GOC reports that the CLTA is composed of companies located in Alberta, B.C., Ontario and Quebec, which produce not only lumber but all types of forest products, while the membership of the ILRA is made up entirely of value–added wood product manufacturers in B.C. Of the approved sums, the DFAIT disbursed C$14.85 million to the CLTA and C$75,000 to the ILRA during the POR.

In the first administrative review, we determined that grants under this program constitute a government financial contribution and confer a benefit within the meaning of sections 771(5)(D)(i) and 771(5)(E) of the Act, respectively. Further, because the program provided grants to two associations, CLTA and ILRA, we determined that it was specific within the meaning of section 771(5A)(D)(i) of the Act. *See Preliminary Results of 1st Review*, 69 FR at 33229. Accordingly, we determined that the GOC grants to CLTA and ILRA provided a countervailable subsidy to the softwood lumber industry. *Id.* No new information has been placed on the record of this review to warrant a change in our finding that grants under the CLTA and ILRA programs are countervailable.

According to the GOC, all grants bestowed under the CLTA and ILRA were received prior to the POR of the current review. Therefore, we first examined whether the non–recurring grants should be expensed to the year of receipt. *See* 19 CFR 351.524(b)(2). Consistent with the first administrative review, because the grants underwrote the associations' costs related to the softwood lumber dispute, we preliminarily determine that the benefit is tied to anticipated exports to the United States. *See* 19 CFR 351.514(a); *see also Preliminary Results of 1st Review*, 69 FR at 33229. Therefore, we divided the amount approved by total exports of softwood lumber to the United States during the year of approval. We adjusted this sales amount to account for any exports of softwood lumber to the United States during the POR by excluded companies. *See* 19 CFR 351.525(b)(4). Because the resulting amount was less than 0.5 percent, we have expensed the benefit in the year of receipt, which prior to the POR. On this basis, we preliminary determine that the CLTA and ILRA programs did not confer provide countervailable benefits during the POR of the instant review.

Government of British Columbia

Forest Renewal B.C. Program

The Forest Renewal program was enacted by the GOBC in the Forest Renewal Act in June 1994 to renew the forest economy of British Columbia by, among other things, improving forest management of Crown lands, supporting training for displaced forestry workers, and promoting enhanced community and First Nations involvement in the forestry sector. To achieve these goals, the Forest Renewal Act created Forest Renewal B.C., a Crown corporation. The corporation's strategic objectives were implemented through three business units: the Forests and Environment Business Unit, the Value–Added Business Unit, and the Communities and Workforce Business Unit.

The Forest Renewal B.C. program provides funds to community groups and independent financial institutions, which may in turn provide loans and loan guarantees to companies involved in softwood lumber production.[32] Effective March 31, 2002, the B.C. legislature terminated the Forest Renewal B.C. program. However, during the POR, there remained active Forest Renewal B.C. loans, with interest payments outstanding during the POR.

According to the GOBC, Forest Renewal B.C. provided blanket guarantees with respect to all loans outstanding under the program during the POR. *See* page BC–FRBC–19, Volume 33 of the GOBC's November 22, 2004 questionnaire response. Accordingly, we find that the loan guarantees provided under the program constitutes a government financial contribution within the meaning of section 771(5)(D)(i) of the Act. Further, in the first administrative review we found that because assistance under the Forest Renewal B.C. program was limited to the forest products industry, the program was specific within the meaning of section 771(5A)(D) of the Act. No new information has been placed on the record of this review to warrant a change in our findings.

To determine whether the active Forest Renewal loans provided benefits to the softwood lumber industry, in accordance with section 771(5)(E)(ii) of the Act, we compared the interest rates charged on the Forest Renewal loans to the benchmark interest rates described in ''Benchmarks for Loans and Discount Rates.'' Using this methodology, we have preliminarily determined that no benefit was provided by the Forest Renewal loans because the interest rates charged under this program were equal to or higher than the interest rates charged on comparable commercial loans.

Government of Quebec

1. Assistance Under Article 28 of Investment Quebec

Assistance under Article 28 is administered by Investissement Quebec, a government corporation. In the underlying investigation, the Department investigated assistance from the GOQ under Article 7, which was administered by the Societe de Developpement Industriel du Quebec (SDI). Article 28 supplanted Article 7 in 1998. Under Article 7, SDI provided financial assistance in the form of loans, loan guarantees, grants, assumption of interest expenses, and equity investments to projects that would significantly promote the development of Quebec's economy. According to the GOQ's response, prior to authorizing assistance, SDI would review a project to ensure that it had strong profit potential and that the recipient business possessed the necessary financial structure, adequate technical and management personnel, and the means of production and marketing required to complete the proposed project. The Article 28 program operates fundamentally in the same manner as Article 7.

During the POR, there was one outstanding loan under Article 28. There were no outstanding loans under Article 7. No other assistance was provided to softwood lumber companies under Article 7 or Article 28.

To determine whether this loan provided a benefit to the softwood lumber industry, in accordance with section 771(5)(E)(ii) of the Act, we compared the interest rates charged on the Article 28 loan to the benchmark interest rates described in ''Benchmarks for Loans and Discount Rates.'' Using this methodology, we have preliminarily determined that no benefit was provided by this loan because the interest rates and fees charged under

[32] Grants have also been provided directly to softwood lumber producers. However, the GOBC has reported that no such grants were provided during the POR.

this program were equal to or higher than the interest rates charged on comparable commercial loans.

2. Assistance from the Societe de Recuperation d'Exploitation et de Developpement Forestiers du Quebec (Rexfor)

SGF Rexfor, Inc. (Rexfor) is a corporation all of whose shares are owned by the Societe Generale de Financement du Quebec (SGF). SGF is an industrial and financial holding company that finances economic development projects in cooperation with industrial partners. Rexfor is SGF's vehicle for investment in the forest products industry.

Rexfor receives and analyzes investment opportunities and determines whether to become an investor either through equity or participative subordinated debentures. Debentures are used as an investment vehicle when Rexfor determines that a project is worthwhile, but is not large enough to necessitate more complex equity arrangements. Consistent with our approach in the underlying investigation, we have not analyzed equity investments by Rexfor because (1) there was no allegation that Rexfor's equity investments were inconsistent with the usual investment practice of private investors, and (2) there is no evidence on the record indicating that Rexfor's equity investments conferred a benefit.

Also, consistent with our approach in the underlying investigation, we examined whether Rexfor's participative subordinated debentures, *i.e.*, loans, conferred a subsidy. Because assistance from Rexfor is limited to companies in the forest products industry, we have preliminarily determined that this program is specific under section 771(5A)(D)(i) of the Act. The long–term loans provided by Rexfor qualify as a financial contribution under section 771(5)(D)(i) of the Act. To determine whether the single loan outstanding to a softwood lumber producer during the POR provided a benefit, we compared the interest rates on the loan from Rexfor to the benchmark interest rates as described in ''Benchmarks for Loans and Discount Rates.'' *See* 771(5)(E)(ii) of the Act. Using this methodology, we have preliminarily determined that no benefit was provided by this loan because the interest rates charged under this program were higher than the interest rates charged on comparable commercial loans.

On this basis, we have preliminarily found that the debt forgiveness by Rexfor did not confer a benefit in the POR and, thus, provides no countervailable subsidy.

Preliminary Results of Review

In accordance with 777A(e)(2)(B) of the Act, we have calculated a single country–wide subsidy rate to be applied to all producers and exporters of the subject merchandise from Canada, other than those producers that have been excluded from this order. This rate is summarized in the table below:

Producer/Exporter	Net Subsidy Rate
All Producers/Exporters	8.18 percent ad valorem

If the final results of this review remain the same as these preliminary results, the Department intends to instruct CBP to assess countervailing duties as indicated above. The Department also intends to instruct CBP to collect cash deposits of estimated countervailing duties of 8.18 percent of the f.o.b. invoice price on all shipments of the subject merchandise from reviewed companies, entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this review.

Public Comment

Pursuant to 19 CFR 351.224(b), the Department will disclose to parties to the proceeding any calculations performed in connection with these preliminary results within five days after the date of publication of this notice. Pursuant to 19 CFR 351.309, interested parties may submit written comments in response to these preliminary results. Case briefs must be submitted within 30 days after the date of publication of this notice, and rebuttal briefs, limited to arguments raised in case briefs, must be submitted no later than seven days after the time limit for filing case briefs. Parties who submit argument in this proceeding are requested to submit with the argument: (1) a statement of the issues, and (2) a brief summary of the argument. Case and rebuttal briefs must be served on interested parties in accordance with 19 CFR 351.303(f). Please note that an interested party may still submit case and/or rebuttal briefs even though the party is not going to participate in the hearing.

In accordance with 19 CFR 351.310, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on these preliminary results. Any requested hearing will be held at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230. Individuals who wish to request a hearing must submit a written request within 30 days of the publication of this notice in the **Federal Register** to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

Requests for a public hearing should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and, (3) to the extent practicable, an identification of the arguments to be raised at the hearing. An interested party may make an affirmative presentation only on arguments included in that party's case or rebuttal briefs.

This administrative review is issued and published in accordance with section 751(a)(1) and 777(i)(1) of the Act.

Dated: May 31, 2005.

Susan Kuhbach,

Acting Assistant Secretary for Import Administration.

[FR Doc. E5–2884 Filed 6–6–05; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. 040511147–5142–02; I.D. 042804B]

Listing Endangered and Threatened Species and Designating Critical Habitat: 12–Month Finding on Petition to List the Cherry Point Stock of Pacific Herring as an Endangered or Threatened Species

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of 12–month petition finding.

SUMMARY: We (NMFS) have completed an updated Endangered Species Act (ESA) status review of Pacific herring (*Clupea pallasi*), inclusive of the Cherry Point herring stock (Strait of Georgia, Washington). We initiated this status review update in response to a petition received on May 14, 2004, to list the Cherry Point stock of Pacific herring as a threatened or endangered species. We have determined that the Cherry Point herring stock does not qualify as a ''species'' for consideration under the ESA. Based upon the best available