Notices

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This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Southwest Oregon Provincial Interagency Executive Committee (PIEC), Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Southwest Oregon PIEC Advisory Committee will meet on December 3, 1996 at the Douglas Forest Protective Association office at 1758 Airport Road, Roseburg, Oregon.

The meeting will begin at 9:00 a.m. and continue until 4:30 p.m. Agenda items to be covered include: (1) Local area issues presentation; (2) Year-end review of Advisory Committee activities; (3) Update on Rogue and Umpqua River Basin assessments; (4) Update on status of effectiveness monitoring proposal; (5) Subcommittees for ACS/Restoration, Monitoring, and Timber Sales will continue work to define their priorities; and (5) Public comments.

All Province Advisory committee meetings are open to the public. Interested citizens are encouraged to attend.

FOR FURTHER INFORMATION CONTACT: Direct questions regarding this meeting to Kurt Austermann, Province Advisory Committee staff, USDI, Medford District, Bureau of Land Management, 3040 Biddle Rd., Medford, Oregon 97504, phone 541–770–2200.

Dated: November 13, 1996.

James T. Gladen,

Forest Supervisor, Designated Federal Official.

[FR Doc. 96–29643 Filed 11–19–96; 8:45 am]

BILLING CODE 3410–11–M

Water Rights Task Force Meeting; Correction

AGENCY: Forest Service, USDA.

ACTION: Correction of meeting notice.

SUMMARY: The Forest Service announces a change in a meeting of the Water Rights Task Force. The chairman has re-scheduled the times and location of the fourth meeting in Denver, Colorado, on December 16, 1996. Notice of this meeting was previously published in the Federal Register, October 21, 1996 (61 FR 54611).

DATES: The fourth meeting will still be held December 16, but the time has changed to 10:30 a.m. until 5:00 p.m., rather than the 8:30 a.m. to 5:00 p.m. schedule previously published.

ADDRESSES: The fourth meeting will be held at the Red Lion Hotel, Executive (B) Room, 3203 Quebec Street, Denver, Colorado.

Send written comments to Eleanor Towns, FACA Liaison, Water Rights Task Force, c/o USDA Forest Service, MAIL STOP 1124, P.O. Box 96090, Washington, DC 20090–6090. Telephone: (202) 205–1248; Fax: (202) 205–1604.

FOR FURTHER INFORMATION CONTACT: Stephen Glasser, Watershed & Air Management Staff, Telephone: (202) 205–1172; fax: (202) 205–1096.

SUPPLEMENTARY INFORMATION: Notice of the establishment of the Water Rights Task Force was published in the Federal Register on September 11, 1996 (61 FR 47858). The Task Force terminates either in August of 1997 or upon submission of a final report.

Dated: November 15, 1996.

David G. Unger,

Associate Chief.

[FR Doc. 96–29676 Filed 11–19–96; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

International Trade Administration

[C–122–825]

Preliminary Negative Countervailing Duty Determination: Certain Laminated Hardwood Trailer Flooring (''LHF'') From Canada

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

EFFECTIVE DATE: November 20, 1996.

FOR FURTHER INFORMATION CONTACT: David Boyland or Daniel Lessard, Office 1, Group 1, Import Administration, U.S. Department of Commerce, Room 3099, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone (202) 482–4198 or 482–1778, respectively.

Preliminary Determination

The Department preliminarily determines that countervailable subsidies are not being provided to manufacturers, producers, or exporters of LHF in Canada.

Case History

Since the publication of the notice of initiation in the Federal Register (61 FR 15041 (April 4, 1996)), the following events have occurred:

On April 8, 1996, we issued countervailing duty questionnaires to the Government of Canada (''GOC''), the Government of Quebec (''GOQ''), and the companies identified in the petition as exporters of LHF from Canada concerning petitioner's allegations. We received responses to our questionnaire on May 16, 1996. We issued supplemental questionnaires to parties in May, July, and September for which responses were received in June, July, August, and October.

On June 7, 1996, we inititiated an upstream subsidy investigation and postponed the preliminary determination (61 FR 29077). We issued a questionnaire relating to the upstream subsidy allegation to Nilus Leclerc Inc. and Industries Leclerc Inc. (Leclerc) on June 12, 1996 (*see, Related Party* section, below). We received Leclerc's response on June 27, 1996, with additional information submitted on July 11, 1996. From August 5 through 7, 1996, we conducted verification of the questionnaire responses relating to the upstream subsidy investigation.

Scope of Investigation

Based on information provided by U.S. Customs, the Department, for purposes of clarification only, drafted proposed changes to the original scope language (*see* May 7, 1996 memo to the file from analyst). On May 9, 1996, petitioner submitted comments on the Department's proposed changes. The scope of this investigation as outlined below reflects the clarification.

The scope of this investigation consists of certain edge-glued hardwood flooring made of oak, maple, or other hardwood lumber. Edge-glued

hardwood flooring is customized for specific dimensions and is provided to the consumer in ''kits,'' or pre-sorted bundles of component pieces generally ranging in size from 6″ to 14″x48′ to 57′x1″ to 1(½)″ for trailer flooring, from 6″ to 13″x12' to 28′x1(⅛)″ to 1(½)″ for vans and truck bodies, from 9″ to 12(½)″x8' to 10′x1(⅞)″ to 2(½)″ for rail cars, and from 6″ to 14″x19′ to 48′x1(⅛)″ to 1(⅜)″ for containers. The merchandise under investigation is currently classified, in addition to various other hardwood products, under subheading 4421.90.98.40 of the Harmonized Tariff Schedule of the United States (HTSUS). Edge-glued hardwood flooring is commonly referred to as ''laminated'' hardwood flooring by buyers and sellers of subject merchandise. Edge-glued hardwood flooring, however, is not a hardwood laminate for purposes of classification under HTSUS 4412.14. Although the HTSUS subheading is provided for convenience and Customs purposes, our written description of the scope of this proceeding is dispositive.

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions of the Tariff Act of 1930 (the ''Act''), as amended by the Uruguay Round Agreements Act effective January 1, 1995. References to *Countervailing Duties: Notice of Proposed Rulemaking and Request for Public Comments,* 54 FR 23366 (May 31, 1989) (''Proposed Regulations''), which have been withdrawn, are provided solely for further explanation of the Department's countervailing duty practice.

Injury Test

Because Canada is a ''Subsidies Agreement Country'' within the meaning of section 701(b) of the Act, the ITC is required to determine whether imports of LHF from Canada materially injure, or threaten material injury to, a U.S. industry. On May 9, 1996, the ITC published its preliminary determination finding that there is a reasonable indication that an industry in the United States is being materially injured or threatened with material injury by reason of imports from Canada of the subject merchandise (61 FR 21209).

Petitioner

The petition in this investigation was filed by the Ad Hoc Committee on Laminated Hardwood Trailer Flooring, which is composed of the Anderson-Tully Company, Havco Wood Products Inc., Industrial Hardwoods Products Inc., Lewisohn Sales Company Inc., and Cloud Corporation.

Period of Investigation (''POI'')

The period for which we are measuring subsidies is calendar year 1995.

Ontario Companies

We have preliminarily determined that three producers of the subject merchandise have received zero or *de minimis* subsidies. Two companies, Erie Flooring & Wood Products (Erie) and Industrial Hardwood Products Ltd. (IHP) formally requested that they be excluded from any potential countervailing duty order. The other company, Milner Rigsby Co. (Milner) responded to our questionnaire.

IHP certified that the only subsidy it received during the POI was consulting services pursuant to the *Industrial Research Assistance Program* (IRAP). The GOC and Government of Ontario also certified that this was the only benefit IHP received. Even assuming this assistance constituted a countervailable subsidy, the benefit would be *de minimis.*

Erie certified that it received no countervailable subsidies. The GOC and the Government of Ontario also certified this. In its questionnaire response, Milner states that it did not receive benefits during the POI.

The remainder of this notice deals exclusively with Leclerc.

Related Parties

In the present investigation, we have examined affiliated companies (within the meaning of section 771(33) of the Act) whose relationship may be sufficient to warrant treatment as a single company with a single, combined countervailing duty rate. In the countervailing duty questionnaire, consistent with our past practice, the Department defined companies as sufficiently related where one company owns 20 percent or more of the other company, or where companies prepare consolidated financial statements. The Department also stated that companies may be considered sufficiently related where there are common directors or one company performs services for the other company. According to the questionnaire, where such companies produce the subject merchandise or where such companies have engaged in certain financial transactions with the company producing the subject merchandise, the affiliated parties are required to respond to our questionnaire.

Nilus Leclerc Inc. was identified in the petition as an exporter of LHF from Canada. Nilus Leclerc Inc. is part of a consolidated group, Groups Bois Leclerc. Nilus Leclerc Inc. and Industries Leclerc Inc. are the only companies in the group directly engaged in the production of LHF. Because of the extent of common ownership, we find it appropriate to treat these two LHF producers as a single company (''Leclerc''). As a consequence, we are calculating a single countervailing duty rate for both companies by dividing their combined subsidies by their combined sales.

In addition, certain separately incorporated companies in the group received subsidies. Where those subsidies were tied to the production of a corporation that is not directly involved in the production of LHF, we have not included those subsidies in our calculations. Where the subsidies were tied to the production of both LHF and other merchandise, we included those subsidies in our calculations using the sales of both products in the denominator of the *ad valorem* calculations.

Creditworthiness

Petitioner has alleged that Leclerc was uncreditworthy during 1993, 1994, and 1995. In an October 8, 1996 memorandum, we declined to initiate a creditworthiness investigation because Leclerc had not experienced losses during the relevant period. Because requiring a finding of prior losses before determining a company uncreditworthy may mask situations where it is appropriate to apply an uncreditworthy benchmark, we have proceeded to analyze Leclerc's creditworthiness looking at the other factors described in 355.44(b)(6)(i) of the Proposed Regulations.

Section 355.44(b)(6)(i) of the Proposed Regulations states that the receipt of comparable long-term commercial loans shall normally ''constitute dispositive evidence that the firm is creditworthy.'' In 1993 and 1994, Leclerc received long-term commercial financing. For purposes of the preliminary determination we consider this financing to be comparable to the allegedly subsidized financing received by Leclerc. In a November 1, 1996 submission, Leclerc reported that it reached agreement in 1995 to receive comparable long-term commercial financing. Although the Department intends to examine the 1995 agreement closely at verification to gain a more detailed understanding of it, we have preliminarily determined that Leclerc was creditworthy in 1993, 1994, and 1995 on the basis that it secured comparable commercial financing in those years.

Subsidies Valuation Information

Benchmarks for Long-term Loans and Discount Rates: Leclerc reported that it had secured long-term, variable-rate, Canadian dollar-denominated loans during all relevant years. Therefore, we have used these company-specific interest rates as the benchmark for the company in those years. For those years in which Leclerc did not provide a company-specific discount rate, we used the long-term corporate bond rate in Canada as the discount rate.

Allocation Period: In the past, the Department has relied upon information from the U.S. Internal Revenue Service on the industry-specific average useful life of assets to determine the allocation period for nonrecurring subsidies. *See General Issues Appendix* appended to *Final Affirmative Countervailing Duty Determination; Certain Steel Products from Austria* (58 FR 37217, 37226; July 9, 1993) (*General Issues Appendix*). However, in *British Steel plc.* v. *United States,* 879 F. Supp. 1254 (CIT 1995) (*British Steel),* the U.S. Court of International Trade (the Court) ruled against this allocation methodology. In accordance with the Court's remand order, the Department calculated a company-specific allocation period for nonrecurring subsidies based on the average useful life (AUL) of non-renewable physical assets. This remand determination was affirmed by the Court on June 4, 1996. *British Steel,* 929 F. Supp. 426, 439 (CIT 1996).

The Department has decided to acquiesce to the Court's decision and, as such, we intend to determine the allocation period for nonrecurring subsidies using company-specific AUL data where reasonable and practicable. In this case, the Department has preliminarily determined that it is reasonable and practicable to allocate all nonrecurring subsidies received prior to or during the POI using Leclerc's AUL of 18 years.

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

I. Analysis of Direct Subsidies

A. Programs Preliminarily Determined to Be Countervailable

1. Canada-Quebec Subsidiary Agreement on Industrial Development

This Subsidiary Agreement, which spans five years, was jointly funded by the GOC and GOQ on March 27, 1992. Under this agreement, the GOC and GOQ established a program to improve the competitiveness and vitality of the Quebec economy by providing financial assistance to companies for major industrial projects. The following four types of activities are eligible for contributions: (1) capital investment projects, (2) product or process development projects involving a major investment or leading to a capital investment, (3) studies required to assess the feasibility of an investment project, and (4) municipal infrastructure required for a major capital investment project. Leclerc received a long-term interest-free loan under this program.

We analyzed whether the program is specific ''in law or in fact,'' within the meaning of section 771(5A) of the Act. Funds paid out by the GOC under this program are limited to companies in a particular region of Canada (*i.e.,* the Province of Quebec) and, hence, regionally specific under section 771(5A)(D)(iv) of the Act. Because the interest-free loan provided to Leclerc was financed entirely by the GOC, we preliminarily determine that the total amount of assistance is regionally specific.

We also preliminarily determine that the loan received by Leclerc constitutes a countervailable subsidy within the meaning of section 771(5) of the Act. It is a direct transfer of funds from the GOC providing a benefit in the amount of the difference between the benchmark interest rate and the zero interest rate paid by Leclerc.

To calculate the countervailable subsidy for Leclerc, we used as the benchmark the interest rate on a variable-rate, long-term loan taken out in 1995 by Leclerc because the company had not taken out either a fixed-rate, long-term loan or a fixed-rate debt obligation in that year. Thus, we followed our variable-rate, long-term loan methodology to calculate the benefit conferred on Leclerc. We then divided the benefit attributable to the POI by Leclerc's LHF sales in the POI. On this basis, we determine the countervailable subsidy for this program to be 0.07 percent *ad valorem* for Leclerc.

2. Industrial and Regional Development Program (IRDP)

The IRDP was created by the Industrial and Regional Development Act and Regulations in 1983 and was administered by the Canadian Department of Regional Industrial Expansion. It was terminated on June 30, 1988. No new applications for IRDP projects were accepted after that date. The goals of IRDP were to achieve economic development in all regions of Canada, promote economic development in those regions in which opportunities for productive employment are exceptionally inadequate, and improve the overall economy in Canada. To accomplish these objectives, financial support in the form of grants, contributions and loans were provided to companies for four major purposes: (1) establishing, expanding, modernizing production; (2) promoting the marketing of products or services; (3) developing new or improved products or production processes, or carrying on research in respect thereof; and (4) restructuring so as to continue on a commercially viable basis.

Under this program, Canada's 260 census districts were classified into one of four tiers on the basis of the economic development of the region. The most economically disadvantaged regions were included in Tier IV; the most advanced regions were classified as Tier I.

Those districts classified as Tiers III and IV were authorized to receive the highest share of assistance under IRDP (as a percentage of assistance per approved project); those in Tiers I and II received the lowest. For example, a grant toward the eligible costs of modernizing or significantly increasing the production of companies in Tiers I and II could not exceed 17.5 percent of the capital costs of the project, while in Tiers III and IV grants could cover up to 25 percent of eligible costs.

Nilus Leclerc Inc. was located in a Tier III district when it received three grants under this program. We have preliminarily determined that the grants received by Leclerc constitute a countervailable subsidy within the meaning of section 771(5) of the Act. The grants are direct transfers of funds from the GOC and confer a benefit in the amount of the portion of the grant that is in excess of the most favorable, nonspecific level of benefits (*i.e.,* Tiers I and II). Also, IRDP grants are regionally specific within the meaning of section 771(5A) of the Act because the preferential levels of benefits (*i.e.,* contributions to Tiers III and IV) are limited to companies in particular regions of Canada.

We have treated these grants as ''non-recurring'' grants based on the analysis set forth in the Allocation section of the General Issues Appendix in *Final Affirmative Countervailing Duty Determination: Certain Steel Products from Austria* (58 FR 37217, 37226, July 9, 1993). In accordance with our past practice, we have allocated those grants which exceeded 0.5 percent of a company's sales in the year of receipt over time.

To calculate the countervailable subsidy, we used our standard grant

methodology. For those grants which were tied to the production of both LHF and residential flooring, we divided the benefit attributable to the POI by the total sales of Leclerc and Planchers Leclerc (the company in the Leclerc group that produces residential flooring) during the same period. Otherwise, for those grants which benefited only the production of LHF, we divided the benefit attributable to the POI by Leclerc's LHF sales during the same period. On this basis, we determine the countervailable subsidy for this program to be 0.04 percent *ad valorem* for Leclerc.

3. Societe de Developpement industriel du Quebec (SDI): Expansion and Modernization program and ''Programme d'appui a la reprise'' (PREP) Program

Leclerc obtained loans under SDI's Expansion and Modernization program and loan guarantees under SDI's PREP program. These loans and loan guarantees were part of a larger package of commercial and government financing used to increase Leclerc's productive capacity. Firms in Quebec can participate in Expansion and Modernization and PREP by meeting a requirement that ''the project for which financing is requested is aimed at markets outside Quebec.'' An alternative requirement for receiving assistance is that the market in Quebec is inadequately served by businesses in Quebec and that the supported production is expected to replace imported goods into Quebec. Under either requirement, the market for the products to be supported must have an expected growth rate that is above the average for the manufacturing sector in Canada. In addition to these requirements, which are contained in the regulations governing Expansion and Modernization and PREP, the GOQ has stated that commercial financing must accompany the SDI loans in all cases. Also, certain general requirements must be met regarding the length of the project and the financial structure of the company involved.

With respect to whether this program can be considered an export subsidy, section 771(5A)(B) of the Act states that an export subsidy is ''a subsidy that is, in law or in fact, contingent upon export performance, alone or as one of two or more conditions.'' Article 3.1(a) and note 4 of the Agreement on Subsidies and Countervailing Measures clarifies that the ''in fact'' standard ''is met when the facts demonstrate that the granting of a subsidy, without having been made legally contingent upon export performance, is in fact tied to actual or anticipated exportation or export earnings . . . However, the mere fact that a subsidy is accorded to enterprises which export shall not for that reason alone be considered to be an export subsidy within the meaning of this provision.''

We recognize that the projects for which Leclerc sought financing were largely aimed at the U.S. market in the sense that the company expected to sell most of its increased production to the United States. However, there is no evidence to support a finding that Leclerc's receipt of the loans and guarantees was contingent upon or tied to actual or anticipated exportation to the United States. Although the granting authority was aware of the anticipated destination of the output, this fact alone does not render the program a *de facto* export subsidy. Specifically, we do not believe that the assistance awarded Leclerc was contingent upon the company exporting outside of Canada. Indeed, Leclerc could have qualified for assistance by ''exporting'' to another province in Canada. Therefore, we have preliminarily determined that the loans and guarantees given under the Export and Modernization and PREP programs are not export subsidies.

The situation we are addressing here can be contrasted with other situations that might give rise to possible *de facto* export subsidies. For example, a loan program might be structured to require repayment in U.S. dollars rather than local currency. If currency restrictions make it impossible to obtain U.S. dollars in that country except through exportation, then the requirement to repay the loan in U.S. dollars could lead to the finding of a *de facto* export subsidy.

We intend to review the Export and Modernization and PREP programs closely at verification. In particular, we will examine the bases upon which the granting authority approved assistance to Leclerc. If the prospect of future exports outside of Canada—beyond a normal commercial analysis of whether a viable market, domestic or export, existed for the anticipated production—was one of the bases for granting assistance, we will likely find these programs to be export subsidies in the final determination.

While we do not consider Expansion and Modernization and PREP to be export subsidies for purposes of the preliminary determination, we have considered whether these programs may be specific domestic subsidies within the meaning of Section 771(5A)(D)(i) of the Act. (For our analysis of PREP, please see the section entitled *Programs Preliminarily Determined To Be Not Countervailable.*)

Expansion and Modernization program

Loans under the Expansion and Modernization program can be provided to companies involved in: manufacturing, recycling, computer services, software or software package design and publishing, contaminated soils remediation, the operation of a research laboratory, and the production of technical services for clients outside of Quebec. The regulations for this program further indicate that businesses in other categories may be considered ''in exceptional cases.'' The assistance may be used to cover the following types of expenditures: (1) capital investments; (2) the purchase and introduction of a new technology; (3) the acquisition of information production or management equipment; (4) investments for project-related training; and (5) other training investments related to project start-up. Based on our review of the eligibility criteria, we preliminarily determine that the program is not *de jure* specific.

Pursuant to section 771(5A)(D)(iii) of the Act, a subsidy is *de facto* specific if one or more of the following factors exists: (1) the number of enterprises, industries or groups thereof which use a subsidy is limited; 2) there is predominant use of a subsidy by an enterprise, industry, or group; (3) there is disproportionate use of a subsidy by an enterprise, industry, or group; or (4) the manner in which the authority providing a subsidy has exercised discretion indicates that an enterprise or industry is favored over others.

During the period 1990 through 1995, assistance under this program was distributed to a large number and wide variety of users. Therefore, the program is not limited based on the number of users. During this same period, the level of financing obtained by the wood products industry and by Leclerc varied. In 1993, 1994, and 1995, the wood products industry was consistently among the largest beneficiaries under the program. Leclerc's share of financing as a percentage of total authorized financing was also large relative to the shares received by other users. Taking these two findings together, we preliminarily determine that the assistance received by Leclerc was disproportionate in 1993, 1994, and 1995 and, therefore, the subsidy is specific.

In order to calculate the benefit from long-term variable rate loans, the Department normally calculates the difference during the POI between the amount of interest paid on the

subsidized loan and the amount of interest that would have been paid using a benchmark interest rate that reflects what the company would pay to obtain a comparable commercial loan. In this case, the loans given under the Expansion and Modernization program include premia and stock options. In addition, the SDI loans have variable repayment schedules. In order to account for the value of the premia and the variable repayment schedule, we have estimated a repayment schedule for the SDI loan and compared the amount Leclerc would repay under that schedule with the amount Leclerc would repay under a comparable commercial loan. For purposes of the preliminary determination, we have not determined the value of the stock option. We note, however, that we are considering methods to do so for the final determination.

We next determined the grant equivalent of these loans, *i.e.*, the present value of the difference between what would be paid under the commercial loan and the SDI loan, using the discount rates described in the *Subsidies Valuation Information* section above. If the grant equivalent calculated under this methodology was less than .5 percent of Leclerc's sales of subject merchandise, the benefit was expensed. If the grant equivalent was greater than .5 percent, we allocated the benefit over the life of the benchmark loan using the grant allocation formula outlined in section 355.49 (b)(4)(3) of the Department's Proposed Regulation. We used the life of the benchmark loan as the allocation period because of the variable repayment schedule on the SDI loans. We would, however, welcome comments on the appropriate allocation period for our final determination. The benefit allocated to the POI was then divided by Leclerc's total sales of subject merchandise during the POI. Using this methodology, we determine the countervailable subsidy from the Expansion and Modernization program to be 0.20 percent *ad valorem*.

B. Programs Preliminarily Determined to Be Not Countervailable

1. Export Development Corporation (EDC)

The EDC was established by the Export Development Act in 1969 to support and develop Canada's export trade. One of its services is the provision of insurance to exporters of Canadian goods. The insurance policies protect exporters against losses due to non-payment relating to commercial and political risks. Nilus Leclerc Inc. and Industries Leclerc Inc. purchased export credit insurance from the EDC during the POI which covered sales of the subject merchandise. No claims were made or payouts received by Leclerc during this period.

The Department's standard methodology for examining government export credit insurance programs (as outlined in section 355.44(d) of the Proposed Regulations) is to determine whether the premium rates charged by the government entity are adequate to cover the long-term operating costs and losses of the program. Under this approach, the Department analyzes the financial results of the department responsible for administering the program during the POI and the four previous years. According to EDC Annual Reports, the EDC and the EDC's insurance program, in particular, have reported profits during each of the years from 1991 to 1995.

Given that the premium rates charged by the EDC have been more than adequate to cover the operating costs and losses of its export insurance program, we preliminarily determine that this program does not confer a countervailable subsidy.

2. Hydro-Quebec Electrotechnology Implementation Program

The Electrotechnology Implementation Assistance Program is administered by Hydro-Quebec, a public utility wholly-owned by the GOQ. The program was first available in 1985 and has been implemented in three phases, the most recent of which has been extended until December 31, 1996. Phases I and II of this program were designed to reduce dependence on fossil fuels by increasing the consumption of hydroelectric power. Phase III was created to promote research and development on more efficient uses of energy and to contribute toward industrial development in Quebec. It is primarily intended for Quebec industries seeking to improve their overall productivity. To be eligible for this program, the company must: (1) be subject to electricity rates G, G–9, M or L and (2) consume electrical power to manufacture, assemble, or process merchandise, or to extract raw materials.

With respect to the grants received by Leclerc under this program, we analyzed whether the program is specific ''in law or in fact,'' within the meaning of section 771(5A)(D) (i) and (iii). Based on our review of the eligibility criteria, we preliminarily determine that this program is not *de jure* specific.

Section 771(5A)(D)(iii) of the Act provides that a subsidy is *de facto* specific if one or more of the following factors exists: (1) the number of enterprises, industries or groups thereof which use a subsidy is limited; (2) there is predominant use of a subsidy by an enterprise, industry, or group; (3) there is disproportionate use of a subsidy by an enterprise, industry, or group; or (4) the manner in which the authority providing a subsidy has exercised discretion indicates that an enterprise or industry is favored over others.

Regarding *de facto* specificity, during the period 1985 through 1992, assistance under this program was distributed over a large number and wide variety of users, representing a wide cross-section of the Quebec economy. Thus, the program is not specific based on the number of users. We also examined evidence regarding the usage of the program to determine whether Leclerc or the wood products industry was a predominant user or received disproportionately large amounts of the subsidies. We preliminarily determine that neither Leclerc nor the wood products industry received a dominant or disproportionate share of the benefits distributed under this program. As explained in the Statement of Administrative Action (SAA) (H.R. Doc. No. 316, Vol. 1, 103d Cong., 2d Session (1994) at 931), where the number of users is large and there is no dominant or disproportionate use of the program by Leclerc, we do not reach the issue of whether administrators of the program exercised discretion in awarding benefits. Therefore, we preliminarily determine that this program is not specific and has not conferred countervailable subsidies on Leclerc.

3. Decentralized Fund for Job Creation Program (DFJC) of the Société Québécoise de Développement de la Main-d'Oeuvre (SQDM)

The Decentralized Fund for Job Creation Program (DFJC) was created by the Société Québécoise de Développement de la Main-d'Oeuvre (SQDM), an agency of the GOQ, in 1994 for the purpose of increasing employment and reducing public expenditures for the unemployed. By providing a one-time cash grant to qualifying enterprises, the program aims to induce private enterprises to develop projects to hire the unemployed. The GOQ reported that all commercial enterprises, except retail businesses, all nonprofit incorporated entities, and local and regional municipalities, are eligible for the grants. The criteria for selection include: (1) the number and type of jobs created; (2) whether the project is consistent with regional

objectives; (3) whether the project is likely to be self-supporting in a reasonable period of time; and (4) whether financing from other sources is available.

With respect to the grants received by Leclerc under this program, we analyzed whether the program is specific ''in law or in fact,'' within the meaning of section 771(5A)(D) (i) and (iii). Based on our review of the eligibility criteria, we preliminarily determine that this program is not *de jure* specific. Regarding *de facto* specificity, during the period of February 1994 to March 1996, assistance under the program was distributed to many sectors representing virtually every industry and commercial sector found in Quebec. On this basis, we preliminarily conclude that the program is not specific based on the number of users.

We also examined evidence regarding the usage of the program and found that neither Leclerc nor the wood products industry was a dominant or disproportionate user of this program. Because the number of users is large and there is no dominant or disproportionate use of the program by producers under investigation, we do not reach the issue of whether administrators of the program exercised discretion in awarding benefits. Thus, we preliminarily determine that this program is not specific and has not conferred a countervailable subsidy on Leclerc.

4. Societe de placement dans l'enterprise quebecoise (SPEQ)

The SPEQ program is administered by the SDI to encourage equity investments into Quebec companies. It provides a tax incentive for owners of business investment companies to make equity investments in eligible, small-to-medium sized Quebec companies.

With respect to assistance received by Leclerc under this program, we analyzed whether the program is specific ''in law or in fact,'' within the meaning of section 771(5A)(D) (i) and (iii). Any enterprise which has gross assets of less than $25 million or net shareholders'' equity equal to or less than $10 million, and which has engaged in manufacturing, recycling, tourism, research and development, environmental, exporting, cinematography production, ''industriel culture,'' or aquaculture/incubator activities is eligible to apply for assistance under this program. Based on our review of the eligibility criteria, we preliminarily determine that this program is not *de jure* specific. Regarding *de facto* specificity, during 1988 through 1993, assistance under this program was distributed over a large number and wide variety of users, representing a wide cross-section of the Quebec economy. Thus, the program is not specific based on the number of users.

We also examined evidence regarding the usage of the program and determined that neither Leclerc nor the wood products industry was a dominant or disproportionate user of this program. Therefore, we do not reach the issue of whether administrators of the program exercised discretion in awarding benefits. Thus, we preliminarily determine that this program is not specific and has not conferred a countervailable subsidy on Leclerc.

5. Societe de Developpement Industriel du Quebec (SDI): ''Programme d'appui a la reprise'' (PREP) Program

PREP was a temporary program under which SDI provided loan guarantees on commercial bank loans. The program was active between 1992 and 1995 and was designed to assist small-to-medium sized firms in Quebec experiencing liquidity problems as a result of the recession of the early 1990s. Among other things, PREP financing was provided for production expansion.

The GOQ has stated that the same general eligibility criteria apply to PREP and Expansion and Modernization. Therefore, consistent with our analysis of the Expansion and Modernization program, we preliminarily determine that assistance under PREP is not *de jure* specific.

Regarding *de facto* specificity, the companies that obtained loan guarantees under PREP represented a large number of different industries. Based on the broad mix of industries using the program, PREP is not limited in terms of the number of users.

We also examined evidence regarding the usage of the program and determined that neither Leclerc nor the wood products industry was a dominant or disproportionate user of this program. Therefore, we do not reach the issue of whether administrators of the program exercised discretion in awarding benefits. Thus, we preliminarily determine that this program is not specific and has not conferred countervailable subsidies on Leclerc.

C. Programs Preliminarily Determined To Be Not Used

The following programs were not used:

1. *Capital Gains Exemptions*
2. *Investment Tax Credits*
3. *Performance Security Services through the Export Development Corporation*
4. *Program for Export Market Development*
5. *Working Capital for Growth from BDBC*
6. *St. Lawrence Environmental Technology Development Program (ETDP)*
7. *Canada-Quebec Subsidiary Agreement on the Economic Development of Quebec*
8. *Quebec Stumpage Program*
9. *Programs Provided by the Industrial Development Corporation (SDI)*
   Article 7 Assistance
   Export Assistance Program
   Business Financing Program
   Research and Innovation Activities Program
10. *Export Promotion Assistance Program (APEX)*
11. *Private Forest Development Program (PFDP)*

D. Program for Which Additional Information Is Required

On November 1, 1996, the GOQ submitted information regarding a program operated by SQDM entitled Program for the Development of Human Resources. This information was received too late to be taken into account for purposes of this preliminary determination.

II. Analysis of Upstream Subsidies

The petitioner alleged that Leclerc receives upstream subsidies through its purchase of lumber from suppliers which harvest stumpage from Quebec's public forest (''allegedly subsidized'' suppliers). Section 771A(a) of the Act, defines upstream subsidies as follows:

The term ''upstream subsidy'' means any subsidy . . . by the government of a country that:

(1) Is paid or bestowed by that government with respect to a product (hereinafter referred to as an ''input product'') that is used in the manufacture or production in that country of merchandise which is the subject of a countervailing duty proceeding;

(2) In the judgment of the administering authority bestows a competitive benefit on the merchandise; and

(3) Has a significant effect on the cost of manufacturing or producing the merchandise.

Each of the three elements listed above must be satisfied in order for the Department to find that an upstream subsidy exists. The absence of any one element precludes the finding of an upstream subsidy. As discussed below, we preliminarily determine that a competitive benefit is not bestowed on Leclerc through its purchases of

allegedly subsidized lumber. Therefore, we have not addressed the first and third criteria.

Competitive Benefit

In determining whether subsidies to the upstream supplier(s) confer a competitive benefit within the meaning of section 771A(a)(2) on the producer of the subject merchandise, section 771A(b) directs that:

...a competitive benefit has been bestowed when the price for the input product...is lower than the price that the manufacturer or producer of merchandise which is the subject of a countervailing duty proceeding would otherwise pay for the product in obtaining it from another seller in an arms-length transaction.

The Department's Proposed Regulations offer the following hierarchy of benchmarks for determining whether a competitive benefit exists:

...In evaluating whether a competitive benefit exists pursuant to paragraph (a)(2) of this section, the Secretary will determine whether the price for the input product is lower than:

(1) The price which the producer of the merchandise otherwise would pay for the input product, produced in the same country, in obtaining it from another unsubsidized seller in an arm's length transaction; or

(2) A world market price for the input product.

In this instance, Leclerc purchases the input product, lumber, from numerous unsubsidized, unrelated suppliers in Canada. Therefore, we have used the prices charged to Leclerc by these suppliers as the benchmark.

We compared the prices paid by Leclerc to its ''allegedly subsidized'' suppliers with the prices paid to unsubsidized suppliers on a product-by-product and aggregate basis (see, October 10 and November 6, 1996, Memoranda from Team to Susan H. Kuhbach, Acting Deputy Assistant Secretary). Based on our comparison of these prices, we found that the price of allegedly subsidized lumber was generally equal to or exceeded the price of unsubsidized lumber. Therefore, we preliminarily determine that Leclerc did not receive an upstream subsidy.

Summary

The total estimated preliminary net countervailable subsidy rate for Leclerc is 0.31 percent, which is *de minimis.* As noted above, the rates for IHP, Erie and Milner are either zero or *de minimis.* Therefore, we preliminarily determine that countervailable subsidies are not being provided to manufacturers, producers, or exporters of LHF in Canada.

Verification

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

Critical Circumstances

The petitioner alleged that critical circumstances exist with respect to imports of subject merchandise. Because we have reached a negative preliminary determination, this issue is moot.

ITC Notification

In accordance with section 703(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non-privileged and nonproprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary, Import Administration.

If our final determination is affirmative, the ITC will make its final determination within 45 days after the Department makes its final determination.

Public Comment

In accordance with 19 CFR 355.38, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on this preliminary determination. The hearing will be held on January 3, 1997, at the U.S. Department of Commerce, Room 3708, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230. Individuals who wish to request a hearing must submit a written request within 10 days of the publication of this notice in the Federal Register to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room B099, 14th Street and Constitution Avenue, N.W., Washington, DC 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Requests for a public hearing should contain: (1) the party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. In addition, 10 copies of the business proprietary version and five copies of the nonproprietary version of the case briefs must be submitted to the Assistant Secretary no later than December 17, 1996. Ten copies of the business proprietary version and five copies of the nonproprietary version of the rebuttal briefs must be submitted to the Assistant Secretary no later than December 23, 1996. An interested party may make an affirmative presentation only on arguments included in that party's case or rebuttal briefs. Written arguments should be submitted in accordance with 19 CFR 355.38 and will be considered if received within the time limits specified above. This determination is published pursuant to section 703(f) of the Act.

Dated: November 12, 1996.

Robert S. LaRussa,

Acting Assistant Secretary for Import Administration.

[FR Doc. 96–29661 Filed 11–19–96; 8:45 am]

BILLING CODE 3510–DS–P

Export Trade Certificate of Review

ACTION: Notice of application to amend certificate.

SUMMARY: The Office of Export Trading Company Affairs (''OETCA''), International Trade Administration, Department of Commerce, has received an application to amend an Export Trade Certificate of Review. This notice summarizes the proposed amendment and requests comments relevant to whether the Certificate should be issued.

FOR FURTHER INFORMATION CONTACT: W. Dawn Busby, Director, Office of Export Trading Company Affairs, International Trade Administration, (202) 482–5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4001–21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. A Certificate of Review protects the holder and the members identified in the Certificate from state and federal government antitrust actions and from private, treble damage antitrust actions for the export conduct specified in the Certificate and carried out in compliance with its terms and conditions. Section 302(b)(1) of the Act and 15 CFR 325.6(a) require the Secretary to publish a notice in the Federal Register identifying the applicant and summarizing its proposed export conduct.

Request for Public Comments

Interested parties may submit written comments relevant to the determination whether an amended Certificate should be issued. An original and five (5) copies should be submitted no later than 20 days after the date of this notice