

Act and section 351.213(h)(1) of the Department's regulations because certain complex issues need to be examined, including the terms of Hunan's business relationship with its supplier and whether Hunan's single sale during the POR was a sample sale.

Therefore, in accordance with these sections, the Department is extending the time limits for the preliminary results by 120 days, until no later than February 28, 2002. The final results continue to be due 120 days after the publication of the preliminary results.

Dated: October 25, 2001.

Edward C. Yang,

Acting Deputy Assistant Secretary for Import Administration.

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DEPARTMENT OF COMMERCE

INTERNATIONAL TRADE ADMINISTRATION

[A-122-838]

Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Certain Softwood Lumber Products From Canada

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

EFFECTIVE DATE: November 6, 2001.

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The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to Department of Commerce (Department) regulations refer to the regulations codified at 19 CFR part 351 (April 2001).

Preliminary Determination

We preliminarily determine that certain softwood lumber products from Canada are being sold, or are likely to be sold, in the United States at less than fair value (LTFV), as provided in section 733 of the Act. The estimated margins

are shown in the *Suspension of Liquidation* section of this notice.

Case History

This investigation was initiated on April 23, 2001. *See Notice of Initiation of Antidumping Duty Investigation: Certain Softwood Lumber Products From Canada*, 66 FR 21328, April 30, 2001 (*Initiation Notice*). Since the initiation of the investigation, the following events have occurred:

On May 18, 2001, the United States International Trade Commission (the ITC) preliminarily determined that there is a reasonable indication that an industry in the United States is threatened with material injury by reason of imports from Canada of softwood lumber.

From the outset of this investigation, the Department has recognized that there is a large number of softwood lumber producers in Canada, who sell a myriad of different products through hundreds of thousands of individual transactions. The Department has sought to work with interested parties to appropriately limit the data reporting requirements, so as to make the proceeding more manageable for all concerned.

Accordingly, on April 25, 2001, in advance of issuing antidumping questionnaires, the Department issued a letter to interested parties, including the petitioners¹ and the 15 largest known producers/exporters of softwood lumber from Canada, soliciting comments on issues of respondent selection, fair value comparison methodology, and possible limitation of reporting of sales and cost data. We received comments from the interested parties on May 2, 2001, and rebuttal comments on May 8, 2001.

Upon consideration of the comments received with respect to respondent selection, on May 25, 2001, the Department selected as mandatory respondents the six largest producers/exporters of subject merchandise: Abitibi-Consolidated Inc. (Abitibi); Canfor Corporation (Canfor); Slocan Forest Products Ltd. (Slocan); Tembec Inc. (Tembec); West Fraser Timber Co. Ltd. (West Fraser), and Weyerhaeuser Company (Weyerhaeuser). The Department concluded also that, due to the vast workload entailed by the investigation of these six companies, it would not be able to examine voluntary respondents. *See Selection of Respondents*, below.

¹ The petitioners are the coalition for Fair Lumber Imports Executive Committee; the United Brotherhood of Carpenters and Joiners; and the Paper, Allied-Industrial, Chemical and Energy Workers International Union.

On May 25, 2001, the Department issued an antidumping questionnaire to the selected respondents.² In view of the large number of transactions involved, the Department instructed respondents to limit the reporting of U.S. and home market sales to identical products sold in both markets, provided that such products accounted for at least 33 percent of all merchandise sold to the United States during the period of investigation.

On June 7, 2001, the Department was contacted by Abitibi, who inquired whether the Department would consider further limiting the reporting requirements to certain major product groups. The Department agreed to consider such a proposal, provided that there was unanimous agreement among the interested parties. On June 19, 2001, the six mandatory respondents agreed to limit the reporting of sales and costs to specific products. On June 20, 2001, the petitioners submitted a letter proposing that the Department adopt the proposal set forth by the mandatory respondents. *See Product Comparisons*, below. The Department agreed to this proposal.

Throughout June and July 2001, several meetings were held with counsel for the six mandatory respondents and the petitioners, to discuss a number of company-specific reporting issues, which resulted in the Department agreeing to exclude certain additional sales from the reporting requirements. These meetings are described in memoranda placed in the official file. *See, e.g.,* Memorandum from the Team to the File (June 15, 2001) and Memorandum from the Team to the File (July 10, 2001).

The respondents submitted their initial responses to the antidumping questionnaire in late June 2001. After analyzing these responses, we issued supplemental questionnaires to the respondents to clarify or correct the initial questionnaire responses. We received timely responses to these questionnaires.

On August 9, 2001, we requested that interested parties submit comments on the appropriateness and feasibility of matching sales of U.S. merchandise to home market sales of similar

² Section A of the questionnaire requests general information concerning a company's corporate structure and business practices, the merchandise under investigation that it sells, and the manner in which it sells that merchandise in all of its markets. Section B requests a complete listing of all home market sales, or, if the home market is not viable, of sales in the most appropriate third-country market. Section C requests a complete listing of U.S. sales. Section D requests information on the cost of production of the foreign like product and the constructed value of the merchandise under investigation.

merchandise, in the event that all home market sales of the identical comparison merchandise were found to be sold at below the cost of production and disregarded. Each of the mandatory respondents stated that the Department must attempt to compare U.S. sales to home market sales of similar products before resorting to constructed value. *See Product Comparisons*, below. The petitioners argued that the Department should only make identical comparisons.

Postponement of Final Determination

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise. Section 351.210(e)(2) of the Department's regulations requires that exporters requesting postponement of the final determination must also request an extension of the provisional measures referred to in section 733(d) of the Act from a four-month period until not more than six months. We received requests to postpone the final determination from Canfor, Slocan, Tembec, West Fraser, and Weyerhaeuser. In their requests, the respondents consented to the extension of provisional measures to no longer than six months. Since this preliminary determination is affirmative, the request for postponement is made by exporters who account for a significant proportion of exports of the subject merchandise, and there is no compelling reason to deny the respondents' request, we have extended the deadline for issuance of the final determination until the 135th day after the date of publication of this preliminary determination in the **Federal Register**.

Period of Investigation

The period of investigation (POI) is April 1, 2000, through March 31, 2001. This period corresponds to the four most recent fiscal quarters prior to the filing of the petition (*i.e.*, April 2, 2001).

Scope of Investigation

The products covered by this investigation 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 mouldings 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 U.S. Customs purposes, the written description of the merchandise under investigation is dispositive.

Scope Issues

In the *Initiation Notice*, we invited all interested parties to raise issues and comment regarding the product coverage under the scope of this investigation. We received numerous comments, including scope clarification requests, scope exclusion requests, and requests for determinations of separate classes or kinds. The requests covered approximately 50 products, ranging from species, like Western Red Cedar and Douglas Fir, to fencing products, bed frame components, pallet stock, and joinery and carpentry products. We published a preliminary list of scope exclusions in the *Notice of Preliminary Affirmative Countervailing Duty Determination, Preliminary Affirmative Critical Circumstances Determination, and Alignment of Final Determination With Final Antidumping Duty Determination: Certain Softwood Lumber Products from Canada*, 66 FR 43186–43188 (August 17, 2001) (*CVD Preliminary*).

In our review of the comments received since the first list of product exclusions was issued in the *CVD Preliminary*, we found that some of the excluded product definitions required

further clarification. Based on our analysis of the comments received, we have amended the list of excluded products that was originally presented in the *CVD Preliminary*. The amended list of scope exclusions is divided into two groups:

A. Softwood lumber products excluded from the scope:

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 4421.90.98.40
7. Properly classified complete door frames.
8. Properly classified complete window frames
9. Properly classified furniture

B. Softwood lumber products excluded from the scope only if they meet certain requirements:

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 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.

We have preliminarily determined that the products listed in groups (A) and (B) above are outside the scope of

this investigation. (These findings will also apply to the companion CVD investigation.) See *Memorandum to Bernard T. Carreau from Maria MacKay, Gayle Longest, David Layton on Scope Clarification in the Antidumping and Countervailing Duty Investigations on Softwood Lumber from Canada* (October 30, 2001), which is on public file in the CRU, room B-099 of the main Commerce building. The Department will issue its preliminary findings on requests for separate class or kind treatment for certain softwood lumber products prior to the briefing period, to allow parties the opportunity to comment on these findings prior to the final determination.

Selection of Respondents

Section 777A(c)(1) of the Act directs the Department to calculate individual dumping margins for each known exporter and producer of the subject merchandise. However, section 777A(c)(2) of the Act gives the Department discretion, when faced with a large number of exporters/producers, to limit its examination to a reasonable number of such companies if it is not practicable to examine all companies. Where it is not practicable to examine all known producers/exporters of subject merchandise, this provision permits the Department to investigate either: (1) A sample of exporters, producers, or types of products that is statistically valid based on the information available at the time of selection, or (2) exporters and producers accounting for the largest volume of the subject merchandise that can reasonably be examined.

After consideration of the complexities expected to arise in this proceeding (including the complex corporate structures of many lumber manufacturers, the potential for collapse of respondents with affiliated producers/exporters, the large number of transactions involved, and issues of product matching), as well as the resources available to the Department, we determined that it was not practicable in this investigation to examine all known producers/exporters of subject merchandise. We found that given our resources, we would be able to investigate the six producers/exporters with the greatest export volume, as identified above. For a more detailed discussion of respondent selection in this investigation, see *Memorandum from the Team to Bernard Carreau* (May 25, 2001). In that memorandum, we indicated that the Department would not be able to investigate voluntary respondents, unless one of the mandatory

respondents failed to answer the antidumping questionnaire or additional resources became available.

The Department received responses to the antidumping questionnaire from three producers/exporters of the subject merchandise, Weldwood of Canada Limited, Beauvoir Coaticook Inc., and Saguenay Inc., each requesting that it be investigated as a voluntary respondent. On July 18, 2001, the Department issued a memorandum stating, and notified the parties, that, as indicated in the May 25, 2001, memorandum, because none of the mandatory respondents failed to respond, the Department would not be able to examine any voluntary respondents.

Collapsing Determinations

The Department's regulations provide for the treatment of affiliated producers as a single entity where: (1) Those producers have production facilities for similar or identical products that would not require substantial retooling of either facility in order to restructure manufacturing priorities, and (2) the Department concludes that there is a significant potential for the manipulation of price or production.³ In identifying a significant potential for the manipulation of price or production, the Department may consider such factors as: (i) The level of common ownership; (ii) the extent to which managerial employees or board members of one firm sit on the board of directors of an affiliated firm; and (iii) whether operations are intertwined, such as through the sharing of sales information, involvement in production and pricing decisions, the sharing of facilities or employees, or significant transactions between the affiliated producers.⁴ These factors are illustrative, and not exhaustive.

In this investigation, we have preliminarily determined to collapse Abitibi with affiliate Scieries Saguenay Ltee. (Saguenay). See *Memorandum from the Team to Bernard Carreau* (July 18, 2001).⁵ We have also determined to collapse Canfor with affiliates Howe Sound Pulp and Paper Limited Partnership (Howe Sound), Lakeland Mills Ltd. (Lakeland), and The Pas

Lumber Company Ltd. (The Pas). See *Memorandum from the Team to Bernard Carreau* (August 23, 2001).⁶

In addition to the companies collapsed by the Department, certain respondents determined that they should be collapsed with their affiliates. Specifically, in its questionnaire response, Abitibi collapsed the sales of its affiliates Produits Forestiers Petit Paris, Inc., Produits Forestiers La Tuque, Inc., and Societe en Commandite Scierie Opticiwan. Tembec collapsed the sales of its affiliates Marks Lumber Ltd. (Marks) and Excel Forest Products (Excel)⁷ in its questionnaire response. West Fraser collapsed the sales of its affiliates West Fraser Forest Products Inc. (WFFP) and Seehta Forest Products Ltd. in its questionnaire response. Weyerhaeuser collapsed the sales of its affiliate Weyerhaeuser Saskatchewan Ltd. in its questionnaire response. In addition, the Department excused Weyerhaeuser from reporting sales of its subsidiary, Monterra Lumber Mills Ltd., due to the fact that these sales were a small portion of its total sales.⁸

Product Comparisons

Pursuant to section 771(16) of the Act, all products produced by the respondents that meet the definition of the scope of the investigation and were sold in the comparison market during the POI fall within the definition of the foreign like product.

All parties to this proceeding have agreed, from the outset of the investigation, that the sheer number of different products sold by the respondents would significantly

⁶ While the collapse of Canfor with Lakeland, The Pas, and Howe Sound was appropriate given the relationship of these companies, the Department found that Howe Sound made only a small volume of sales during the POI. We therefore instructed Canfor not to report sales by Howe Sound. See *Memorandum from the Team to Bernard Carreau* (September 6, 2001). Nonetheless, consistent with the Department's decision to collapse Canfor with Howe Sound, the dumping margin calculated using Canfor's data (including the data of Lakeland and The Pas) will extend to Howe Sound.

⁷ While the collapse of Tembec with Marks and Excel was appropriate given the relationship of the companies, the Department found that Marks made only a small volume of sales during the POI relative to the volume of sales made by Tembec. We therefore instructed Tembec not to report those sales. See *Memorandum from the Team to Gary Taverman* (July 11, 2001). Additionally, Tembec stated in its section A questionnaire response that it would not report sales or costs for Excel unless otherwise instructed by the Department. In a letter submitted to the Department on June 15, 2001, the petitioners stated they would not object to the exclusion of sales made by Excel from the reporting requirements. The Department did not request that Tembec submit sales and cost information for Excel. Therefore, the dumping margin calculated using Tembec's data will extend to both Marks and Excel.

⁸ See *Memorandum from the Team to Gary Taverman* (July 16, 2001).

³ See 19 CFR 351.401(f)(1).

⁴ See 19 CFR 351.401(f)(2).

⁵ While the collapse of Abitibi and Saguenay was appropriate given the relationship of the two companies, the Department found that Saguenay made only a small volume of sales during the POI relative to the volume of sales made by Abitibi. We therefore instructed Abitibi not to report those sales. See *Memorandum from the Team to Bernard Carreau* (August 24, 2001). Nonetheless, consistent with the Department's decision to collapse Abitibi with Saguenay, the dumping margin calculated using Abitibi's data will extend to Saguenay.

complicate the investigation. With a view to easing this administrative burden, the Department's questionnaire initially instructed respondents to limit the reporting of U.S. and home market sales to identical products sold in both markets, provided that such products accounted for at least 33 percent of all merchandise sold to the United States during the period of investigation. In defining identical products, the Department instructed respondents to consider the following physical characteristics, which were identified after consideration of comments from interested parties: (1) Product category (e.g., dimensional lumber, timbers, boards); (2) species (e.g., Western SPF, Western Red Cedar), (3) grade, (4) moisture content, (5) thickness, (6) width, (7) length, (8) surface finish, (9) end trimming, (10) further processing (e.g., edged, drilled, notched).

As noted above, on June 7, 2001, Abitibi contacted the Department, inquiring as to whether the Department would consider further limiting the reporting requirements to certain major product groups. The Department agreed to consider such a proposal, provided that (1) all of the respondents and the petitioners indicated, on the record, their agreement, (2) the submission provided a clear definition of each product for which the parties requested exclusion, and (3) to the extent that a product was excluded from the reporting requirements, it would be excluded for all respondents. See Memorandum from the Team to the File (June 7, 2001).

On June 19, 2001, the six mandatory respondents jointly submitted a letter proposing further narrowing of product reporting requirements. Specifically, the proposal was to limit reporting to dimension lumber of certain species (Western SPF, Eastern SPF, Douglas Fir/Western Larch, Western Hemlock/Amabilis Fir, and Western Red Cedar); the sole exception to this rule was that decking and timber would be reported for Western Red Cedar products. On June 20, 2001, the petitioners submitted a letter in which they encouraged the Department to adopt the joint proposal set forth by the mandatory respondents. The Department agreed to this proposal by letters to the parties on June 26, 2001.

The petitioners argued that the Department should proceed immediately from identical matches to constructed value when identical comparisons are below cost. See the petitioners' August 21, 2001 submission. All six of the mandatory respondents stated that the Department must attempt to compare U.S. sales to

home market sales of similar products before resorting to constructed value. Upon consideration of those comments, the Department requested that each respondent submit a complete home market sales listing, subject to the reporting limitations outlined in the Department's June 26, 2001 letter.⁹ The Department received timely responses to these requests. See letters from the Department of Commerce to Abitibi, Canfor, Slocan, Tembec, West Fraser, and Weyerhaeuser (September 14, 2001).

In limiting the reporting requirements in this manner, it was our initial intention to compare U.S. sales to home market sales of identical products only. However, during the course of this investigation, it became apparent that a very large number of home market sales might have been made at below the cost of production (see *Cost of Production*, below), raising the issue of whether we should compare the U.S. products to similar merchandise sold in Canada or to a normal value based on constructed value. Although we have established limited reporting requirements for this investigation, this does not preclude our attempting to compare U.S. sales to similar home market sales where possible, before relying on CV as the basis for normal value. This is consistent with the practice implemented under Policy Bulletin 98.1, *Basis for Normal Value When Foreign Market Sales Are Below Cost* (February 23, 1998), where the Department stated that it "will use constructed value as the basis for normal value only when there are no above-cost sales that are otherwise suitable for comparison." (Pursuant to the decision by the Court of Appeals of the Federal Circuit in *Cemex v. United States*, 133 F.3d 897,904 (Fed. Cir.1998), the Department does not automatically resort to constructed value, in lieu of comparison market sales, as the basis for normal value, where sales of merchandise identical to that sold in the United States are disregarded as below cost.) Accordingly, the Department considered whether it was feasible and appropriate in this investigation to make comparisons of similar products, where identical comparisons are below cost. On August 9, 2001, we requested that

⁹Certain respondents had already submitted databases containing data for similar merchandise, while others had not. Among those respondents that had submitted data for similar merchandise, some had reported all similar sales, while others had reported only selected similar sales. In order to ensure consistency across all respondents, the Department instructed all companies to submit home market sales on a uniform basis.

interested parties comment on this issue.

In accordance with the Department's established practice, we have determined that, where possible, it is appropriate to make comparisons of similar products. To this end, the Department has developed a product hierarchy which takes into account the expressed views of the interested parties.

To the extent that the grades reported by the respondents did not follow the grading system established by the National Lumber Grading Association (NLGA), the Department requested that all respondents assign the NLGA equivalent grade for all sales, along with supporting documentation describing the physical characteristics of any non-NLGA grade. Certain of Slocan's proprietary grades have specifications above existing NLGA grade categories. For these grades, we assigned a new code representing a non-NLGA, premium grade product. For certain other grades, the grade codes and descriptions did not match each other. We have recoded these grades. See October 30, 2001 memorandum to Gary Taverman: Treatment of Slocan Forest Products Ltd.s Proprietary Lumber Grades.

Further, we note that spruce-pine-fir is designated as a species combination by the NLGA. Otherwise, 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. Therefore, we have combined Eastern Spruce-Pine-Fir and Western Spruce-Pine-Fir into a single species. See October 30, 2001, memorandum to Gary Taverman: Comparability of Eastern and Western Spruce-Pine-Fir, which is on file in the CRU.

Section 773(a)(6)(C)(ii) of the Act provides for an adjustment to normal value for differences in physical characteristics of the products being compared (i.e., a difference in merchandise (difmer) adjustment). Where we do not have home market sales within the ordinary course of trade on which to base normal value for comparison with sales of the identical products sold to the United States, we have attempted to base normal value on sales of the most similar product for which we have adequate information to perform a difmer adjustment.

As noted above, where we determine that the merchandise sold to the United States does not have the same physical characteristics as the merchandise sold

in the foreign market, and where those differences have an effect on prices, the statute provides for a reasonable allowance for such differences in the Department's calculation of normal value. As explained in Policy Bulletin 92.2, *Differences in Merchandise; 20% Rule*, (July 29, 1992), the Department has "rarely been able to determine the direct price effect of a difference in merchandise." As a result, difmer "adjustments are based almost exclusively on the cost of the physical difference." Nevertheless, in addressing comments to its proposed regulations in 1997, the Department specifically retained language preserving, as an option, the use of market value in measuring a difmer.¹⁰

In applying our normal methodology for calculating a difmer adjustment, we first attempted to adjust normal value by the net difference in the variable manufacturing costs associated with the differences in the physical characteristics of the two products. For purposes of the preliminary determination, the Department is relying on the cost databases submitted by the respondents, which allocate costs by quantity. See *Cost of Production Analysis, Value-Based vs. Quantity-Based Allocation* section, below. While the companies reported their variable manufacturing costs for each unique product, there were a number of actual physical differences between products for which the respondents were unable to identify a cost difference. For instance, Abitibi stated that "cost differences were provided so as to permit the calculation of cost-based difmers, for example, between Eastern SPF and Western SPF, between green and dried products, and between rough and dressed products. There are certain other product characteristics for which it will not be possible in this case to calculate a difference in production costs."¹¹ Likewise, none of the other respondents was able to report differences in production costs for certain differences in physical characteristics, including, e.g., thickness, width, and length. As a result, for most situations where we attempted to compare U.S. sales to home market sales of similar products, we were unable to make a cost-based difmer adjustment.

Therefore, for this preliminary determination, we have concluded that it is not appropriate to match products

that do not have the following identical physical characteristics: grade, thickness, width and length. These are significant physical characteristics that cannot be accounted for by means of a cost-based difference-in-merchandise adjustment. The respondents in this investigation have reported that their methods of tracking costs and the nature of producing lumber do not allow them to distinguish costs by grade or size. Specifically, the respondents have reported that they cannot report costs that distinguish between factors other than moisture, surface finish, end trim and further manufacturing. Our analysis confirms that most lumber produced within a given species has the same production cost. See *Cost of Production Analysis, Value-Based vs. Quantity-Based Allocation* section, below.

The respondents have cited to *UHFC Company v. United States*, 916 F.2d 689 (Fed. Cir. 1990), where the Court of Appeals for the Federal Circuit (CAFC), in that specific case, instructed the Department on remand to match across different strengths/grades, despite the fact that differences in costs could not be calculated. In that case, the product involved was animal glue, where different strengths/grades were produced at the same time, using the same production process. The respondents claim that in accordance with the Court's decision in that case, "the Department must calculate a value-based difference-in-merchandise in this case in those instances where similar products are compared and there is no variable cost data available to permit the calculation of a cost-based difmer." See August 16, 2001, letter from Abitibi (at 8). Among the suggested bases for a value-based difmer adjustment were data published in Random Lengths, respondents' own reported sales data covering the POI, or historical pricing data.

We disagree that the *UHFC* decision requires the calculation of a value-based difmer adjustment in this case. First, this investigation is distinguishable from the circumstances of the *UHFC* case, where there was only a single difference, i.e. glue strength, between the products. In the instant investigation, there are several significant differences in physical characteristics which affect price. As a result, we have determined that we have no comparable basis on which to adjust for physical differences between similar products based upon market value, as has been suggested by the respondents. By Abitibi's own admission, Random Lengths data are not comprehensive enough to identify all of the differences among the entire range of products. See

Abitibi's submission of August 16, 2001, at page 8, footnote 4.

Second, even if the Department had the pricing data needed to make a value-based difmer adjustment, it would not be appropriate to base the adjustment on sales outside the ordinary course of trade. As there were no home market sales in the ordinary course of trade during the POI of many of the products involved here, no value-based difmer adjustment could be calculated for many of the comparisons based on POI sales. With respect to sales outside the POI, we have no basis on which to determine that those sales were in the ordinary course of trade, particularly regarding products for which all sales during the POI were outside the ordinary course of trade.

Furthermore, using the prices of U.S. sales as the basis for a value-based difmer adjustment is also not appropriate, as the fairness of these prices is the focus of this investigation. The fact that these sales are the basis of an allegation of dumping renders them inappropriate for any consideration in the calculation of normal value. While value-based difmer adjustments involving U.S. sales may be attributable to differences in physical characteristics between two products, they may also be attributable to dumping. For these reasons, we find no basis for comparing sales of similar products using a value-based difmer adjustment.

As a result, we have matched sales of subject merchandise to comparison market sales of similar products only where we were able to quantify a cost-based difmer adjustment for differences in end trim, surface finish and further processing. While the respondents did report costs for the moisture content characteristic, we were unable to consider those costs for purposes of the difmer adjustment because to do so would have resulted in bypassing other physical characteristics (i.e., width, length and thickness) for which we could not quantify a difmer adjustment.

This methodology is consistent with other antidumping proceedings that involved foreign like product with significant differences in physical characteristics that cannot be accounted for by means of a cost-based difmer adjustment. See, e.g., *Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination; Fresh Tomatoes from Mexico*, 61 FR 56608, 56610 (November 1, 1996), and *Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination; Fresh Atlantic Salmon from Chile*, 63 FR 2664, 2666 (January 16, 1998), accord, *Notice of*

¹⁰ See *Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27370 (May 19, 1997) and section 351.411(b) of the Department's regulations.

¹¹ See Abitibi's August 16, 2001 letter to the Secretary (at 5-6).

Final Determination of Sales at Less Than Fair Value: Fresh Atlantic Salmon From Chile, 63 FR 31411 (June 9, 1998) (*Atlantic Salmon*). See, also, *Notice of Preliminary Determination of Sales at Less Than Fair Value: Greenhouse Tomatoes From Canada*, 66 FR 51010, 51012 (October 5, 2001), where the Department stated: "Since the respondents have reported that they cannot report costs that distinguish between factors other than type, we have matched sales of subject merchandise to home-market sales of identical type, color, size, and grade, but not to home-market sales of similar merchandise."

Fair Value Comparisons

To determine whether sales of softwood lumber from Canada were made in the United States at less than fair value, we compared the export price (EP) or constructed export price (CEP) to the normal value (NV), as described in the *Export Price and Constructed Export Price and Normal Value* sections of this notice. In accordance with section 777A(d)(1)(A)(i) of the Act, we calculated weighted-average EPs and CEPs and compared these prices to weighted-average normal values or CVs, as appropriate.

Export Price and Constructed Export Price

In accordance with section 772 of the Act, we calculated either an EP or a CEP, depending on the nature of each sale. Section 772(a) of the Act defines EP as the price at which the subject merchandise is first sold before the date of importation by the exporter or producer outside the United States to an unaffiliated purchaser in the United States, or to an unaffiliated purchaser for exportation to the United States.

Section 772(b) of the Act defines CEP as the price at which the subject merchandise is first sold in the United States before or after the date of importation, by or for the account of the producer or exporter of the merchandise, or by a seller affiliated with the producer or exporter, to an unaffiliated purchaser, as adjusted under sections 772(c) and (d) of the Act.

For all respondents, we calculated EP and CEP, as appropriate, based on prices charged to the first unaffiliated customer in the United States. We found that all of the respondents made a number of EP sales during the POI. These sales are properly classified as EP sales because they were made outside the United States by the exporter or producer to unaffiliated customers in the United States prior to the date of importation.

We also found that each respondent made CEP sales during the POI. Some of these sales involved softwood lumber sold through vendor-managed inventory (VMI). Because such sales were made by the respondent after the date of importation, the sales are properly classified as CEP sales. In addition, both West Fraser and Weyerhaeuser made sales to the United States through U.S. subsidiaries.

We generally relied on the date of invoice as the date of sale. Consistent with the Department's practice, where the invoice was issued after the date of shipment, we relied on the date of shipment as the date of sale.

The POI overlaps with the last year of the Softwood Lumber Agreement (SLA). Under the SLA, Canadian exporters paid fees for exports over certain quantities. We allocated the SLA fees of each respondent across all transactions in its U.S. sales file and treated them as an export tax in making adjustments to U.S. prices.

We made company-specific adjustments as follows:

(A) Abitibi

Abitibi made both EP and CEP transactions. We calculated an EP for sales where the merchandise was sold directly by Abitibi to the first unaffiliated purchaser in the United States prior to importation, and CEP was not otherwise warranted based on the facts of record. We calculated a CEP for sales made by Abitibi to the U.S. customer through VMI or reload centers after importation into the United States. EP and CEP sales were based on the packed, delivered, ex-mill, FOB reload center, and CIF U.S. port (ocean freight paid) prices, as applicable.

We made deductions from the starting price for movement expenses in accordance with section 772(c)(2)(A) of the Act. These include internal freight incurred in transporting merchandise to reload and VMI centers, ocean freight and associated expenses for shipments by ocean vessel, as well as freight to the U.S. customer, warehousing, U.S. and Canadian brokerage, inland insurance, and, when applicable, marine insurance. We also deducted any discounts, rebates and export taxes.

In accordance with section 772(d)(1) of the Act, for CEP sales, we deducted from the starting price those selling expenses that were incurred in selling the subject merchandise in the United States, including direct selling expenses (credit and advertising expenses) and imputed inventory carrying costs. Abitibi did not report any other indirect selling expenses incurred in the United States. Finally, in accordance with

section 772(d)(3) of the Act, we deducted an amount of profit allocated to the expenses deducted under sections 772(d)(1) and (2) of the Act.

(B) Canfor

We based EP on delivered and FOB prices to unaffiliated customers in the United States. We adjusted the starting price by the amount of billing adjustments, early payment discounts, and rebates. We reduced the starting price, where appropriate, for movement expenses including foreign inland freight, U.S. customs duty, U.S. freight, warehousing, and miscellaneous movement charges. We offset the amount of freight expenses by the amount of reported rebates from the freight carriers. We also deducted export taxes from the starting price.

In addition to these adjustments, for CEP sales, in accordance with section 772(d)(1) of the Act, we adjusted the starting price by the amount of direct selling expenses and revenues (*i.e.*, credit expenses and interest revenue). We further reduced the starting price by the amount of indirect selling expenses incurred in the United States. Finally, in accordance with section 772(d)(3) of the Act, we deducted an amount of profit allocated to the expenses deducted under sections 772(d)(1) and (2) of the Act.

(C) Slocan

Slocan made both EP and CEP transactions. We calculated an EP for sales where the merchandise was sold directly by Slocan to the first unaffiliated purchaser in the United States prior to importation, and CEP was not otherwise warranted based on the facts of record. We calculated a CEP for sales made by Slocan to the U.S. customer through VMI or reload centers after importation into the United States. EP and CEP sales were based on the packed, delivered, ex-mill, and FOB reload center prices, as applicable.

We made deductions from the starting price for movement expenses in accordance with section 772(c)(2)(A) of the Act. These include domestic freight incurred in transporting merchandise to reload centers and to VMI customers, as well as freight to U.S. customer, warehousing, U.S. and Canadian brokerage. We also deducted from the starting price any discounts, rebates and export taxes.

In accordance with section 772(d)(1) of the Act, for CEP sales, we deducted from the starting price those selling expenses that were incurred in selling the subject merchandise in the United States, including direct selling expenses (*i.e.*, credit and inventory carrying costs)

and imputed inventory carrying costs. Slocan did not report any other indirect selling expenses incurred in the United States. Finally, in accordance with section 772(d)(3) of the Act, we deducted an amount of profit allocated to the expenses deducted under sections 772(d)(1) and (2) of the Act.

(D) Tembec

Tembec made both EP and CEP transactions during the POI. We calculated an EP for sales where the merchandise was sold directly by Tembec to the first unaffiliated purchaser in the United States prior to importation. We calculated a CEP for sales made by Tembec to the U.S. customer through U.S. reload facilities and through VMI facilities. EP and CEP sales were based on the packed, delivered prices.

Tembec did not report making CEP sales during the POI. However, because the date of sale is the date the products are shipped from the reload centers and the invoice date is either the date of shipment or the following business day, the Department is treating sales made through U.S. reload centers as CEP sales. For these same reasons, the Department has determined that all sales made to Tembec's VMI customer are properly classified as CEP sales.

We made deductions from the starting price for movement expenses in accordance with section 772(c)(2)(A) of the Act. These include inland freight incurred in transporting merchandise to Canadian reload centers and warehousing expenses, as well as freight to the U.S. customer or reload facility, warehousing expenses, and U.S. brokerage. We also deducted from the starting price any discounts, rebates and export taxes.

In accordance with section 772(d)(1) of the Act, for CEP sales, we deducted from the starting price those selling expenses that were incurred in selling the subject merchandise in the United States, including indirect selling expenses and direct selling expenses (credit expenses). Finally, in accordance with section 772(d)(3) of the Act, we deducted an amount of profit allocated to the expenses deducted under sections 772(d)(1) and (2) of the Act.

(E) West Fraser

West Fraser made both EP and CEP transactions. We calculated an EP for sales where the merchandise was sold directly by West Fraser to the first unaffiliated purchaser in the United States prior to importation, and CEP was not otherwise warranted based on the facts of record. We calculated a CEP for sales made by West Fraser to the U.S.

customer through VMI or reload centers after importation into the United States. EP and CEP sales were based on the packed, delivered, ex-mill, and FOB reload center prices, as applicable.

We made deductions from the starting price for movement expenses in accordance with section 772(c)(2)(A) of the Act. These include internal freight incurred in transporting merchandise to reload centers, to VMI customers, and freight to the U.S. customer, warehousing, U.S. and Canadian brokerage and inland insurance. We also deducted any discounts, rebates and export taxes from the starting price.

In accordance with section 772(d)(1) of the Act, for CEP sales, we deducted from the starting price those selling expenses that were incurred in selling the subject merchandise in the United States, including direct selling expenses, (e.g., credit and advertising expenses) and imputed inventory carrying costs. Finally, in accordance with section 772(d)(3) of the Act, we deducted an amount of profit allocated to the expenses deducted under sections 772(d)(1) and (2) of the Act.

(F) Weyerhaeuser

Weyerhaeuser made both EP and CEP transactions. We calculated an EP for sales where the merchandise was sold directly by Weyerhaeuser to the first unaffiliated purchaser in the United States prior to importation, and CEP was not otherwise warranted based on the facts of record. We calculated a CEP for sales made by Weyerhaeuser to the U.S. customer through reload centers, VMI and its affiliated reseller Weyerhaeuser Building Materials (WBM-US) after importation into the United States. EP and CEP sales were based on the packed, delivered or FOB prices.

From its customer service centers in the United States and Canada, Weyerhaeuser made sales of merchandise which had been commingled with that of other producers. Weyerhaeuser provided a weighting factor to determine the quantity of Weyerhaeuser-produced Canadian merchandise for these sales. We are using the weighting factors to estimate the volume of Weyerhaeuser-produced merchandise sold from customer service centers. Where a manufacturer other than Weyerhaeuser was identified, we removed those sales from the database.

We made deductions from the starting price for movement expenses in accordance with section 772(c)(2)(A) of the Act. These include freight to U.S. and Canadian warehouses or reload centers, warehousing expense in Canada and the United States, brokerage and

handling, and freight to the final customer. For the purposes of this preliminary determination, we also deducted remanufacturing costs incurred at the warehouse with movement expenses, as Weyerhaeuser was unable to separate these costs from warehousing costs for all of its warehouses. We also deducted from the starting price any discounts, rebates and export taxes.

In accordance with section 772(d)(1) of the Act, for CEP sales, we deducted from the starting price those selling expenses that were incurred in selling the subject merchandise in the United States, including indirect selling expenses and direct selling expenses (e.g., credit expenses). Finally, in accordance with section 772(d)(3) of the Act, we deducted an amount of profit allocated to the expenses deducted under sections 772(d)(1) and (2) of the Act.

Normal Value

A. Selection of Comparison Markets

Section 773(a)(1) of the Act directs that NV be based on the price at which the foreign like product is sold in the home market, provided that the merchandise is sold in sufficient quantities (or value, if quantity is inappropriate) and that there is no particular market situation that prevents a proper comparison with the EP or CEP. The statute contemplates that quantities (or value) will normally be considered insufficient if they are less than 5 percent of the aggregate quantity (or value) of sales of the subject merchandise to the United States. We found that all six mandatory respondents had viable home markets for lumber.

To derive NV, we made the adjustments detailed in the *Calculation of Normal Value Based on Home Market Prices* and *Calculation of Normal Value Based on Constructed Value*, sections below.

B. Cost of Production Analysis

Based on allegations contained in the petition, and in accordance with section 773(b)(2)(A)(i) of the Act, we found reasonable grounds to believe or suspect that softwood lumber sales were made in Canada at prices below the cost of production (COP). See *Initiation Notice*, 66 FR at 21331. As a result, the Department has conducted investigations to determine whether the respondents made home market sales at prices below their respective COPs during the POI within the meaning of section 773(b) of the Act. We conducted the COP analysis described below.

1. Calculation of COP

In accordance with section 773(b)(3) of the Act, we calculated a weighted-average COP based on the sum of the cost of materials and fabrication for the foreign like product, plus amounts for general and administrative (G&A) expenses, selling expenses, packing expenses and interest expenses.

2. Value-Based vs. Quantity-Based Allocation

For purposes of our cost analysis, for each respondent, we have used the submitted cost files which were based on costs allocated by volume, measured in MBF ("thousand board feet"), and not the alternative costs files based on various value allocation methods submitted by four of the six respondents.

We find the reliance on the volume-based method reasonable because 1) it is the method followed in the industry and, more importantly, in the books and records of the six respondents; 2) it reasonably reflects the actual cost incurred to produce each individual product; and 3) it is consistent with the Department's practice, which was upheld in *IPSCO Inc., v. United States*, 965 F. 2d, 1056, 1059–1060 (Fed. Cir. 1992). (*IPSCO*).

We issued the antidumping duty questionnaire in this case on May 25, 2001. In the questionnaire, we directed the respondents to report their per-unit costs based on their normal books and records. Section 773(f)(1)(A) states that, (i)n general—costs shall normally be calculated based on the records of the exporter or producer of the merchandise, if such records are kept in accordance with the generally accepted accounting principles of the exporting country and reasonably reflect the costs associated with the production and sale of the merchandise." In their filings to the Department, the respondents reported either that they do not have a cost accounting system, and that they calculate one average cost within a given saw mill, or they calculate costs by process, using an average cost per MBF. Abitibi reported that it "uses an average cost system that assigns the same cost to every item processed." See Abitibi's section D questionnaire response, page D–22 (July 23, 2001). In addition, Abitibi noted "We record the cost of all products on an average foot board measure basis * * * all products are assigned the same average cost based on the nominal dimensions of the finished product." See Abitibi's section D questionnaire response, page D–23 (July 23, 2001). Canfor stated that, "like other lumber producers, Canfor in the

normal course of business uses an average cost system that assigns the identical cost to each item processed at a cost center." See Canfor's submission requesting limited reporting requirements (June 8, 2001). Likewise, West Fraser reported that it "does not value production costs differently for cost accounting and financial accounting purposes. In its monthly financial reports, West Fraser averages the costs reported in its financial accounts over the production of each of its mills. The result is an average cost per mfbm." See West Fraser's section D questionnaire response, page D–22 (July 23, 2001). Weyerhaeuser reported that (i)n the ordinary course of business, Weyerhaeuser mills do not maintain production or financial data that would permit a reliable allocation of processing costs to specific products." See Weyerhaeuser's submission requesting limited reporting requirements (June 8, 2001). However, we note that Weyerhaeuser further explained that (t)he mills can distinguish between certain operations (e.g., kiln-dried or green, planed or not planed), but for the most part, mills merely track total sawmill costs and quantities of wood products (throughput) in MBF." See Weyerhaeuser's submission requesting limited reporting requirements (June 8, 2001). Tembec reported that it "does not calculate product specific costs in its normal books and records, nor does it track all of the physical characteristics identified by the Department." See Tembec's submission requesting limited reporting requirements (June 8, 2001). Slocan stated that "a process costing system is employed at each division, under which product costs are obtained by accumulating costs by process cost center and then determining an average cost per unit of production (for lumber, the average cost per mfbm, thousand board measure of lumber)." See Slocan's section D questionnaire response, page D–30 (July 23, 2001). Based on the representations of each of the six respondents, none uses a value-based cost allocation method in its normal books and records. Instead, the industry practice appears to be to calculate costs based on broad simple average cost per MBF for all products or a more detailed process specific cost per MBF. As such, the per MBF cost files are consistent with the records of the exporters or producers of the merchandise.

As to the reasonableness of a volume based allocation, while different sawmills may specialize in specific products, within a sawmill we find that there are virtually no differences in cost

per MBF due to grade, length, width, and thickness of lumber produced from a given species. As noted above, the same material inputs, processing and overhead costs are incurred. Lumber products of different sizes are typically cut from the same log, at times literally from opposite sides of the same saw blade. Nothing in the production process imparts the characteristic of grade, e.g., grain, color, or markings in the wood. As the same processes, material inputs, labor and overhead are used by the respondents in producing the various grades and dimensions of lumber produced within a given species, and as the lumber of differing grades and dimensions are in composition substantially the same product, it is reasonable to assign the same cost per MBF for each grade and dimension.¹²

In analyzing the respondents' value-based methodologies, we reviewed the lumber production process described by each respondent and considered the appropriate allocation factors for the various input costs. In short, the lumber production process is as follows: (1) A stand of trees is cut and sorted by species; (2) logs are moved to a sawmill and debarked; (3) logs are input into the sawmill, where lumber of differing grades and dimensions are cut from the same log; (4) rough cut lumber is either sold directly or sold after specific further processing operations (e.g., lumber can be planed or dried or both); and (5) lumber is graded at the end of the production process. All processing costs can be directly identified with the end products. For example, the cost of planing operations can reasonably be identified and allocated to planed products based on the volume of planed lumber produced. Therefore, it would not be appropriate to allocate these processing costs by value. The only cost that could arguably be allocated by value is the material cost, in this case, the log costs.¹³ However, for the reasons

¹² We note that most of the respondents do track, and have broken out costs for species, moisture content (i.e., dried or non-dried), surface finishing (i.e., planed or non-planed), precision end-trimming, and further processing (i.e., drilled, notched, etc.). Similarly, in *Atlantic Salmon*, the Department determined that there were no cost differences between grades of salmon or between weight bands. The Department stated that "Our examination of the voluminous record evidence concerning this issue, including verification findings, confirms that the costs as reported reasonably reflect the actual costs of producing each matching group (i.e., each combination of form, grade, and weight band), and that the costs of certain of these matching groups are the same."

¹³ We note that some respondents inappropriately allocated all of their costs, including sawmill, planing and drying costs, based on the relative

described above, we conclude that even the cost of the log is more appropriately allocated on a volume basis.

Lastly, we note that allocating the same cost per MBF for each grade and dimension of lumber produced is consistent with past Court decisions and Department practice. For example, in *IPSCO*, the Federal Circuit Court overturned the CIT's decision where the CIT instructed Commerce not to allocate costs equally between prime and limited service pipe, but instead to allocate costs based on the relative sales values of the merchandise. The Federal Circuit Court agreed with the Department's position that since the respondent expended the same materials, capital, labor, and overhead for both grades of pipe, both should be assigned the same cost. Specifically, the Federal Circuit Court stated that, "(i)n light of the language of (the Statute), ITA's original methodology for calculating constructed value was a consistent and reasonable interpretation of section (773(c) of the Act)".

3. Individual Company Adjustments

We relied on the COP data submitted by each respondent in its cost questionnaire response, except in specific instances where the submitted costs were not appropriately quantified or valued, or otherwise required adjustment, as discussed below:

(A) Abitibi

1. We adjusted Abitibi's reported G&A expenses to include the total amount of goodwill amortized by Abitibi in fiscal year 2000.

2. We adjusted Abitibi's reported G&A to include the redemption of stock options, which the Department considers to be a form of employee compensation.

3. We revised Abitibi's net financial expenses to reflect company-wide net financial expenses rather than the net financial expenses of the lumber division that were reported.

See Memorandum from Lavonne Jackson to Neal Halper for Abitibi's Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Determination, (October 30, 2001).

values of all end products produced, even though such costs should be allocated only to products that underwent such processing and in a manner which accurately reflects the costs of those operations. Likewise, some respondents inappropriately allocated all log costs, without regard to species, based on the relative values of end products, even though the species-specific wood costs could be separately identified.

(B) Canfor

1. We adjusted Canfor and Lakeland's byproduct revenue offset to reflect a market price for transactions with affiliates.

2. We revised Canfor's G&A expenses based on the unconsolidated financial statements for the year ended December 29, 2000, including an amount for administrative services performed on the company's behalf by its parent company. Canfor's reported G&A expenses were based on the consolidated financial statements of the parent company.

3. We revised Lakeland's G&A expense rate calculation by using the G&A expenses presented in the October 31, 2000 audited financial statements. The reported G&A expense rate was calculated based on Lakeland's internal financial statements and not on its audited financial statements. We also disallowed the interest income and other income used as an offset to the total G&A expenses.

4. We revised The Pas' G&A expense rate calculation by using the G&A expenses presented in the October 31, 2000 audited financial statements. The reported G&A expense rate was calculated based on The Pas' internal financial statements and not on its audited financial statements. We included amortization expenses in the calculation. Additionally, we disallowed the interest income and the share of earnings of a partly owned company used as an offset to the total G&A expenses.

5. We revised The Pas' net financial expense calculation by using the net financial expense presented in the October 31, 2000 audited financial statements. The reported net financial expense rate was calculated based on The Pas' internal financial statements and not on its audited financial statements. We included exchange losses on debt in the financial expenses.

6. We calculated a weighted-average byproduct revenue adjustment and the revised G&A and financial expense rates based on the production volumes of Canfor, Lakeland and The Pas since we consider the three companies combined to be one cost respondent.

See Memorandum from Taija Slaughter to Neal Halper for Canfor's, Lakeland's and The Pas' Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Determination (October 30, 2001).

(C) Slocan

We did not include Slocan's proposed startup period adjustment for

improvements to the Mackenzie planer mill. Section 773(f)(1)(C)(ii) of the Act states that the Department will make an adjustment for startup costs where: (1) A producer is using a new facility or producing a new product that requires substantial additional investment, and (2) production levels are limited by technical factors associated with the initial phase of commercial production. Based on the information submitted, it does not appear that Slocan's Mackenzie mill qualifies as a new facility, nor does the lumber produced at the Mackenzie mill qualify as a new product under the definitions listed in the Statement of Administrative Action accompanying the Uruguay Round Agreements Act, H.R. Doc. 103-316, Vol. 1 (1994) (SAA) at 836. The Mackenzie mill has not "undergone a substantially complete retooling of an existing plant" which requires the replacement of nearly all production machinery or the equivalent rebuilding of existing machinery. See SAA at 836. Furthermore, the SAA at 836 states: "Mere improvements to existing products or ongoing improvements to existing facilities will not qualify for a start-up adjustment."

See Memorandum from Michael Harrison to Neal Halper for Slocan's Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Determination, (October 30, 2001).

(D) Tembec

1. We adjusted Tembec's byproduct revenue offset to reflect a market price for transactions with affiliates. In addition, we have adjusted the BC byproduct revenue offset for the apparent computational error.

2. We also adjusted the reported amounts for movement expenses for certain sales categorized as "delivered to customer," certain sales made through U.S. reload centers and certain sales without a reported amount for freight to the reload center, where applicable.

See Memorandum from Peter Scholl to Neal Halper for Tembec's Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Determination, (October 30, 2001). See also, Calculation Memorandum from Christopher Riker to the File for Tembec's Preliminary Determination in the Antidumping Duty Investigation (October 30, 2001).

(E) West Fraser

1. We adjusted West Fraser's byproduct revenue offset to reflect a market price for transactions with affiliates.

2. We recalculated West Fraser's G&A expense rate to be based on the company-wide figures instead of the reported divisional figures. We also included the write-down of capital assets and excluded indirect selling expenses.

See Memorandum from Gina Lee to Neal Halper for West Fraser's Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Determination, (October 30, 2001).

(F) Weyerhaeuser

1. For B.C. Coastal Group, we have revised the wood, rough-cut lumber and byproduct revenue cost database fields to reflect a thousand board feet-based allocation of costs.

2. We adjusted Weyerhaeuser's byproduct revenue offset to reflect a market price for transactions with affiliates.

3. We recalculated Weyerhaeuser's G&A expense rate to be based on the company-wide figures instead of the reported divisional figures.

See Memorandum from Michael Martin to Neal Halper for Weyerhaeuser's Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Determination, (October 30, 2001).

4. Test of Home Market Sales Prices

We compared the adjusted weighted-average COP for each respondent to its home market sales of the foreign like product, as required under section 773(b) of the Act, to determine whether these sales had been made at prices below the COP within an extended period of time (*i.e.*, a period of one year) in substantial quantities and whether such prices were sufficient to permit the recovery of all costs within a reasonable period of time. On a model-specific basis, we compared the revised COP to the home market prices, less any applicable movement charges, export taxes, discounts and rebates.

5. Results of the COP Test

Pursuant to section 773(b)(2)(C) of the Act, where less than 20 percent of a respondent's sales of a given product were at prices less than the COP, we did not disregard any below-cost sales of that product because we determined that the below-cost sales were not made in "substantial quantities." Where 20 percent or more of a respondent's sales of a given product during the POI were at prices less than the COP, we determined such sales to have been made in "substantial quantities" within an extended period of time in accordance with section 773(b)(2)(B) of

the Act. Because we compared prices to the POI average COP, we also determined that such sales were not made at prices which would permit recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Act. Therefore, we disregarded the below-cost sales.

For all respondents, we found that more than 20 percent of the home market sales of certain softwood lumber products within an extended period of time were made at prices less than the COP. Further, the prices did not provide for the recovery of costs within a reasonable period of time. We therefore disregarded the below-cost sales and used the remaining sales as the basis for determining normal value, in accordance with section 773(b)(1) of the Act.

For those U.S. sales of softwood lumber for which there were no useable home market sales in the ordinary course of trade, we compared EPs or CEPs to the constructed value in accordance with section 773(a)(4) of the Act. See *Calculation of Normal Value Based on Constructed Value* section, below.

C. Calculation of Normal Value Based on Home Market Prices

The respondents reported home market sales data for purposes of the calculation of NV. We determined price-based NVs for responding companies as follows. For all the respondents, we made adjustments for any differences in packing in accordance with sections 773(a)(6)(A) and 773(a)(6)(B)(i) of the Act, and we deducted movement expenses pursuant to section 773(a)(6)(B)(ii) of the Act.

(1) Abitibi

We based home market prices on the packed prices to unaffiliated purchasers in Canada. We adjusted the starting price for foreign inland freight, warehousing expenses, insurance, discounts, rebates, and billing adjustments. For comparisons made to EP sales, we made circumstance-of-sale (COS) adjustments by deducting direct selling expenses incurred for home market sales (credit and advertising expenses) and adding U.S. direct selling expenses (*e.g.*, credit and advertising expenses). For comparisons made to CEP sales, we deducted home market direct selling expenses but did not add U.S. direct selling expenses. No other adjustments to NV were claimed or allowed.

(2) Canfor

We based home market prices on the packed prices to unaffiliated purchasers in Canada. We adjusted the starting price by the amount of billing adjustments, early payment discounts, and rebates, and movement expenses including inland freight, warehousing, and miscellaneous movement charges. We offset the amount of freight expenses by the amount of reported rebates from the freight carriers. For comparisons made to EP sales, we made COS adjustments for direct expenses and revenues, including credit expenses and interest revenue and warranty expenses. For comparisons made to CEP sales, we deducted home market direct selling expenses but did not add U.S. direct selling expenses. No other adjustments to NV were claimed or allowed.

(3) Slocan

We based home market prices on the packed prices to unaffiliated purchasers in Canada. We adjusted the starting price for billing adjustments, early payment discounts, rebates, inland freight to warehouse, inland freight to customer, and freight rebates.

For comparisons made to EP sales, we made COS adjustments by deducting direct selling expenses incurred for home market sales and adding U.S. direct selling expenses (*e.g.*, credit). For comparisons made to CEP sales, we deducted home market direct selling expenses but did not add U.S. direct selling expenses. No other adjustments to NV were claimed or allowed.

(4) Tembec

We based home market prices on the packed prices to unaffiliated purchasers in Canada. We adjusted the starting price for billing adjustments, early payment discounts, rebates, foreign inland freight, warehousing expenses and shipping costs. For comparisons made to EP sales, we made COS adjustments by deducting direct selling expenses and revenues for home market sales (credit and interest revenue) and adding U.S. direct selling expenses (*e.g.*, credit expenses). For comparisons made to CEP sales, we deducted home market direct selling expenses but did not add U.S. direct selling expenses. No other adjustments to NV were performed.

(5) West Fraser

During the period of investigation, West Fraser sold the foreign like product to an affiliated chain of retail home improvement centers in Canada. These sales, which constituted a significant portion of West Fraser's home market sales, failed the

Department's arm's length test.¹⁴ Although West Fraser has recently provided information concerning downstream sales by the affiliate, we have been unable to analyze this information for this preliminary determination. The issue facing the Department for the preliminary determination is whether adverse facts available should be applied with respect to these sales. For the reasons detailed below, we have preliminarily determined that adverse facts available is *not* warranted. We will, however, re-evaluate this decision in our final determination.

In the questionnaire issued to West Fraser on May 25, 2001, we requested that it report home market downstream sales if such sales were made by an affiliated reseller. See question 11 on page G-6 of the Department's antidumping questionnaire. In response, West Fraser asked that it be excused from reporting the downstream sales as it no longer owned the home improvement chain and no longer had access to the necessary sales records. Further, as late as August 16, 2001, West Fraser continued to assert that the reporting of the downstream sales was unnecessary as its sales to the affiliated customer would pass the arm's length test. Based on these representations, the Department allowed West Fraser not to report the downstream sales.

On October 2, 2001, the petitioners, claiming that their analysis showed that West Fraser's sales to the affiliate failed the arm's length test, argued that the Department should assign adverse facts available to those transactions. They claimed that the Department had requested the downstream sales on several occasions and that West Fraser had provided materially inaccurate information.

In response, West Fraser reiterated its earlier arguments regarding the sales. West Fraser also asserted that because the affiliated customer sold lumber produced by a number of Canadian mills, and because the members of the chain had numerous and often incompatible computer systems, it would be virtually impossible to report all the information requested for the downstream sales. Further, it argued that because the downstream sales were

at the retail level, it was unlikely that they would be considered as normal value because of differences in level of trade with the U.S. sales. (These points were subsequently expressed in an October 23, 2001, letter from the Government of Canada to Under Secretary for International Trade Grant Aldonas and in ex parte meetings with DAS Bernard Carreau and Assistant Secretary for Import Administration Faryar Shirzad.)

Nevertheless, because our analysis indicated that the West Fraser affiliated sales had indeed failed the arm's length test, on October 12, 2001, we wrote West Fraser requiring that it report, by October 26, 2001, all the downstream sales. If it were unable to do so, we asked that it suggest an alternative methodology to calculate normal value for the sales in question. A timely response to our October 12 letter was received. Given that we were unable to analyze this submission prior to this preliminary determination, and based on the representations made by West Fraser with respect to the likelihood that these sales would not be included in our analysis, we have preliminarily decided to not assign adverse facts available to these sales.¹⁵ We will examine this issue thoroughly at verification and if we conclude that West Fraser failed to act to the best of its ability in responding to our questionnaire, we will reconsider the adverse facts available decision.

We based home market prices on the packed prices to unaffiliated purchasers in Canada. We adjusted the starting price for billing adjustments, early payment discounts, inland freight to the warehouse, warehousing expenses, special handling charges, inland freight to customers, freight rebates, tarping expenses and fuel surcharges.

For comparisons made to EP sales, we made COS adjustments by deducting direct selling expenses incurred for home market sales and adding U.S. direct selling expenses (e.g., credit). For comparisons made to CEP sales, we deducted home market direct selling expenses but did not add U.S. direct selling expenses. No other adjustments to NV were claimed or allowed.

(6) Weyerhaeuser

We based home market prices on the packed prices to unaffiliated purchasers in Canada. We adjusted the starting price for freight to the warehouse/reload

center, warehousing expenses, freight to the final customer, remanufacturing done at the warehouse, discounts, rebates, and billing adjustments. For comparisons made to EP sales, we made COS adjustments by deducting direct selling expenses incurred for home market sales (credit and warranty/quality claims expenses) and adding U.S. direct selling expenses (e.g., credit and warranty/quality claims expenses). For comparisons made to CEP sales, we deducted home market direct selling expenses but did not add U.S. direct selling expenses. No other adjustments to NV were claimed or allowed.

D. Calculation of Normal Value Based on Constructed Value

Section 773(a)(4) of the Act provides that where NV cannot be based on comparison market sales, NV may be based on CV. Accordingly, for those models of softwood lumber products for which we could not determine the NV based on comparison-market sales, either because there were no useable sales of a comparable product or all sales of the comparable products failed the COP test, we based NV on the CV.

Section 773(e)(1) of the Act provides that the constructed value shall be based on the sum of the cost of materials and fabrication for the imported merchandise, plus amounts for selling, general, and administrative expenses, profit, and U.S. packing costs. For each respondent, we calculated the cost of materials and fabrication based on the methodology described in the *Calculation of COP* section, above. We based SG&A and profit for each respondent on the actual amounts incurred and realized by the respondents in connection with the production and sale of the foreign like product in the ordinary course of trade for consumption in the comparison market, in accordance with section 773(e)(2)(A) of the Act. We used U.S. packing costs as described in the *Export Price* section, above.

We made adjustments to CV for differences in COS in accordance with section 773(a)(8) of the Act and 19 CFR 351.410. For comparisons to EP, we made COS adjustments by deducting direct selling expenses incurred on home market sales from, and adding U.S. direct selling expenses to, constructed value. For comparisons to CEP, we made COS adjustments by deducting from CV direct selling expenses incurred on home market sales.

Level of Trade/CEP Offset

In accordance with section 773(a)(1)(B) of the Act, to the extent

¹⁴ To test whether sales are made at arm's length, we compare the prices of sales to affiliated and unaffiliated customers net of all movement charges, direct selling expenses, discounts and packing. Where prices to the affiliated parties are on average 99.5 percent or more of the price to the unaffiliated party, we determine that those sales made to the related party are at arm's length and review these sales in our determination of normal value. Otherwise, the sales to the affiliated party are excluded from the calculation of normal value.

¹⁵ In order to use adverse facts available, the Department must make a finding, supported by substantial evidence, that the "interested party...failed to cooperate by not acting to the best of its ability to comply with a request for information." See section 777(b) of the Act.

practicable, we determine NV based on sales in the comparison market at the same level of trade as the EP or CEP transaction. The NV level of trade is that of the starting-price sale in the comparison market or, when normal value is based on CV, that of the sales from which we derive SG&A expenses and profit. For EP sales, the U.S. level of trade is also the level of the starting-price sale, which is usually from exporter to importer. For CEP, it is the level of the constructed sale from the exporter to the importer.

To determine whether NV is at a different level of trade than EP or CEP, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer. If the comparison-market sales are at a different level of trade and the difference affects price comparability with U.S. sales, as manifested in a pattern of consistent price differences between the sales on which NV is based and comparison-market sales at the level of trade of the export transaction, we make a level-of-trade adjustment under section 773(a)(7)(A) of the Act. For CEP sales, if the NV level is more remote from the factory than the CEP level and there is no basis for determining whether the difference in the levels between NV and CEP affects price comparability, we adjust NV under section 773(a)(7)(B) of the Act (the CEP-offset provision). *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from South Africa*, 62 FR 61731 (November 19, 1997).

In implementing these principles in this investigation, we obtained information from each respondent about the marketing stages involved in the reported U.S. and home market sales, including a description of the selling activities performed by the respondents for each of their channels of distribution. In identifying levels of trade for EP and home market sales we considered the selling functions reflected in the starting price before any adjustments. For CEP sales, we considered only the selling activities reflected in the price after the deduction of expenses and profit pursuant to section 772(d) of the Act. Generally, if the reported levels of trade are the same, the functions and activities of the seller should be similar. Conversely, if a party reports levels of trade that are different for different categories of sales, the functions and activities may be dissimilar.

In this investigation, we found that the respondents, with the exception of Weyerhaeuser, perform minimal selling

functions in the United States and home markets. With respect to the other respondents' EP sales, we found a single level of trade in the United States and a single, identical, level of trade in the home market. Accordingly, it was unnecessary to make any level-of-trade adjustment for comparison of EP and home market prices. All six respondents also made CEP sales. For each of these respondents, except Weyerhaeuser, we found that the adjusted CEP level of trade was essentially the same as that of the single home market level of trade, such that no level-of-trade adjustment or CEP offset was necessary.

(A) Abitibi

Abitibi reported three channels of distribution in the home market. The first channel of distribution (channel 1) included direct sales from Canadian mills or reload centers to customers. The second channel of distribution (channel 3) consisted of sales made to large retailers, distributors, building materials manufacturers and other large lumber producers and are a form of VMI. The third channel of distribution (channel 4) consisted of e-commerce sales. We compared selling functions in each of these three channels of distribution and found that the sales process, freight services and inventory maintenance activities were similar. Accordingly, we preliminarily determine that home market sales in these three channels of distribution constitute a single level of trade.

In the U.S. market, Abitibi had both EP and CEP sales. Abitibi reported EP sales to end-users and distributors through three channels of distribution. These three EP channels of distribution do not differ from the three channels of distribution in the home market. Because the sales process, freight services and inventory maintenance were similar, we preliminarily determine that EP sales in these three channels of distribution constitute a single level of trade which is identical to the home market level of trade.

With respect to CEP sales, Abitibi reported these sales through two channels of distribution. The first (channel 2) included direct sales from U.S. reload centers to customers. The second (channel 3) consisted of sales made to large retailers, distributors, building materials manufacturers and other large lumber producers and are a form of VMI. The selling functions related to freight arrangements and inventory maintenance for these two channels of distribution were not significantly different and, therefore, we determined there is only one CEP level of trade.

In determining whether separate levels of trade exist between U.S. CEP sales and home market sales, we examined the selling functions in the distribution chains and customer categories reported in both markets. In our analysis of levels of trade for CEP sales, we consider only the selling activities reflected in the price after the deduction of expenses and profit under section 772(d) of the Act.

Abitibi's sales to end-users and distributors in the home market and in the U.S. market do not involve significantly different selling functions. Abitibi's Canadian-based services for CEP sales were similar to the single home market level of trade with respect to sales process and warehouse/inventory maintenance. Abitibi did not report indirect selling expenses other than imputed inventory carrying costs in the U.S. for any of its sales channels. Because we found the level of trade for CEP sales to be similar to the home market level of trade, we made no level-of-trade adjustment or CEP offset. *See* section 773(a)(7)(A) of the Act.

(B) Canfor

Canfor reported four channels of distribution in the home market, with six customer categories. The first channel of distribution (channel 1) included sales where merchandise was shipped directly from one of Canfor's sawmills to a Canadian customer. The second channel of distribution (channel 2) consists of sales made through remanufacturing operations, where merchandise was shipped from the primary mill through one or more secondary manufacturing facilities before delivery to the end customer. The third channel of distribution (channel 3) consisted of sales made through reloads, where merchandise is shipped from the primary mill through one or more lumber-handling and inventory yards before delivery to the final customer. The fourth channel of distribution (channel 4) consisted of sales made pursuant to VMI programs.

We compared the selling functions in these four channels of distribution and found that they differed only slightly in that certain services were provided for VMI programs that were not provided to other channels including: product brochures, inventory management, education on environmental issues, and in-store training. Also, office wholesalers (wholesalers that do not hold inventory), one of Canfor's customer categories, only purchased through channel 1 and home centers requested custom packing, wrapping, and bar coding. With respect to the sales process, freight and delivery services,

warranty services, custom-packing services, providing technical information, inspecting quality claims, and participating in trade shows, the sales to all customer categories in all channels were similar in all respects. Accordingly, we preliminarily determine that home market sales in these four channels of distribution constitute a single level of trade.

In the U.S. market, Canfor had both EP and CEP sales. Canfor reported EP sales to end-users and distributors through all four channels of distribution, including mill direct sales (channel 1), sales made from remanufacturing facilities (channel 2), sales made from Canadian reload facilities (channel 3), and sales made through VMI programs (channel 4). These four EP channels of distribution do not significantly differ from the channels of distribution in the home market. Accordingly, we preliminarily determine that EP sales in these four channels of distribution constitute a single level of trade which is identical to the home market level of trade.

With respect to CEP sales, Canfor reported these sales through channel 3, sales made from U.S. reload facilities. In addition, the Department has determined that Canfor's VMI sales are properly classified as CEP sales. The selling functions performed for these two channels of distribution were not significantly different in terms of freight arrangements, inventory management and warranty services, and therefore we determined there is only one CEP level of trade.

In determining whether separate levels of trade exist between U.S. CEP sales and home market sales, we examine selling functions, distribution chains, and customer categories. In our analysis of level of trade for CEP sales, we consider only the selling activities reflected in the price after the deduction of expenses and profit under section 772(d) of the Act.

Canfor's sales to end-users and distributors in the home market and in the U.S. market do not involve significantly different selling functions. Canfor's Canadian-based services for its CEP sales were similar to the single home market level of trade with respect to sales process and inventory management. Canfor reported minimal indirect selling expenses in the U.S. Because we found the level of trade for CEP sales to be similar to the home market level of trade, we made no level-of-trade adjustment or CEP offset. See section 773(a)(7)(A) of the Act.

(C) Slocan

Slocan reported three channels of distribution in the home market: (1) Direct sales to customers; (2) local sales made directly from mills; and (3) sales through reload operations. The first channel, coded in its submissions as channel 1, is comprised of direct sales and shipments to customers, and are the large majority of sales. The second, coded as channel 2, consist of "local" sales from mills to local customers, who received their merchandise at the mills. The third, coded as channel 3, consisted of sales through reload centers. We compared the selling functions in the three channels of distribution and found that Slocan's sales process was identical across all of them. In addition, freight services and inventory maintenance activities were similar. Although channel 3 sales involve reload centers not owned by Slocan, the company maintained control of the merchandise until it is sold to the customer in all three channels. Accordingly, we preliminarily determine that home market sales in these three channels of distribution constitute a single level of trade.

In the U.S. market, Slocan had both EP and CEP sales. Slocan reported EP sales through two channels of distribution: (1) Direct sales to customers; and (2) settlements of futures contracts. The first, coded channel 1, covered direct sales and shipments to customers. All other EP sales were ex-pit settlements of SPF lumber futures positions on the Chicago Mercantile Exchange (CME), *i.e.*, sales settled outside the pit of the CME. Slocan treats the CME like a customer. These sales, coded as channel 4, effectively use the same channel of distribution as channel 1 once the sale is arranged. Although the sales process for channel 4 differs somewhat from that of other EP sales and home market sales, the selling functions and channels of distribution for both channel 1 and channel 4 are similar with respect to delivery and freight services. Therefore, we preliminarily determine that EP sales in the U.S. market constitute a single level of trade.

On this basis, it appears that the level of trade of Slocan's home market sales do not involve significantly different selling functions than the level of trade of the company's EP sales, and that the distinctions do not constitute a difference in level of trade between the two markets.

Slocan's CEP sales were reported in two channels of distribution: (1) Sales through reload operations; and (2) sales through VMI programs. The first, coded

as channel 2, consist of sales shipped from reload centers, operated by unaffiliated parties. Unlike home market and EP sales, the shipment instruction would go to the reload center rather than the mill. All channel 2 sales were reported as CEP sales. Slocan also reported some VMI sales, coded as channel 3, in which inventory was stored by the customer, although Slocan held title to the merchandise until it was sold. Slocan's Canada-based services for its CEP sales include order taking, issuing invoices to purchasers, and shipment instructions and inventory management for channel 2 sales. With respect to channel 3 sales, Slocan's involvement included the collection of weekly invoices of withdrawals from inventory and keeping track of inventory levels. Slocan did not report any indirect selling expenses other than imputed inventory carrying costs in the United States for either of these channels. Given the similarity of selling functions between these two channels of distribution, we concluded, preliminarily, that they constituted a single level of trade.

In determining whether separate levels of trade existed between U.S. CEP sales and home market sales, we examined the selling functions for the chains of distribution and customer categories reported in the home market and the United States. In determining levels of trade for CEP sales, we considered only the selling activities reflected in the price after the deduction of expenses and profit under section 772(d) of the Act.

This CEP level of trade was also similar to the single home market level of trade with respect to sales process and warehouse/inventory maintenance. We found this CEP level of trade to be similar to home market level of trade. Therefore, where possible, we matched CEP sales to normal value based on home market sales and made no level-of-trade adjustment or CEP offset. See section 773(a)(7)(A) of the Act.

(D) Tembec

Tembec reported two channels of distribution in the home market. The first channel of distribution (channel 1) included sales made to wholesalers who take title to—but not physical possession of—the lumber and resell it to end-users. The second channel of distribution (channel 2) consisted of sales made to the same customers but these shipments go through a reload center en route to the customer. We compared the selling functions in these two channels of distribution and found that, while they differed slightly with respect to the subject merchandise being

shipped to an origin reload center (a reload center located close to the sawmill), they were similar with respect to both the sales process and freight services. Accordingly, we preliminarily determine that home market sales in these two channels of distribution constitute a single level of trade.

In the U.S. market, Tembec had both EP and CEP sales. Tembec reported EP sales to end-users and distributors through the same two channels of distribution reported for home market sales. These two EP channels of distribution do not differ from the two channels of distribution in the home market. Because the sales process, freight services and inventory maintenance were similar, we preliminarily determine that EP sales in these two channels of distribution constitute a single level of trade which is identical to the home market level of trade.

With respect to CEP sales, the Department has determined that Tembec made these sales through one channel of distribution, which consisted of U.S. sales that travel through a U.S. reload center en route to the customer, as well as VMI sales. Because Tembec made CEP sales through one channel of distribution, we have determined there is only one CEP level of trade.

In determining whether separate levels of trade exist between U.S. CEP sales and home market sales, we examined the selling functions reported for different distribution chains and customer categories in the home market and the United States. In determining levels of trade for CEP sales, we consider only the selling activities reflected in the price after the deduction of expenses and profit under section 772(d) of the Act.

Tembec's sales to end-users and distributors in the home market and in the U.S. market do not involve significantly different selling functions. Tembec's Canadian-based services for CEP sales were similar to the single home market level of trade with respect to sales process and freight arrangements. Tembec normally provides transportation to the customer. For VMI sales, Tembec provides the same services, but invoices the customer based on the customer's need to maintain inventory levels. Because we found the level of trade for CEP sales to be similar to the home market level of trade, we made no level-of-trade adjustment or CEP offset. *See* section 773(a)(7)(A) of the Act.

(E) West Fraser

West Fraser reported three channels of distribution in the home market, with

nine customer categories. The first channel of distribution (channel 1) included sales made directly to end-users and distributors. The second channel of distribution (channel 2) consisted of sales made to end-users and distributors through unaffiliated origin reload centers. The third channel of distribution (channel 3) consisted of sales made to end-users and distributors through VMI programs. We compared these three channels of distribution and found that, while selling functions differed slightly with respect to the merchandise shipped to an origin reload center and inventory maintenance service for VMI customers, they were similar with respect to sales process, freight services, inventory services and warranty services. Accordingly, we preliminarily determine that home market sales in these three channels of distribution constitute a single level of trade.

In the U.S. market, West Fraser had both EP and CEP sales. West Fraser reported EP sales to end-users and distributors through four channels of distribution and nine customer categories. The first three EP channels of distribution differed from the three channels of distribution within the home market only with respect to paper processing services in connection with West Fraser's export quota under the SLA. The fourth EP channel of distribution (channel 4) consisted of sales made to end-users and distributors through Canadian customers with quota transfer. This fourth EP channel is similar to channel 1. Inasmuch as these different channels were similar with respect to sales process, freight services and warranty service, we preliminarily determine that EP sales in these four channels of distribution constitute a single level of trade which is identical to the home market level of trade.

With respect to CEP sales, West Fraser's channel of distribution (channel 5) included sales to end-users and distributors through West Fraser's subsidiary, WFFP. The company WFFP is a Canadian entity created to act as the importer of record and hold title to lumber sold in the United States. These sales were made via unaffiliated destination reload centers in the United States. In determining whether separate levels of trade actually existed between CEP sales and home market sales, we examined the selling functions in the different distribution chains and customer categories reported in the home market and the United States. In determining levels of trade for CEP sales, we consider only the selling activities reflected in the price after the deduction of expenses and profit under

section 772(d) of the Act. West Fraser's Canadian-based services for its CEP sales include order-taking, invoicing and inventory management. West Fraser's Canadian sales agents occasionally arrange for reload center excess storage and freight from U.S. destination reload centers to unaffiliated end users.

West Fraser did not report any indirect selling expenses in the United States except imputed inventory carrying costs. Any services occurring in the United States are provided by the unaffiliated reload centers, which are paid a fee by West Fraser. These expenses have been deducted from the CEP starting price as movement expenses.

West Fraser's sales to end-users and distributors in the home market and the importers in the U.S. market do not involve significantly different selling functions. The CEP level of trade was similar to the single home market level of trade with respect to sales process, and inventory maintenance. We found the level of trade for CEP sales similar to the home market level of trade. Therefore, we made no level-of-trade adjustment or CEP offset. *See* section 773(a)(7)(A) of the Act.

(F) Weyerhaeuser

Weyerhaeuser reported four channels of distribution in the home market, with seven customer categories. The channels of distribution are (1) mill-direct sales; (2) VMI sales; (3) Mill-direct sales made through Weyerhaeuser Building Materials (WBM); and (4) sales made out of inventory by WBM. To determine whether separate levels of trade exist in the home market, we examined the selling functions, the chain of distribution, and the customer categories reported in the home market.

For each of its channels of distribution, Weyerhaeuser's selling functions included invoicing, freight arrangement, warranty/quality claims, marketing and promotional activities, technical service, sales and product training, market information, advanced shipping notices, online order status information, and toll-free customer service lines. For each channel, except WBM sales from inventory, Weyerhaeuser offered certification of adherence to sustainable forestry initiatives. Weyerhaeuser's sales made out of inventory by WBM appear to involve substantially more selling functions, and to be made at a different point in the chain of distribution than mill-direct sales. WBM functions as a distributor for the B.C. Coastal Group (BCC) and Canadian Lumber Business (CLB) and, although not a separate legal

entity, operated as a reseller. WBM operates a number of customer service centers (CSC) throughout Canada where it provides local sales offices and just-in-time inventory locations for customers. All sales made through WBM must be "sold" internally to WBM by BCC or CLB, and then sold to the final customer by WBM's local sales force. Freight must be arranged to the WBM inventory location and then to the final customer. CSCs will also engage in minor further manufacturing to fill a customer order, if the desired product is not in inventory. WBM also sells from inventory through its trading group (TG). The TG maintains some sales offices of its own, and also has sales personnel at some CSCs. The TG maintains its inventory at public reloads.

WBM also sells on a mill-direct basis. Although double-invoicing (*i.e.*, mill invoices WBM, which invoices the final customer) is involved, there is no need to maintain local just-in-time inventory or arrange freight twice. Therefore, we do not consider mill-direct sales made through WBM to be at a separate level of trade from mill-direct sales made by CLB and BCC.

Sales made through VMI arrangements also appear to involve significantly more selling activities than mill-direct sales. CLB has a designated sales team responsible for VMI sales which works with the customers to develop a sales volume plan, manages the flow of products and replenishing process, and aligns the sales volume plan with Weyerhaeuser's production plans. It also offers extra services such as bar coding, cut-in-two, half packing and precision end trimming. BCC's VMI sales are partially managed by WBM, which assists in determining the timing of shipments. BCC invoices WBM when the merchandise is shipped to the VMI warehouse and WBM invoices the customer as the product is shipped from the VMI warehouse.

Of the seven customer categories, industrial users, retail dealers and home improvement warehouses (HIW) made purchases through all four channels of distribution. Wholesalers and buying groups made purchases through all channels except VMI. Manufactured-home builders made all purchases through WBM, either directly from the mill or from inventory.

We find there are no significant differences in customer categories among the various channels of distribution. However, because both VMI and WBM inventory sales involve significantly more selling functions than the mill-direct sales, we consider them at a more advanced level of trade for

purposes of this preliminary determination. While the selling activities for VMI and WBM inventory sales are not identical, the principal selling activity for both is just-in-time inventory maintenance. Thus, we consider them to be at the same level of trade. Accordingly, we find that there are two levels of trade in the home market, mill-direct (HM1) and VMI and WBM sales out of inventory (HM2).

Weyerhaeuser reported seven channels of distribution in the U.S. market, with seven customer categories. The channels of distribution are (1) mill-direct sales; (2) VMI sales; (3) CLB sales through U.S. reloads; (4) TG quota sales (5) CLB/WBM-CA transfer sales; (6) WBM-U.S. direct sales and (7) WBM-U.S. inventory sales. The EP channels are mill-direct sales, TG quota sales and WBM-CA transfer sales. The other channels are CEP channels. In determining whether separate levels of trade existed between U.S. and home market sales, we examined the selling functions, the chain of distribution, and customer categories reported in the U.S. market.

With regard to the mill-direct sales, Weyerhaeuser has the same selling activities as it does for mill-direct sales in Canada. With regard to TG quota sales, until October 2000, the TG maintained border reloads where it engaged in resorting and grading and minor further manufacturing such as end-cutting. It is unclear from Weyerhaeuser's response if any of these services were performed for lumber sold through the TG in the Canadian market. All other selling activities engaged in by the TG were the same in the U.S. and Canadian markets.

The WBM-CA transfer sales are made through one CSC and appear to have the same selling functions as other Canadian CSCs. Therefore, where possible, we matched the U.S. mill-direct sales (U.S.1) to the Canadian mill-direct sales (HM1) and the U.S. TG and WBM-CA transfer sales (U.S.2) to Canadian TG sales and CSC sales (HM2).

In examining levels of trade for CEP sales, we consider only the selling activities reflected in the price after the deduction of expenses and profit under section 772(d) of the Act.

Weyerhaeuser's Canadian selling functions for VMI sales to the United States include the same selling functions performed for home market VMI sales, as described above. Although the VMI warehouses are located in the United States, most, if not all, of the associated selling functions appear to be performed in Canada. Therefore, even after the deduction of U.S. expenses and

profit we find that the U.S. VMI sales (U.S.2) are made at the same level of trade as home market VMI sales (HM2).

CLB sales through U.S. reloads also appear to have most of their selling functions occurring in Canada. While Weyerhaeuser states that it maintains just-in-time inventory for its U.S. customers at these reloads, it does not maintain local sales offices, and the sales do not involve a reseller. Therefore, these sales do not appear to be at a different point in the chain of distribution than mill-direct sales in Canada. In addition, CLB does not appear to offer the same services from its U.S. reloads that it offers its VMI customers. Therefore, for purposes of this preliminary determination, we are considering CLB's sales through U.S. reloads to be at the same level of trade as its mill-direct sales (U.S.1 and HM1).

With regard to WBM's U.S. sales made through CSCs, significant selling activities occur in the United States, such as maintaining local sales offices and just-in-time inventory, and arranging freight to the final customer. The selling functions occurring in Canada are the same selling functions performed for mill-direct sales. Therefore, after the deduction of U.S. expenses and profit, we find that WBM's U.S. sales made through CSCs are at the same level of trade as mill-direct sales (U.S.1 and HM1).

Of the seven customer categories, wholesalers, HIWs, and retail dealers all buy through all channels of distribution. The remaining categories, industrial users, truss manufacturers, buying groups, and manufactured-home builders, all buy through multiple channels of distribution. Therefore, we do not find customer category to be a useful indicator of level of trade for these customer types.

Because we found a pattern of consistent price differences between levels of trade, where we matched across levels of trade, we made a level of trade adjustment under section 773(a)(7)(A) of the Act.

Currency Conversions

We made currency conversions in accordance with section 773A of the Act based on daily exchange rates as certified by the Federal Reserve Bank.

Critical Circumstances

In their April 2, 2001, petition, the petitioners requested that the Department monitor import data of the subject merchandise to determine whether imports have been massive since the expiration of the SLA. In the April 30, 2001, notice of initiation, the Department agreed to monitor these

imports and stated that if the relevant criteria are established, we would issue a critical circumstances finding at the earliest possible date. Throughout the course of this investigation, the petitioners have submitted additional comments concerning this issue and recommended that the Department make an affirmative determination of critical circumstances.

Inasmuch as the petitioners submitted critical circumstances allegations more than 20 days before the scheduled date of the preliminary determination, section 351.206(c)(2)(i) of the Department's regulations provides that we must issue our preliminary critical circumstances determinations not later than the date of the preliminary determination.

If critical circumstances are alleged, section 733(e)(1) of the Act directs the Department to examine whether there is a reasonable basis to believe or suspect that: (A)(i) there is a history of dumping and material injury by reason of dumped imports in the United States or elsewhere of the subject merchandise, or (ii) the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the subject merchandise at less than its fair value and there was likely to be material injury by reason of such sales, and (B) there have been massive imports of the subject merchandise over a relatively short period.

In determining whether imports of the subject merchandise have been "massive," the Department normally will examine (i) the volume and value of the imports, (ii) seasonal trends, and (iii) the share of domestic consumption accounted for by the imports. Section 351.206(h)(2) of the Department's regulations provides that an increase in imports of 15 percent or more during a "relatively short period" may be considered "massive." In addition, section 351.206(i) of the Department's regulations defines "relatively short period" as generally the period beginning on the date the proceeding begins (*i.e.*, the date the petition is filed) and ending at least three months later. As a consequence, the Department compares import levels during at least the three-months period immediately after initiation with at least the three-month period immediately preceding initiation to determine whether there has been at least a 15-percent increase in imports of subject merchandise. Where information is available for longer periods, the Department will compare such data. *See, e.g., Preliminary Determinations of Critical Circumstances: Steel Concrete*

Reinforcing Bars From Ukraine and Moldova, 65 FR 70696, 70697 (November 27, 2000).

In this case, because data were available for additional months, the Department compared import and shipment data during the five-month period immediately after initiation with the five-month period immediately preceding initiation to determine whether there has been at least a 15-percent increase in imports of subject merchandise. Based on this comparison, the Department preliminarily found that there were no massive imports with respect to the mandatory respondents and the companies in the "all others" category. For further details, *see* the Department's *Preliminary Determination of Critical Circumstances* memorandum from Bernard T. Carreau to Faryar Shirzad, (October 30, 2001). As discussed in the above-referenced memorandum, the Department's finding that massive imports did not exist for these companies is based on seasonal adjustments of the relevant shipment and import data. Because the second prong of the statute regarding critical circumstances has not been met for afore-mentioned companies, the Department preliminarily determined that critical circumstances do not exist for these companies.

Verification

In accordance with section 782(i) of the Act, we intend to verify information to be used in making our final determination.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the Customs Service to suspend liquidation of all entries of certain softwood lumber products from Canada, that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. We are also instructing the Customs Service to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the normal value exceeds the EP or CEP, as indicated in the chart below. These instructions suspending liquidation will remain in effect until further notice.

The weighted-average dumping margin are as follows:

Exporter/producer	Weighted-average margin percentage
Abitibi (and its affiliates Produits Forestiers Petit Paris Inc., Produits Forestiers La Tuque Inc., Scieries Saguenay Ltee., Societe En Commandite Scierie Opticwan)	13.64
Canfor (and its affiliates Lake- land Mills Ltd., The Pas Lum- ber Company Ltd., Howe Sound Pulp and Paper Lim- ited Partnership)	12.98
Slocan	19.24
Tembec (and its affiliates Marks Lumber Ltd., Excel Forest Products)	10.76
West Fraser (and its affiliates West Fraser Forest Products Inc., Seehta Forest Products Ltd.)	5.94
Weyerhaeuser (and its affiliates Monterra Lumber Mills Ltd., Weyerhaeuser Saskatch- ewan Ltd.)	11.93
All Others	12.58

ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our preliminary determination. If our final antidumping determination is affirmative, the ITC will determine whether these imports are materially injuring, or threaten material injury to, the U.S. industry. The deadline for that ITC determination would be the later of 120 days after the date of this preliminary determination or 45 days after the date of our final determination.

Public Comment

All parties will be notified of the specific schedule for submission of case and rebuttal briefs. In general, case briefs for this investigation must be submitted no later than one week after the issuance of the verification reports. Rebuttal briefs must be filed within five days after the deadline for submission of case briefs. A list of authorities used, a table of contents, and an executive summary of issues should accompany any briefs submitted to the Department. Executive summaries should be limited to five pages total, including footnotes.

Section 774 of the Act provides that the Department will hold a hearing to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs, provided that such a hearing is requested by any interested party. If a request for a hearing is made in this investigation, the hearing will tentatively be held two days after the deadline for submission of the rebuttal briefs, at the U.S. Department of

Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request within 30 days of the publication of this notice. Requests should specify the number of participants and provide a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs.

We will issue our final determination no later than 135 days after the date of publication of this notice in the **Federal Register**.

This determination is issued and published pursuant to sections 733(f) and 777(i)(1) of the Act.

Dated: October 30, 2001.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 01-27854 Filed 11-5-01; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-869, A-428-831, A-475-831, A-423-810, A-821-814, A-791-811, A-469-811, A-583-838]

Notice of Postponement of Preliminary Antidumping Duty Determinations: Structural Steel Beams From the People's Republic of China, Germany, Italy, Luxembourg, Russia, South Africa, Spain, and Taiwan

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

SUMMARY: We are postponing the preliminary determinations in the antidumping duty investigations of structural steel beams from the People's Republic of China, Germany, Italy, Luxembourg, Russia, South Africa, Spain, and Taiwan.

EFFECTIVE DATE: November 6, 2001.

FOR FURTHER INFORMATION CONTACT: David Goldberger (Luxembourg) at (202) 482-4136; Katherine Johnson (Taiwan) at (202) 482-4929; Lyn Johnson (People's Republic of China) at (202) 482-5287; Thomas Schauer (Germany) at (202) 482-0410; Alysia Wilson (Italy) at (202) 482-0108; Hermes Pinilla (Russia) at (202) 482-3477; David Dirstine (South Africa) at (202) 482-4033; and Jennifer Gehr (Spain) at (202) 482-1779; Import Administration, International Trade Administration,

U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department of Commerce's (the Department's) regulations are to 19 CFR part 351 (April 2001).

Postponement of Preliminary Determinations

On June 12, 2001, the Department published the initiation of the antidumping duty investigations of imports of structural steel beams from People's Republic of China, Germany, Italy, Luxembourg, Russia, South Africa, Spain, and Taiwan. The notice of initiation stated that we would make our preliminary determinations for these antidumping duty investigations no later than 140 days after the date of issuance of the initiation (*i.e.*, October 30, 2001). *See Notice of Initiation of Antidumping Duty Investigations: Structural Steel Beams From the People's Republic of China, Germany, Italy, Luxembourg, Russia, South Africa, Spain, and Taiwan*, 66 FR 33048 (June 12, 2001).

On September 25, 2001, the petitioners¹ made a timely request pursuant to 19 CFR 351.205(e) for a 31-day postponement of the preliminary determinations. On October 2, 2001, we postponed the preliminary determinations under section 733(c)(1) of the Act until November 30, 2001.

On October 30, 2001, the petitioners made a timely request pursuant to 19 CFR 351.205(e) for an additional 19-day postponement of the preliminary determinations, or until December 19, 2001. The petitioners requested this extension in order to allow the Department sufficient time to gather information necessary for its preliminary determinations.

For the reasons identified by the petitioners, and because there are no compelling reasons to deny the request, we are postponing the preliminary determinations under section 733(c)(1) of the Act. We will make our preliminary determinations no later than December 19, 2001.

¹ The petitioners are Committee for Fair Beam Imports ("CFBI") and its individual members, Northwestern Steel and Wire Company, Nucor Corporation, Nucor-Yamato Steel Company, and TXI-Chaparral Steel Company.

This notice is published pursuant to sections 733(f) and 777(i) of the Act.

Dated: October 31, 2001.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 01-27855 Filed 11-5-01; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

Overseas Trade Missions: 2002 Trade Missions; Services Matchmaker Trade Delegation (Mexico, Chile and Venezuela et al.)

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce invites U.S. companies to participate in the below listed overseas trade missions. For a more complete description of each trade mission, obtain a copy of the mission statement from the Project Officer indicated for each mission below. Recruitment and selection of private sector participants for these missions will be conducted according to the Statement of Policy Governing Department of Commerce Overseas Trade Missions dated March 3, 1997.

Services Matchmaker Trade Delegation
Mexico City, Mexico; Santiago, Chile;
Caracas, Venezuela

April 8-16, 2002

Recruitment closes on March 1, 2002.

For further information contact: Ms. Yvonne Jackson, U.S. Department of Commerce. Telephone 202-482-2675; or e-Mail:

Yvonne.Jackson@mail.doc.gov
Medical Devices Trade Mission to
Central Europe

Budapest, Hungary; Prague, Czech Republic; Warsaw, Poland

May 12-21, 2002

Recruitment closes on March 29, 2002.

For further information contact: Ms. Valerie Barth, U.S. Department of Commerce. Telephone 202-482-3360; or e-Mail: Valerie_Barth@ita.doc.gov

ACE-Infrastructure Matchmaker Trade Delegation

Madrid, Spain; Casablanca and
Tangiers, Morocco

June 3-7, 2002

Recruitment closes on April 12, 2002.

For further information contact: Mr. Sam Dhir, U.S. Department of Commerce. Telephone 202-482-4756; or e-Mail: Sam.Dhir@mail.doc.gov