



A-122-857  
Investigation  
Public Document  
E&C IV: TEM

June 23, 2017

MEMORANDUM TO: Ronald K. Lorentzen  
Acting Assistant Secretary  
for Enforcement and Compliance

FROM: Gary Taverman  
Deputy Assistant Secretary  
for Antidumping and Countervailing Duty Operations

SUBJECT: Decision Memorandum for the Preliminary Determination in the  
Antidumping Duty Investigation of Certain Softwood Lumber  
Products from Canada

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## I. SUMMARY

The Department of Commerce (the Department) preliminarily determines that imports of certain softwood lumber products (softwood lumber) from Canada are being, or are likely to be, sold in the United States at less-than-fair value (LTFV), as provided in section 733 of the Tariff Act of 1930, as amended (the Act). The preliminary estimated weighted-average dumping margins are provided in the “Preliminary Determinations” section of the accompanying *Federal Register* notice.

## II. BACKGROUND

On November 25, 2016, the Department received an antidumping duty (AD) petition covering imports of softwood lumber from Canada, which was filed in proper form by the Committee Overseeing Action for Lumber International Trade Investigations or Negotiations (the COALITION, the petitioner).<sup>1</sup> The Department initiated an AD investigation based on the Petition on December 15, 2016.<sup>2</sup>

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<sup>1</sup> See Letter from the petitioner to the Secretary of Commerce and the Secretary of the U.S. International Trade Commission entitled, “Petition for the Imposition of Antidumping and Countervailing Duties on Imports of Certain Softwood Lumber Products from Canada,” November 25, 2016 (the Petition), Volumes I and II. The COALITION is an ad hoc association whose members are: Collum’s Lumber Products, L.L.C., Hankins, Inc., Potlatch Corporation, Rex Lumber Company, Seneca Sawmill Company, Sierra Pacific Industries, Stimson Lumber Company, Swanson Group, Weyerhaeuser Company, Carpenters Industrial Council, Giustina Land and Timber Company, Sullivan Forestry Consultants, Inc., and the U.S. Lumber Coalition, Inc. *Id.*, Volume I at 2.

<sup>2</sup> See *Certain Softwood Lumber Products from Canada: Initiation of Less-Than-Fair-Value Investigation*, 81 FR 93892 (December 22, 2016) (*AD Initiation Notice*).

In the *AD Initiation Notice*, the Department stated that, should the Department determine that the number of companies subject to the investigation is large and that it cannot examine individually each company in light of existing resources, the Department intended to select respondents based on United States Customs and Border Protection (CBP) data for United States imports of softwood lumber from Canada during the period of investigation (POI) under the Harmonized Tariff Schedule of the United States (HTSUS) subheadings listed in the scope of the investigation.<sup>3</sup> On December 22, 2016, the Department released CBP import data covering softwood lumber from Canada to interested parties, and also requested comments regarding respondent selection.<sup>4</sup> We received timely respondent selection comments on December 28 and 29, 2016, from Canfor Corporation (Canfor),<sup>5</sup> the petitioner,<sup>6</sup> Tembec, Inc. (Tembec),<sup>7</sup> Resolute FP Canada Inc. (Resolute),<sup>8</sup> West Fraser Mills Ltd. (West Fraser),<sup>9</sup> J.D. Irving, Limited (J.D. Irving)<sup>10</sup> and the Government of Canada (GOC).<sup>11</sup> On January 3, 2017, the petitioner,<sup>12</sup> Canfor,<sup>13</sup> J.D. Irving<sup>14</sup> and the British Columbia Lumber Trade Council (BCLTC)<sup>15</sup> submitted rebuttal comments.

On January 5, 2017, in response to the parties' comments, the Department issued quantity and value (Q&V) questionnaires to four of the five top exporters, by volume, of subject merchandise during the POI (based on the CBP data): Canfor, Resolute, Vaagen Fibre Canada ULC (Vaagen), and West Fraser.<sup>16</sup> On January 11, 2017, Canfor, Resolute, and West Fraser submitted

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<sup>3</sup> *Id.*, at 93896.

<sup>4</sup> See Memorandum, "Antidumping Duty (AD) Investigation: Certain Softwood Lumber Products from Canada Results of Customs and Border Protection Query," dated December 22, 2016.

<sup>5</sup> See Letter from Canfor to the Secretary of Commerce, "Certain Softwood Lumber Products from Canada. Case No. A-122-857: Comments on CBP Data," dated December 28, 2016 (Canfor Comments).

<sup>6</sup> See Letter from Petitioner to the Secretary of Commerce, "Certain Softwood Lumber Products from Canada: Comments on CBP Data and Respondent Selection," dated December 29, 2016 (Petitioner Comments).

<sup>7</sup> See Letter from Tembec to the Secretary of Commerce, "Certain Softwood Lumber Products from Canada: Comments on CBP Data," dated December 29, 2016 (Tembec Comments).

<sup>8</sup> See Letter from Resolute to the Secretary of Commerce, "Softwood Lumber from Canada: Respondent Selection - Comments on CBP Data," dated December 29, 2016 (Resolute Comments).

<sup>9</sup> See Letter from West Fraser to the Secretary of Commerce, "Certain Softwood Lumber Products from Canada, Case No. A-122-857: Comments on U.S. Customs and Border Protection Data," dated December 29, 2016 (West Fraser Comments).

<sup>10</sup> Letter from J.D. Irving to the Secretary of Commerce, "Softwood Lumber from Canada: Comments on Respondent Selection," dated December 29, 2016 (J.D. Irving Comments).

<sup>11</sup> Letter from GOC to the Secretary of Commerce, "Certain Softwood Lumber Products from Canada: Comments on CBP Data," dated December 29, 2016 (GOC Comments).

<sup>12</sup> See Letter from Petitioner to Secretary of Commerce, "Certain Softwood Lumber Products from Canada: Rebuttal Comments on CBP Data and Respondent Selection," dated January 3, 2017.

<sup>13</sup> See Letter from Canfor to Secretary of Commerce, "Certain Softwood Lumber Products from Canada, Case No. A-122-857; Comments on CBP Data," dated January 3, 2017.

<sup>14</sup> See Letter from GOC to Secretary of Commerce, "Certain Softwood Lumber from Canada: Rebuttal Comments on CBP Data," dated January 3, 2017.

<sup>15</sup> See Letter from BCLTC to Secretary of Commerce, "Certain Softwood Lumber Products from Canada: BCLTC Rebuttal Comments on Respondent Selection," dated January 3, 2017.

<sup>16</sup> See Memorandum, "Antidumping Duty Investigation: Certain Softwood Lumber Products from Canada – Issuance of Quantity and Value Questionnaires," dated January 5, 2017. The Department did not issue a

responses to our Q&V questionnaires.<sup>17</sup> Because of the need for further clarification regarding the identities of the largest exporters of subject merchandise during the POI, we issued additional Q&V questionnaires to Tolko Marketing and Sales Ltd. (Tolko), Les Produits Forestiers Dg Ltd., The Teal Jones Group, Magnum Forest Products Ltd., and Groupe Lebel, *i.e.*, the exporters with the next largest shipping volumes based on the CBP data.<sup>18</sup> On January 18, 2017, Vaagen,<sup>19</sup> Tolko, Les Produits Forestiers Dg Ltd., The Teal Jones Group, Magnum Forest Products Ltd., and Groupe Lebel submitted responses to our Q&V questionnaires.<sup>20</sup> On January 27, 2017, we selected Canfor, Resolute, Tolko, and West Fraser as mandatory respondents (collectively, respondents).<sup>21</sup> On January 30, 2017, the Department issued the AD questionnaire to Canfor,<sup>22</sup> Resolute,<sup>23</sup> Tolko,<sup>24</sup> and West Fraser.<sup>25</sup>

On January 9, 2017, the United States International Trade Commission preliminarily determined that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of softwood lumber from Canada.<sup>26</sup>

In the *AD Initiation Notice*, the Department notified parties of an opportunity to comment on the appropriate physical characteristics of softwood lumber to be reported in response to the Department's AD questionnaire.<sup>27</sup> On January 24, 2017, the Department received comments

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questionnaire to one listed exporter because it obtained evidence that the company is not a lumber producer. *See* Memorandum, "Issuance of Quantity and Value Questionnaire," dated January 5, 2017, at Attachment 1.

<sup>17</sup> *See* Letter from Canfor to the Department, "Re Certain Softwood Lumber Products from Canada. Case No. A-122-857: Quantity and Value Questionnaire Response," dated January 11, 2017; Letter from Resolute to the Department, "Re: Certain Softwood Lumber from Canada: Response to Quantity and Value Questionnaire," dated January 11, 2017; Letter from West Fraser to the Department of Commerce, "Re: Certain Softwood Lumber Products from Canada, Case No. A-122-857: Response to January 5, 2017 Department Questionnaire," dated January 11, 2017.

<sup>18</sup> *See* Letters from the Department to Tolko Marketing and Sales Ltd. (Tolko), Les Produits Forestiers Dg Ltd., The Teal Jones Group, Magnum Forest Products Ltd., and Groupe Lebel, dated January 13, 2017.

<sup>19</sup> Vaagen responded to the Q&V questionnaire dated January 5, 2017, by the deadline set for Q&V questionnaires dated January 13, 2017.

<sup>20</sup> *See* Letter from Vaagen to the Department, "Re: Quantity and Value Questionnaire," dated January 18, 2017; Letter from Tolko to the Department, "Re: Certain Softwood Lumber Products from Canada, Case No. A-122-857: Response to January 13, 2017 Department Questionnaire," dated January 18, 2017; Letter from Les Produits Forestiers Dg Ltd. to the Department, "Re: Certain Softwood Lumber Products from Canada, Case No. A-122-857: Revised Response to Department of Commerce Quantity and Value Questionnaire," dated January 18, 2017; Letter from The Teal Jones Group to the Department, "Re: Response to Quantity and Value Questionnaire," dated January 18, 2017; Letter from Magnum Forest Products Ltd. to the Department, "RE: Certain Softwood Lumber Products from Canada, Case No. A-122-857: Response to Department of Commerce Quantity and Value Questionnaire," dated January 18, 2017; Letter from Groupe Lebel to the Department, "Re: Certain Softwood Lumber from Canada: Response to Quantity and Value Questionnaire," dated January 18, 2017.

<sup>21</sup> *See* Memorandum, "Less-Than-Fair-Value Investigation of Certain Softwood Lumber Products from Canada: Respondent Selection," dated January 27, 2017.

<sup>22</sup> *See* Letter from the Department to Canfor, dated January 30, 2017 (Canfor questionnaire).

<sup>23</sup> *See* Letter from the Department to Resolute, dated January 30, 2017 (Resolute questionnaire).

<sup>24</sup> *See* Letter from the Department to Tolko, dated January 30, 2017 (Tolko questionnaire).

<sup>25</sup> *See* Letter from the Department to West Fraser, dated January 30, 2017 (West Fraser questionnaire).

<sup>26</sup> *See Investigation Nos. 701-TA-566 and 731-TA-1342 (Preliminary)-Softwood Lumber Products from Canada; Determinations*, 82 FR 4418 (January 13, 2017).

<sup>27</sup> *See AD Initiation Notice*, 81 FR at 93893.

regarding physical characteristics from the petitioner,<sup>28</sup> Canfor,<sup>29</sup> Resolute,<sup>30</sup> West Fraser,<sup>31</sup> and Interfor Corporation (Interfor) and Western Forest Products Inc. (Western).<sup>32</sup> On February 3, 2017, the Department received rebuttal comments regarding physical characteristics from the petitioner,<sup>33</sup> Canfor,<sup>34</sup> Resolute,<sup>35</sup> West Fraser,<sup>36</sup> Western,<sup>37</sup> and Tolko.<sup>38</sup>

On February 15, 2017, Canfor,<sup>39</sup> Resolute,<sup>40</sup> Tolko,<sup>41</sup> and West Fraser<sup>42</sup> submitted U.S. sales data and comments regarding sales and cost reporting limitations. The respondents requested that the Department limit reporting requirements to standard dimension lumber and decking, and not require reporting of product types that represent a small portion of each of the respondent's overall sales. Such products include: finger-jointed products, pressure-treated products, sales made directly from the sawmills to local buyers and employees, and certain specialty products manufactured on a smaller scale by affiliated companies. Additionally, Tolko requested that the Department not require Tolko to report any lumber manufactured by unaffiliated companies (as opposed to lumber manufactured by unknown entities and sold by Tolko, which Tolko intended to report along with sales of products that it manufactured).<sup>43</sup> On February 13, 14, and 16, 2017, the petitioner submitted comments opposing most of the reporting exclusions requested by

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<sup>28</sup> See Letter from Petitioner to Secretary of Commerce, "Certain Softwood Lumber Products from Canada: Comparison Methodology," dated January 24, 2017.

<sup>29</sup> See Letter from Canfor to Secretary of Commerce, "Certain Softwood Lumber from Canada. Case No. A-122-857: Comments on Product Characteristics and Model Matching Hierarchy," dated January 24, 2017.

<sup>30</sup> See Letter from Resolute to Secretary of Commerce, "Certain Softwood Lumber from Canada: Product Characteristic Comments," dated January 24, 2017.

<sup>31</sup> See Letter from West Fraser to Secretary of Commerce, "Certain Softwood Lumber Products from Canada, Case No. A-122-857: Comments on Product Characteristics," dated January 24, 2017.

<sup>32</sup> See Letter from Interfor and Western to Secretary of Commerce, "Certain Softwood Lumber Products from Canada: Comments on Product Characteristics," dated January 24, 2017.

<sup>33</sup> See Letter from Petitioner to Secretary of Commerce, "Certain Softwood Lumber Products from Canada: Model Match Rebuttal Comments," dated February 3, 2017.

<sup>34</sup> See Letter from Canfor to Secretary of Commerce, "Certain Softwood Lumber from Canada. Case No. A-122-857: Rebuttal Comments on Product Characteristics and Model Matching Hierarchy," dated February 3, 2017.

<sup>35</sup> See Letter from Resolute to Secretary of Commerce, "Certain Softwood Lumber from Canada: Product Characteristic Rebuttal Comments," dated February 3, 2017.

<sup>36</sup> See Letter from West Fraser to Secretary of Commerce, "Certain Softwood Lumber Products from Canada, Case No. A-122-857: Rebuttal Comments on Product Characteristics," dated February 13, 2017 (West Fraser Rebuttal Comments).

<sup>37</sup> See Letter from Western to Secretary of Commerce, "Certain Softwood Lumber Products from Canada: Rebuttal Comments on Product Characteristics," dated February 3, 2017.

<sup>38</sup> See Letter from Tolko to Secretary of Commerce, "Certain Softwood Lumber Products from Canada: Rebuttal Comments on Product Characteristics and Model Matching Hierarchy," dated February 3, 2017.

<sup>39</sup> See Letter from Canfor to the Department, "Certain Softwood Lumber Products from Canada, Case No. A-122-857: Comments Regarding Sales Reporting," dated February 15, 2017.

<sup>40</sup> See Letter from Resolute to the Department, "Softwood Lumber Products from Canada, Response to Request for Information and Opportunity to Comment Regarding Limited Sales Reporting," dated February 15, 2017.

<sup>41</sup> See Letter from Tolko to the Department, "Certain Softwood Lumber Products from Canada, Response to Department's Request for Sales Data and Comments," dated February 15, 2017 (Tolko Reporting Comments).

<sup>42</sup> See Letter from West Fraser to the Department, "Certain Softwood Lumber Products from Canada, Case No. A-122-857: Response to the Department's Request for Information and Opportunity to Comment Regarding Limited Sales Reporting," dated February 15, 2017.

<sup>43</sup> See Tolko Reporting Comments at 6-7.

Canfor, Resolute, West Fraser, and Tolko.<sup>44</sup> On February 21, 2017, the petitioner submitted additional comments on reporting requirements.<sup>45</sup> On February 24, 2017,<sup>46</sup> and March 9, 2017,<sup>47</sup> the Department granted all of the requests for limited reporting from respondents, with one exception.<sup>48</sup>

On May 26, 2017, the petitioner, Canfor, Tolko, and West Fraser filed pre-preliminary comments.<sup>49</sup>

### III. PERIOD OF INVESTIGATION

The POI is October 1, 2015, through September 30, 2016. This period corresponds to the four most recent fiscal quarters prior to the month of the filing of the petition, which was November 2016.<sup>50</sup>

### IV. CRITICAL CIRCUMSTANCES

In the Petition, the petitioner alleged that critical circumstances exist with respect to imports of subject merchandise.<sup>51</sup> On January 31, 2017, the Department issued questionnaires to the respondents requesting monthly quantity and value shipment data for the period of January 2015 to January 2017.<sup>52</sup> Between February 22, 2017, and April 18, 2017, the respondents submitted monthly quantity and value shipment data, as requested. On February 24, 2017, the GOC

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<sup>44</sup> See Letter from Petitioner to Secretary of Commerce, “Certain Softwood Lumber Products from Canada: Response to Canfor’s Request to U.S. Sales Exclusion of WynnWood Mill,” dated February 13, 2017; See Letter from Petitioner to Secretary of Commerce, “Certain Softwood Lumber Products from Canada: Response to Resolute’s Request to Limit Reporting,” dated February 14, 2017; See Letter from Petitioner to Secretary of Commerce, “Certain Softwood Lumber Products from Canada: Response to West Fraser’s Request to Limit Reporting,” dated February 16, 2017; See Letter from Petitioner to Secretary of Commerce, “Certain Softwood Lumber Products from Canada: Response to Tolko’s Request to Limit Reporting,” dated February 16, 2017.

<sup>45</sup> See Letter from Petitioner to the Department, “Certain Softwood Lumber Products from Canada: Response to Comments on Limited Reporting,” dated February 21, 2017.

<sup>46</sup> See Memorandum, “Antidumping Duty Investigation of Certain Softwood Lumber Products from Canada: Case-Wide Limited Sales Reporting,” dated February 24, 2017.

<sup>47</sup> See Letters to Resolute, Tolko and West Fraser from Robert Bolling, dated March 9, 2017.

<sup>48</sup> The Department did not grant Resolute’s request to exempt merchandise produced at Resolute’s Ignace and Atikokan sawmills because the volume of production at these facilities is not sufficiently limited to warrant a reporting exemption for merchandise produced at these locations.

<sup>49</sup> See Letter from the petitioner to the Secretary of Commerce entitled, “Certain Softwood Lumber Products from Canada: Pre-Preliminary Comments,” dated May 26, 2017; see also Letter from Canfor to the Secretary of Commerce entitled, “Certain Softwood Lumber Products from Canada. Case No. A-L22-857: Pre-Preliminary Comments” dated May 26, 2017; Letter from Tolko to the Secretary of Commerce entitled, “Certain Softwood Lumber Products from Canada: Pre-Prelim Comments and Request for Extension of Final Determination,” dated May 26, 2017; Letter from West Fraser to the Secretary of Commerce entitled, “Certain Softwood Lumber from Canada: Pre-Preliminary Comments and Request for Extension of Final Determination,” dated May 26, 2017.

<sup>50</sup> See 19 CFR 351.204(b)(1).

<sup>51</sup> See Petition, at Volume III, pp. 231-236.

<sup>52</sup> See Department Letter, “Antidumping/Countervailing Duty Investigations of Certain Softwood Lumber Products from Canada: Request for Monthly Quantity and Value Shipment Data,” dated January 31, 2017.

submitted comments on the petitioner's critical circumstances allegation.<sup>53</sup> On March 2, 2017, the petitioner responded to the GOC's comments.<sup>54</sup> On March 9, 2017, the GOC submitted rebuttal comments on the petitioner's critical circumstances allegation.<sup>55</sup> On April 19, 2017, the petitioner submitted comments on the respondents' critical circumstances responses,<sup>56</sup> to which the GOC submitted rebuttal comments on April 20, 2017.<sup>57</sup>

On April 13, 2017, the Department preliminarily determined that critical circumstances exist with respect to certain companies.<sup>58</sup> Specifically, the Department preliminarily determined that critical circumstances do not exist for imports of subject merchandise from the respondents, but that critical circumstances do exist for imports of subject merchandise from all-other producers/exporters.<sup>59</sup>

## V. SCOPE OF THE INVESTIGATION

The product covered by this investigation is certain softwood lumber products from Canada. For a full description of the scope of this investigation, as amended in this preliminary determination, see the accompanying preliminary determination *Federal Register* notice of this investigation at Appendix I.

## VI. SCOPE COMMENTS

The Department set aside a period of time for parties to raise issues regarding product coverage, and encouraged all parties to submit comments within 20 calendar days of the signature date of the *AD* and *CVD Initiation Notices*.<sup>60</sup> In response, on or before January 9, 2017, the Department received initial comments regarding product coverage from: IKEA Supply AG and IKEA Distribution Services Inc. (collectively IKEA), BarretteWood, Inc. (Barrette), EACOM Timber Corporation (EACOM), Canfor, Consell de l'industrie forestiere du Quebec (CIFQ), the Government of British Columbia (GBC), the GOC, Interfor Corporation (Interfor), J.D. Irving, New Brunswick Lumber Producers (NBLP), the Government of Nova Scotia (GNS), the Central

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<sup>53</sup> See Letter from the GOC, "Countervailing Duty and Antidumping Duty Investigations of Certain Softwood Lumber Products from Canada: Comments on Allegations of Critical Circumstances," dated February 24, 2017.

<sup>54</sup> See Letter from Petitioner, "Certain Softwood Lumber Products from Canada: Response to Government of Canada's Comments on Allegations of Critical Circumstances," dated March 2, 2017.

<sup>55</sup> See Letter from the GOC, "Countervailing Duty and Antidumping Duty Investigations of Certain Softwood Lumber Products from Canada: Rebuttal Comments on Allegations of Critical Circumstances," dated March 9, 2017.

<sup>56</sup> See Letter from Petitioner, "Certain Softwood Lumber Products from Canada: Comments on Respondents Critical Circumstances Responses," dated April 19, 2017.

<sup>57</sup> See Letter from the GOC, "Countervailing Duty and Antidumping Duty Investigations of Certain Softwood Lumber Products from Canada: Rebuttal Comments on Petitioner's Comments on Respondents' Critical Circumstances Responses," dated April 20, 2017.

<sup>58</sup> See *Antidumping and Countervailing Duty Investigations of Certain Softwood Lumber Products From Canada: Preliminary Determinations of Critical Circumstances*, 82 FR 19219 (April 26, 2017).

<sup>59</sup> See *Antidumping and Countervailing Duty Investigations of Certain Softwood Lumber Products from Canada: Preliminary Determinations of Critical Circumstances*, dated April 13, 2017.

<sup>60</sup> See *AD Initiation Notice*, 81 FR at 93892; *Certain Softwood Lumber Products From Canada: Initiation of Countervailing Duty Investigation*, 81 FR 93897, 93898 (December 22, 2016) (*CVD Initiation Notice*).

Canada Alliance of the Ontario Forest Industries Association (OFIA) and CIFQ (jointly), Resolute, the Retail Industry Leaders Association (RILA), Terminal Forest Products Ltd. (TFP), and Western.<sup>61</sup> On January 19, 2017, the Department received rebuttal comments from the petitioner, IKEA, and CIFQ.<sup>62</sup>

On March 28, 2017, the Department provided parties an additional opportunity to submit comments related to product coverage and to propose scope language regarding the various exclusion and scope clarification requests raised by the parties.<sup>63</sup> On April 3, 2017, parties submitted additional scope comments, as well as proposed scope language resulting from discussions between the petitioner and Canadian exporters. The Department received comments from: BarretteWood, CIFQ, EACOM, GBC, GOC, JD Irving, Maibec, the petitioner, Resolute,

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<sup>61</sup> See Letter from Ikea to the Department, “Certain Softwood Lumber Products from Canada: Comments on Scope of Investigation,” dated January 4, 2017 (Ikea January 4, 2017 Scope Comments); Letter from BarretteWood to the Department, “Certain Softwood Lumber Products from Canada: Scope Comments – Crating Ladders Components,” dated January 9, 2017 (BarretteWood January 9, 2017 Scope Comments); Letter from BarretteWood and EACOM to the Department, “Certain Softwood Lumber Products from Canada: Scope Comments – Bed-Frame Components,” dated January 9, 2017 (BarretteWood and EACOM January 9, 2017 Scope Comments); Letter from Canfor to the Department, “Certain Softwood Lumber Products from Canada, Case No. A-122-857: Comments on Scope of Investigation,” dated January 9, 2017 (Canfor January 9, 2017 Scope Comments); Letter from CIFQ to the Department, “Softwood Lumber from Canada: CIFQ’s Scope Comments,” dated January 9, 2017 (CIFQ January 9, 2017 Scope Comments); Letter from GBC to the Department, “Certain Softwood Lumber Products from Canada: Scope Comments of the Government of British Columbia,” dated January 9, 2017 (GBC January 9, 2017 Scope Comments); Letter from GOC to the Department, “Certain Softwood Lumber Products from Canada: Comments on Product Coverage and Scope of the Investigations,” dated January 9, 2017 (GOC January 9, 2017 Scope Comments); Letter from JD Irving to the Department, “Softwood Lumber from Canada: Comments on Scope of the Investigations,” dated January 9, 2017 (JD Irving January 9, 2017 Scope Comments); Letter from NBLP to the Department, “Certain Softwood Lumber from Canada: New Brunswick Lumber Producers Comments on Scope of the Investigation,” dated January 9, 2017 (NBLP January 9, 2017 Scope Comments); Letter from GNS to the Department, “Softwood Lumber from Canada: Scope Comments from the Government of Nova Scotia,” dated January 9, 2017 (GNS January 9, 2017 Scope Comments); Letter from OFIA and CIFQ to the Department, “Softwood Lumber from Canada: OFIA and CIFQ’s Scope Comments,” dated January 9, 2017 (OFIA and CIFQ January 9, 2017 Scope Comments); Letter from Resolute to the Department, “Softwood Lumber from Canada – Resolute’s Scope Comments,” dated January 9, 2017 (Resolute January 9, 2017 Scope Comments); Letter from RILA to the Department, “Certain Softwood Lumber Products from Canada: RILA Scope Comments,” dated January 9, 2017 (RILA January 9, 2017 Scope Comments); Letter from TFP to the Department, “Certain Softwood Lumber from Canada (A-122-857/C-122-858): Scope Comments,” dated January 9, 2017 (TFP January 9, 2017 Scope Comments); Letter from WFC and Interfor to the Department, “Softwood Lumber from Canada: Comments on Scope of the Investigation,” dated January 9, 2017 (WFC and Interfor January 9, 2017 Scope Comments). Additionally, on January 10, 2017, the Department placed a December 20, 2016 submission by Oregon-Canadian Forest Products (OCFP) on the record. See Memorandum to file, “Certain Softwood Lumber Products from Canada: Scope Exclusion Requests Received from Oregon-Canadian Forest Products,” dated January 10, 2017 (OCFP January 10, 2017 Scope Comments).

<sup>62</sup> See Letter from CIFQ to the Department, “Softwood Lumber from Canada: CIFQ’s Rebuttal Scope Comments,” dated January 19, 2017 (CIFQ January 19, 2017 Scope Comments); Letter from IKEA to the Department, “Certain Softwood Lumber Products from Canada: IKEA Rebuttal Comments,” dated January 19, 2017 (IKEA January 19, 2017 Scope Comments); Letter from the petitioner to the Department, “Certain Softwood Lumber Products from Canada: Response to Comments on Scope,” dated January 19, 2017 (Petitioner January 19, 2017 Scope Comments).

<sup>63</sup> See Memorandum to file, “Countervailing and Antidumping Duty Investigations of Certain Softwood Lumber Products from Canada: Proposed Scope Language,” dated March 28, 2017.

RILA, UFP Western Division, Inc. and UFP Eastern Division (UFP) Inc., and West-Wood Industries Ltd. (West-Wood).<sup>64</sup> On April 6, 2017, OCFP submitted rebuttal comments.<sup>65</sup>

On April 17, 2017, the petitioner submitted comments and new factual information.<sup>66</sup> On April 27, 2017, the petitioner filed an amended scope exclusion request.<sup>67</sup>

On April 28, 2017, the Department provided parties with an additional opportunity to provide product coverage comments and to propose scope language regarding the various exclusion and scope clarification requests raised by the parties.<sup>68</sup> From May 2-5, 2017, the Department received comments from All-Coast Forest Products (All-Coast), Barrette, Canfor, Central Canada Alliance of the Ontario Forest Industries Association (Central Canada), CIFQ, EACOM, GNS, GOC, Herbert Lumber Company (Herbert Lumber), Independent Wood Processors Association (IWPA), OCFP, OFIA, Oregon Industrial Lumber Products (OILP), Produits Matra

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<sup>64</sup> See Letter from BarretteWood to the Department, “Softwood Lumber from Canada: Proposed Scope Language for Crating Ladder Components and Open Web Floor Joists,” dated April 3, 2017 (BarretteWood April 3, 2017 Scope Comments); Letter from BarretteWood and EACOM to the Department, “Softwood Lumber from Canada: Proposed Scope Language for Bed-Frame Components,” dated April 3, 2017 (BarretteWood and EACOM April 3, 2017 Scope Comments); Letter from Canfor to the Department, “Certain Softwood Lumber Products from Canada. Case No. A-122-857: Proposed Scope Language I-Joists,” dated April 3, 2017 (Canfor April 3, 2017 Scope Comments); Letter from CIFQ to the Department, “Softwood Lumber from Canada: Proposed Scope Language - I-Joists,” dated April 3, 2017 (CIFQ April 3, 2017 Scope Comments); Letter from GBC to the Department, “Certain Softwood Lumber Products from Canada: Comments in Support of Clarifying and Exclusionary Language Proposed by Canada Regarding the Scope of these Investigations,” dated April 3, 2017 (GBC April 3, 2017 Scope Comments); Letter from GOC to the Department, “Certain Softwood Lumber Products from Canada: Clarifying or Exclusionary Language Regarding the Scope of the Investigations,” dated April 3, 2017 (GOC April 3, 2017 Scope Comments); Letter from JD Irving to the Department, “Softwood Lumber from Canada: Proposed Scope Language,” dated April 3, 2017 (JD Irving April 3, 2017 Scope Comments); Letter from Maibec to the Department, “Softwood Lumber from Canada: Proposed Scope Language - Maibec,” dated April 3, 2017 (Maibec April 3, 2017 Scope Comments); Letter from the petitioner to the Department, “Certain Softwood Lumber Products from Canada: Additional Comments on Scope,” dated April 3, 2017 (Petitioner April 3, 2017 Scope Comments); Letter from Resolute to the Department, “Softwood Lumber from Canada: Proposed Scope Language – Bedframe Components,” dated April 3, 2017 (Resolute April 3, 2017 Scope Comments); Letter from RILA to the Department, “Certain Softwood Lumber Products from Canada: RILA Scope Comments,” dated April 3, 2017 (RILA April 3, 2017 Scope Comments); Letter from UFP to the Department, “Certain Softwood Lumber Products from Canada: Proposed Clarifying Scope Language Submitted by UFP Western Division, Inc. and UFP Eastern Division, Inc. (A-122-857 & C-122-858),” dated April 3, 2017 (UFP April 3, 2017 Scope Comments); Letter from West-Wood to the Department, “Certain Softwood Lumber from Canada: West-Wood Industries Ltd.,” dated April 3, 2017 (West-Wood April 3, 2017 Scope Comments).

<sup>65</sup> See Letter from OCFP to the Department, “Oregon-Canadian Forest Products Response to Coalition Additional Comments on Scope, April 3, 2017,” dated April 6, 2017 (OCFP April 6, 2017 Scope Comments).

<sup>66</sup> See Letter from the petitioner to the Department, “Certain Softwood Lumber Products from Canada: New Factual Information Regarding ALB-Certified Lumber,” dated April 17, 2017 (Petitioner April 17, 2017 Scope Comments).

<sup>67</sup> See Letter from the petitioner to the Department, “Certain Softwood Lumber Products from Canada: Clarification Regarding U.S. Origin Lumber Undergoing Certain Types of Processing in Canada,” dated April 27, 2017 (Petitioner April 27, 2017 Scope Comments).

<sup>68</sup> See Memorandum, “Deadline for Comments on Proposed Scope Exclusions,” dated April 28, 2017.

Inc. (Matra), the petitioner, RILA, Terminal, UFP and Western.<sup>69</sup> Also, on May 5, 2017, the petitioner submitted language to amend the scope of the petition.<sup>70</sup>

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<sup>69</sup> See Letter from OILP to the Department, “Independent comments on Scope to DOC Inv. Nos. A-122-857 & C-122-858,” dated May 2, 2017 (OILP May 2, 2017 Scope Comments); Letter from GNS to the Department, “Certain Softwood Lumber from Canada: Scope Comments from the Government of Nova Scotia,” dated May 3, 2017 (GNS May 3, 2017 Scope Comments); Letter from All-Coast and Herbert Lumber to the Department, “Canadian Softwood Lumber Exclusion Request by Oregon-Canada Forest Products,” dated May 5, 2017 (OCFP Apr, 2017 Scope Comments); Letter from BarretteWood to the Department, “Scope Comments for Crating Ladder Components Exclusion,” dated May 5, 2017 (All-Coast and Herbert Lumber May 5, 2017 Scope Comments); Letter from BarretteWood and EACOM to the Department, “Scope Comments for Bed-Frame Components Exclusion,” dated May 5, 2017 (BarretteWood and EACOM May 5, 2017 Scope Comments); Letter from Canfor to the Department, “Certain Softwood Lumber Products from Canada No. A-122-857 Comments on Proposed Scope Exclusions,” dated May 5, 2017 (Canfor May 5, 2017 Scope Comments); Letter from Central Canada and CIFQ to the Department, “Countervailing and Antidumping Duty Investigations of Certain Softwood Lumber Products from Canada: Proposed Scope Language – Eastern White Pine,” dated May 5, 2017 (Central Canada and CIFQ May 5, 2017 Scope Comments); Letter from CIFQ to the Department, “Countervailing and Antidumping Duty Investigations of Certain Softwood Lumber Products from Canada: Proposed Scope Language – I-Joists,” dated May 5, 2017 (CIFQ May 5, 2017 Scope Comments – I-Joists); Letter from CIFQ to the Department, “Countervailing and Antidumping Duty Investigations of Certain Softwood Lumber Products from Canada: Proposed Scope Language – Lumber Made From U.S. Origin Logs,” dated May 5, 2017 (CIFQ May 5, 2017 Scope Comments – U.S. Origin Logs); Letter from CIFQ to the Department, “Countervailing and Antidumping Duty Investigations of Certain Softwood Lumber Products from Canada: Proposed Scope Language – U.S. Origin Lumber Further Processed in Canada,” dated May 5, 2017 (CIFQ May 5, 2017 Scope Comments – Further Processed Lumber); Letter from the GBC to the Department, “Certain Softwood Lumber Products from Canada: Scope Comments of the Government of British Columbia,” dated May 5, 2017 (GBC May 5, 2017 Scope Comments); Letter from the GOC to the Department, “Certain Softwood Lumber Products from Canada: Comments on Proposed Scope Exclusions Currently under Consideration by the Department,” dated May 5, 2017 (GOC May 5, 2017 Scope Comments); Letter from the GNS to the Department, “Certain Softwood Lumber from Canada: Scope Comments Requesting the Exclusion from the Antidumping and Countervailing Duty Investigations of ALB-Certified Softwood Lumber Products,” dated May 5, 2017 (GNS May 5, 2017 Scope Comments); Letter from the IWPA to the Department, “Canadian Softwood Lumber Exclusion Request by Oregon-Canada Forest Products,” dated May 5, 2017 (IWPA May 5, 2017 Scope Comments); Letter from Matra to the Department, “Independent Comments on Scope to DOC Inv. Nos A-122-857 & C-122-858,” dated May 5, 2017 (Matra May 5, 2017 Scope Comments); Letter from OCFP to the Department, “Comments on OCFP’s Proposed Scope Exclusion Request Currently Under Consideration by the Department Certain Softwood Lumber Products from Canada,” dated May 5, 2017 (OCFP May 5, 2017 Scope Comments); Letter from the petitioner to the Department, “Certain Softwood Lumber Products from Canada: Comments on Proposed Scope Exclusions,” dated May 5, 2017 (Petitioner May 5, 2017 Scope Comments); Letter from RILA to the Department, “Certain Softwood Lumber Products from Canada: RILA Scope Comments,” dated May 5, 2017 (RILA May 5, 2017 Scope Comments); Letter from TFP to the Department, “A-122-857/C-122-858: Certain Softwood Lumber Products from Canada: Additional Comments on Scope- Edge Glued Lumber,” dated May 5, 2017 (TFP May 5, 2017 Scope Comments); Letter from UFP to the Department, “Certain Softwood Lumber Products from Canada: Comments on Proposed Scope Exclusion for Bed Frame/Box Spring Components Submitted by UFP Western Division, Inc. and UFP Eastern Division Inc. (A-122-857 & C-122-858),” dated May 5, 2017 (UFP May 5, 2017 Scope Comments); Letter from Western to the Department, “Certain Softwood Lumber from Canada: Comments Regarding Proposed Exclusion of Certain Western Red Cedar Products,” dated May 5, 2017 (Western May 5, 2017 Scope Comments - Western Red Cedar); Letter from Western to the Department, “Certain Softwood Lumber from Canada: Comments Regarding Proposed Exclusion of Certain Yellow Cedar Products,” dated May 5, 2017 (Western May 5, 2017 Scope Comments -- Yellow Cedar).

<sup>70</sup> See Letter from the petitioner to the Department, “Certain Softwood Lumber Products from Canada: Amendment to the Petitions,” dated May 5, 2017.

The interested party scope comments cited above concerned over 50 different products and several issues related to the scope of this and the companion countervailing duty (CVD) investigation. We have addressed these issues in the Scope Decision.<sup>71</sup> We note that two scope issues are the subject of ongoing consultations between interested parties and the Department and will be addressed at a later date. The two issues pertain to exclusions for certain bed-frame components and crating ladder components.<sup>72</sup> In addition, we are evaluating what constitutes a “finished product.” In the Scope Decision, the Department has proposed language that would be added to the scope concerning finished products and invites all parties to provide comments on the proposed addition.<sup>73</sup> Finally, the Department has responded to the petitioner’s request to amend the petition to exclude Atlantic Lumber Board (ALB) certified lumber from the scope of the AD and CVD investigations in a separate memorandum.<sup>74</sup>

## VII. AFFILIATION AND COLLAPSING OF AFFILIATES

We preliminarily determine that the following companies are affiliated, pursuant to section 771(33)(E) of the Act:

### A. Canfor

We preliminarily determine that the following companies are affiliated, pursuant to section 771(33)(E) of the Act: Canfor, Canadian Forest Products Ltd. (CFP), and Canfor Wood Products Marketing Ltd. (CWPM).<sup>75</sup> Canfor, the entity that we chose as the mandatory respondent, is an integrated forest products company. Canfor is a holding company and refers to its holdings as the Canfor Group.<sup>76</sup> While the Canfor performs certain corporate functions for the entire Canfor Group, all operations of the Canfor Group are performed by the companies it owns.<sup>77</sup> All

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<sup>71</sup> See Memorandum, “Certain Softwood Lumber from Canada: Scope Decision,” dated June 23, 2017 (Scope Decision).

<sup>72</sup> See Letter from Resolute to the Department, “Softwood Lumber from Canada: Proposed Scope Language – Bedframe Components,” dated April 3, 2017; Letter from BarretteWood to the Department, “Scope Comments for Crating Ladder Components Exclusion,” dated May 5, 2017; Letter from BarretteWood and EACOM to the Department, “Scope Comments for Bed-Frame Components Exclusion,” dated May 5, 2017.

<sup>73</sup> See Scope Decision at Comment 6.

<sup>74</sup> See “Decision Memorandum for Exclusion of Certain Softwood Lumber Products Certified By the Atlantic Lumber Board in the Antidumping Duty and Countervailing Duty Investigations of Certain Softwood Lumber Products from Canada,” dated June 23, 2017 (ALB Decision Memorandum) where the Department preliminarily excluded from the scope softwood lumber products certified by the ALB as being first produced in the Provinces of Newfoundland and Labrador, Nova Scotia, or Prince Edward Island from logs harvested in these three provinces. However, as noted in the ALB Decision Memorandum, CBP has not yet begun collecting ALB certifications, and the Department needs assurance that CBP will have a system in place to collect the certifications before we permit these products to be excluded. Thus, CBP will continue to suspend liquidation of entries of merchandise subject to the CVD investigation, and we will instruct CBP to begin suspension of liquidation of merchandise subject to this investigation. If there are no changes to the preliminary decision to exclude this merchandise, at the final determination, the Department will instruct CBP to stop suspension of liquidation of the merchandise subject to the exclusion and to refund cash deposits.

<sup>75</sup> See Memorandum from Jeffrey Pedersen to Abdelali Elouaradia, “Antidumping Duty Investigation of Certain Softwood Lumber from Canada: Canfor Corporation and Canfor Wood Products Marketing Ltd Preliminary Affiliation and Collapsing Memorandum,” dated June 23, 2017. (Canfor Affiliation Memorandum).

<sup>76</sup> See Canfor’s Section A Response at 8.

<sup>77</sup> *Id.*

lumber production and sales functions of Canfor are performed by CFP.<sup>78</sup> CFP is 100 percent owned by Canfor. U.S sales are made by CWPM Ltd., in which CFP has a 100 percent equity ownership.<sup>79</sup> Therefore, we find that, pursuant to section 771(33)(E) of the Act, Canfor, CFP and CWPM Ltd., are affiliated. In addition, we find that there is a significant potential for the manipulation of price or production based upon the level of ownership and intertwined operations such that the criteria of 19 CFR 351.401(f)(2) are satisfied.<sup>80</sup> Because Canfor has a direct or indirect 100 percent equity ownership in both CFP and CWPM Ltd. and because we find that both 19 CFR 351.401(f)(1) and (2) are met based upon the corporate structure, we are treating Canfor, CFP, and CWPM Ltd. as a single entity for the preliminary determination and calculating an antidumping margin for this single entity.

## B. Resolute

We preliminarily determine that the following companies are affiliated, pursuant to section 771(33)(E) of the Act: Resolute, Resolute Growth Canada Inc. (Resolute Growth), Abitibi-LP Engineered Wood Inc. (Abitibi-LP), Abitibi-LP Engineered Wood II Inc. (Abitibi-LP II), Forest Products Mauricie LP (Mauricie), Produits Forestiers Petit-Paris Inc. (Petit-Paris), and Société en commandite Scierie Opitciwan (Opitciwan).<sup>81</sup> We base this determination on the fact that Resolute and Resolute Growth are under the common control of Resolute Forest Products (RFP). Additionally, Resolute owns five percent or more of the outstanding shares of Abitibi-LP, Abitibi-LP II, Mauricie, Petit-Paris, and Opitciwan.<sup>82</sup>

In addition, pursuant to 19 CFR 351.401(f), and based on the evidence provided in Resolute's questionnaire responses, we preliminarily determine that Resolute, Resolute Growth, Abitibi-LP, Abitibi-LP II, Mauricie, Petit-Paris,<sup>83</sup> and Opitciwan should be collapsed and treated as a single entity in this investigation. This finding is based on the preliminary determination that the common ownership, overlapping management and board of directors, and intertwined operations among Resolute, Resolute Growth, Abitibi-LP, Abitibi-LP II, Mauricie, Petit-Paris, and Opitciwan results in a significant potential for manipulation of the price or production of subject merchandise, pursuant to 19 CFR 351.401(f)(2).<sup>84</sup> Furthermore, all of these companies have production facilities for similar or identical products that would not require substantial retooling of either facility in order to restructure manufacturing priorities.<sup>85</sup>

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<sup>78</sup> *Id.*

<sup>79</sup> *Id.*

<sup>80</sup> *Id.* See also Canfor's May 24, 2017 Response at 10-12.

<sup>81</sup> See Memorandum, "Antidumping Duty Investigation of Certain Softwood Lumber from Canada: Resolute FP Canada Inc. Preliminary Affiliation and Collapsing Memorandum," dated June 23, 2017 (Resolute Affiliation Memorandum) at 4.

<sup>82</sup> *Id.* at 3.

<sup>83</sup> The Department has preliminarily determined not to collapse Petit-Paris for the February 1, 2016 through September 30, 2016 portion of the POI, because record evidence indicates that there was a complete separation of Resolute and Petit-Paris on February 1, 2016. *Id.* at 8. Therefore, we preliminarily find that the companies were no longer affiliated on that date, and that there was no longer a significant potential for manipulation of price or production of subject merchandise.

<sup>84</sup> *Id.* at 5-7.

<sup>85</sup> See 19 CFR 351.401(f)(1).

### C. Tolko

We preliminarily determine that the following companies are affiliated, pursuant to section 771(33)(E) of the Act: Tolko Industries Ltd. (TIL), Tolko, and Gilbert Smith.<sup>86</sup> We base this determination on the fact that TIL owns 5 percent or more of the outstanding shares of Tolko and Gilbert Smith. In addition, pursuant to 19 CFR 351.401(f), and based on the evidence provided in Tolko's questionnaire responses, we preliminarily determine that TIL, Tolko, and Gilbert Smith should be collapsed and treated as a single entity in this investigation. This finding is based on the preliminary determination that the common ownership, overlapping management and board of directors, and intertwined operations among TIL, Tolko, and Gilbert Smith results in a significant potential for manipulation of the price or production of subject merchandise, pursuant to 19 CFR 351.401(f)(2).<sup>87</sup> While Tolko is not a producer, the Department collapses exporters with affiliated producers on the basis of a relationship which presents a significant potential for manipulation.<sup>88</sup> TIL and Gilbert Smith have production facilities for identical or similar products.<sup>89</sup>

### D. West Fraser

We preliminarily determine that the following companies are affiliated, pursuant to section 771(33)(E) of the Act: West Fraser, Blue Ridge Lumber Inc. (Blue Ridge), Manning Forest Products Ltd. (Manning), and Sundre Forest Products Inc. (Sundre).<sup>90</sup> We base this determination on the fact that that West Fraser owns 5 percent or more of the outstanding shares of Blue Ridge, Manning Forest Manning, and Sundre. In addition, pursuant to 351.401(f)(1), and based on the evidence provided in West Fraser's questionnaire responses, we preliminarily determine that Blue Ridge, Manning, Sundre and West Fraser have production facilities for similar or identical products that would not require substantial retooling of either facility in order to restructure manufacturing priorities.<sup>91</sup> Further, pursuant to 19 CFR 351.401(f)(2), also based on the evidence provided in West Fraser's questionnaire responses, we preliminarily determine that the common ownership, overlapping management and board of directors, and intertwined operations among West Fraser, Blue Ridge, Manning, and Sundre results in a significant potential for manipulation of the price or production of merchandise under consideration, pursuant to 19 CFR 351.401(f)(2).<sup>92</sup>

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<sup>86</sup> See Memorandum from Thomas Martin to Abdelali Elouaradia, "Antidumping Duty Investigation of Certain Softwood Lumber from Canada: Tolko Industries Ltd. and Tolko Marketing and Sales Ltd. Preliminary Affiliation and Collapsing Memorandum," dated June 23, 2017 (Tolko Affiliation Memorandum).

<sup>87</sup> See Tolko Affiliation Memorandum at 6-7.

<sup>88</sup> *Id.* at 6. See also *United States Steel Corp.*, 179 F. Supp. 3d at 1135.

<sup>89</sup> *Id.* at 7.

<sup>90</sup> See Memorandum, "Antidumping Duty Investigation of Certain Softwood Lumber from Canada: West Fraser Mills Ltd. Preliminary Affiliation and Collapsing Memorandum," dated June 23, 2017 (West Fraser Affiliation Memorandum).

<sup>91</sup> See West Fraser Rebuttal Comments at 4-6 and West Fraser's February 28, 2017, Section A Questionnaire Response at A-11.

<sup>92</sup> See West Fraser Affiliation Memorandum at 6.

## VIII. DISCUSSION OF THE METHODOLOGY

### Comparisons to Fair Value

Pursuant to section 773(a) of the Act and 19 CFR 351.414(c)(1) and (d), to determine whether sales of softwood lumber from Canada to the United States were made at LTFV, we compared the export price (EP) and 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 memorandum below.

#### A) Determination of Comparison Method

Pursuant to 19 CFR 351.414(c)(1), the Department calculates weighted-average dumping margins by comparing weighted-average NVs to weighted-average EPs or CEPs, *i.e.*, the average-to-average method, unless the Secretary determines that another method is appropriate in a particular situation. In LTFV investigations, the Department examines whether to compare weighted-average NVs with the EPs or CEPs of individual sales, *i.e.*, the average-to-transaction method, as an alternative comparison method using an analysis consistent with section 777A(d)(1)(B) of the Act.

In recent investigations, the Department has applied a “differential pricing” analysis for determining whether application of the average-to-transaction method is appropriate in a particular situation pursuant to 19 CFR 351.414(c)(1) and section 777A(d)(1)(B) of the Act.<sup>93</sup> The Department finds that the differential pricing analysis used in recent investigations may be instructive for purposes of examining whether to apply an alternative comparison method in this investigation. The Department will continue to develop its approach in this area based on comments received in this and other proceedings and on the Department’s additional experience with addressing the potential masking of dumping that can occur when the Department uses the average-to-average method in calculating a respondent’s weighted-average dumping margin.

The differential pricing analysis used in this preliminary determination examines whether there exists a pattern of EPs or CEPs for comparable merchandise that differ significantly among purchasers, regions, or time periods. The analysis evaluates all export sales by purchaser, region, and time period to determine whether a pattern of prices that differ significantly exists. If such a pattern is found, then the differential pricing analysis evaluates whether such differences can be taken into account when using the average-to-average method to calculate the weighted-average dumping margin. The analysis incorporates default group definitions for purchasers, regions, time periods, and comparable merchandise. Purchasers are based on the reported consolidated customer codes. Regions are defined using the reported destination code, *i.e.*, zip code or state,

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<sup>93</sup> See, e.g., *Xanthan Gum from the People’s Republic of China: Final Determination of Sales at Less Than Fair Value*, 78 FR 33351 (June 4, 2013); *Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes From the Republic of Korea: Final Determination of Sales at Less Than Fair Value*, 81 FR 47347 (July 21, 2016); *Certain Hot-Rolled Steel Flat Products from Japan: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances*, 81 FR 53409 (August 12, 2016) (*Hot-Rolled Steel from Japan*).

and are grouped into regions based upon standard definitions published by the U.S. Census Bureau. Time periods are defined by the quarter within the POI based upon the reported date of sale. For purposes of analyzing sales transactions by purchaser, region, and time period, comparable merchandise is defined using the product control number and all characteristics of U.S. sales, other than purchaser, region, and time period, that the Department uses in making comparisons between EP (or CEP) and NV for the individual dumping margins.

In the first stage of the differential pricing analysis used here, the “Cohen’s *d* test” is applied. The Cohen’s *d* coefficient is a generally recognized statistical measure of the extent of the difference between the mean, *i.e.*, weighted-average price, of a test group and the mean, *i.e.*, weighted-average price, of a comparison group. First, for comparable merchandise, the Cohen’s *d* coefficient is calculated when the test and comparison groups of data for a particular purchaser, region, or time period each have at least two observations, and when the sales quantity for the comparison group accounts for at least five percent of the total sales quantity of the comparable merchandise. Then, the Cohen’s *d* coefficient is used to evaluate the extent to which the prices to the particular purchaser, region, or time period differ significantly from the prices of all other sales of comparable merchandise. The extent of these differences can be quantified by one of three fixed thresholds defined by the Cohen’s *d* test: small, medium, or large (0.2, 0.5, and 0.8, respectively). Of these thresholds, the large threshold provides the strongest indication that there is a significant difference between the mean of the test and comparison groups, while the small threshold provides the weakest indication that such a difference exists. For this analysis, the difference is considered significant, and the sales in the test group are found to pass the Cohen’s *d* test, if the calculated Cohen’s *d* coefficient is equal to or exceeds the large, *i.e.*, 0.8, threshold.

Next, the “ratio test” assesses the extent of the significant price differences for all sales as measured by the Cohen’s *d* test. If the value of sales to purchasers, regions, and time periods that pass the Cohen’s *d* test accounts for 66 percent or more of the value of total sales, then the identified pattern of prices that differ significantly supports the consideration of the application of the average-to-transaction method to all sales as an alternative to the average-to-average method. If the value of sales to purchasers, regions, and time periods that pass the Cohen’s *d* test accounts for more than 33 percent and less than 66 percent of the value of total sales, then the results support consideration of the application of an average-to-transaction method to those sales identified as passing the Cohen’s *d* test as an alternative to the average-to-average method, and application of the average-to-average method to those sales identified as not passing the Cohen’s *d* test. If 33 percent or less of the value of total sales passes the Cohen’s *d* test, then the results of the Cohen’s *d* test do not support consideration of an alternative to the average-to-average method.

If both tests in the first stage, *i.e.*, the Cohen’s *d* test and the ratio test, demonstrate the existence of a pattern of prices that differ significantly, such that an alternative comparison method should be considered, then in the second stage of the differential pricing analysis, the Department examines whether using only the average-to-average method can appropriately account for such differences. In considering this question, the Department tests whether using an alternative comparison method, based on the results of the Cohen’s *d* and ratio tests described above, yields a meaningful difference in the weighted-average dumping margin as compared to that resulting

from the use of the average-to-average method only. If the difference between the two calculations is meaningful, then this demonstrates that the average-to-average method cannot account for differences such as those observed in this analysis, and, therefore, an alternative comparison method would be appropriate. A difference in the weighted-average dumping margins is considered meaningful if: 1) there is a 25 percent relative change in the weighted-average dumping margins between the average-to-average method and the appropriate alternative method where both rates are above the *de minimis* threshold, or 2) the resulting weighted-average dumping margins between the average-to-average method and the appropriate alternative method move across the *de minimis* threshold.<sup>94</sup>

Interested parties may present arguments and justifications in relation to the above-described differential pricing approach used in this preliminary determination, including arguments for modifying the group definitions used in this proceeding.

## B) Results of the Differential Pricing Analysis

For Canfor, based on the results of the differential pricing analysis, the Department preliminarily finds that 74.36 percent of the value of U.S. sales pass the Cohen's *d* test,<sup>95</sup> and confirms the existence of a pattern of prices that differ significantly among purchasers, regions, or time periods. However, the Department finds that there is not a meaningful difference in the weighted-average dumping margins calculated using the average-to-average comparison method and the average-to-transaction comparison method when both methods are applied to all sales. Accordingly, the Department has preliminarily determined to use the average-to-average method for all U.S. sales to calculate the weighted-average dumping margin for Canfor.

For Resolute, based on the results of the differential pricing analysis, the Department preliminarily finds that 73.64 percent of the value of U.S. sales pass the Cohen's *d* test,<sup>96</sup> and confirms the existence of a pattern of prices that differ significantly among purchasers, regions, or time periods. Further, the Department preliminarily determines that the average-to-average method cannot account for such differences, because there is a 25 percent relative change between the weighted-average dumping margin calculated using the average-to-average method and the weighted-average dumping calculated using an alternative comparison method based on applying the average-to-transaction method to all U.S. sales, *i.e.*, there is a meaningful difference. Thus, for this preliminary determination, the Department is applying the average-to-transaction method to all U.S. sales to calculate the weighted-average dumping margin for Resolute.

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<sup>94</sup> See *Hot-Rolled Steel from Japan*, Issues and Decision Memorandum at Comment 8.

<sup>95</sup> See Memorandum from Jeff Pedersen to the File entitled, "Analysis for the Preliminary Determination of the Less-Than-Fair-Value Investigation of Softwood Lumber from Canada: Canfor," dated concurrently with this memorandum (Canfor Preliminary Analysis Memorandum).

<sup>96</sup> See Memorandum, "Analysis for the Preliminary Determination of the Less-Than-Fair-Value Investigation of Softwood Lumber from Canada: Resolute," dated concurrently with this memorandum (Resolute Preliminary Analysis Memorandum).

For Tolko, based on the results of the differential pricing analysis, the Department preliminarily finds that 72.62 percent of the value of U.S. sales pass the Cohen's *d* test,<sup>97</sup> and confirms the existence of a pattern of prices that differ significantly among purchasers, regions, or time periods. Further, the Department preliminarily determines that the average-to-average method cannot account for such differences, because there is a 25 percent relative change between the weighted-average dumping margin calculated using the average-to-average method and the weighted-average dumping calculated using an alternative comparison method based on applying the average-to-transaction method to all U.S. sales, *i.e.*, there is a meaningful difference. Thus, for this preliminary determination, the Department is applying the average-to-transaction method to all U.S. sales to calculate the weighted-average dumping margin for Tolko.

For West Fraser, based on the results of the differential pricing analysis, the Department preliminarily finds that 39.28 percent of the value of U.S. sales pass the Cohen's *d* test,<sup>98</sup> and confirms the existence of a pattern of prices that differ significantly among purchasers, regions, or time periods. Further, the Department preliminarily determines that the average-to-average method cannot account for such differences because there is a 25 percent relative change between the weighted-average dumping margin calculated using the average-to-average method and the weighted-average dumping calculated using an alternative comparison method based on applying the average-to-transaction method to those U.S. sales which passed the Cohen's *d* test and the average-to-average method to those sales which did not pass the Cohen's *d* test, *i.e.*, there is a meaningful difference. Thus, for this preliminary determination, the Department is applying the average-to-transaction method to those U.S. sales which passed the Cohen's *d* test and the average-to-average method to those sales which did not pass the Cohen's *d* test to calculate the weighted-average dumping margin for West Fraser.

## **IX. PRODUCT COMPARISONS**

In accordance with section 771(16) of the Act, we considered all products produced and sold by the respondents in Canada during the POI that fit the description in the "Scope of Investigation" section of the accompanying *Federal Register* notice to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales. Where there were no sales of identical merchandise in the home market made in the ordinary course of trade to compare to U.S. sales, we compared U.S. sales to sales of the most similar foreign like product made in the ordinary course of trade.

In making product comparisons, we matched foreign like products, based on the physical characteristics reported by the respondents, in the following order of importance: Species, Moisture Content, NLGA Grade Group, NLGA Grade Equivalent, Thickness, Width, Length, Surface Finish, End Trimming, and Further Processing. In accordance with case precedent, we

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<sup>97</sup> See Memorandum from Thomas Martin to the File entitled, "Analysis for the Preliminary Determination of the Less-Than-Fair-Value Investigation of Softwood Lumber from Canada: Tolko," dated concurrently with this memorandum (Tolko Preliminary Analysis Memorandum).

<sup>98</sup> See Memorandum, "Analysis for the Preliminary Determination of the Less-Than-Fair-Value Investigation of Softwood Lumber from Canada: West Fraser," dated concurrently with this memorandum (West Fraser Preliminary Analysis Memorandum).

did not compare U.S. sales to sales of the foreign like product of different Species, Moisture Content, and NLGA Grade Group.<sup>99</sup>

## **X. DATE OF SALE**

Section 351.401(i) of the Department's regulations states that, in identifying the date of sale of the merchandise under consideration or foreign like product, the Department normally will use the date of invoice, as recorded in the exporter or producer's records kept in the ordinary course of business. The Department may use a date other than the date of invoice if it is satisfied that a different date better reflects the date on which the exporter or producer establishes the material terms of sale.<sup>100</sup> The Department has a long-standing practice of finding that, where shipment date precedes invoice date, shipment date better reflects the date on which the material terms of sale are established.<sup>101</sup>

For both its comparison-market and U.S. sales, Canfor reported the earlier of commercial invoice date or shipment date as the date of sale. Canfor explained that the commercial invoice date is the date on which the terms of sale are finalized, and submitted documentation supporting this assertion.<sup>102</sup> Based on this documentation, we are using the earlier of the commercial invoice date or shipment date for the date of sale for Canfor's sales in both the comparison and U.S. markets.

For both its comparison-market and U.S. sales, Resolute reported the invoice date as the date of sale.<sup>103</sup> Resolute stated that invoicing occurs at the time of shipment, or immediately thereafter, and provided documentation supporting this assertion. Thus, we preliminarily determine that the commercial invoice date is the most appropriate selection for the date of sale for Resolute's sales in both the comparison and U.S. markets.

For both its comparison-market and U.S. sales, Tolko reported the earlier of the shipment date or commercial invoice date as the date of sale.<sup>104</sup> Tolko explained that the terms of sale can be changed up until the time of shipment.<sup>105</sup> However, for "vendor managed inventory" (VMI) sales (consignment sales), Tolko used the invoice date as the date of sale, as the receipt of the

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<sup>99</sup> See e.g., *Notice of Preliminary Results of Antidumping Duty Administrative Review and Partial Rescission: Certain Softwood Lumber Products from Canada*, 70 FR 33063, 33067 (June 7, 2005) ("Consistent with prior segments of this proceeding, we did not match across product type, species or grade group.") unchanged in *Notice of Final Results of Antidumping Duty Administrative Review: Certain Softwood Lumber Products From Canada*, 70 FR 73437 (December 12, 2005).

<sup>100</sup> See 19 CFR 351.401(i); see also *Allied Tube & Conduit Corp. v. United States*, 132 F. Supp. 2d 1087, 1090 (CIT 2001).

<sup>101</sup> See, e.g., *Notice of Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances: Certain Frozen and Canned Warmwater Shrimp from Thailand*, 69 FR 76918 (December 23, 2004), and accompanying Issues and Decision Memorandum at Comment 10; see also *Notice of Final Determination of Sales at Less Than Fair Value: Structural Steel Beams from Germany*, 67 FR 35497 (May 20, 2002), and accompanying Issues and Decision Memorandum at Comment 2.

<sup>102</sup> See Canfor's Section A response, at A-27. See also Canfor's March 31, 2017 response at 47-48, and Exhibit A.

<sup>103</sup> See Resolute's March 24, 2017 Supplemental Questionnaire Response, at 14-17.

<sup>104</sup> See Tolko's Section A response, dated February 28, 2017, at A-31.

<sup>105</sup> *Id.* at A-31, A-36.

invoice is the first instance in which Tolko became aware that such sales were completed.<sup>106</sup> Thus, we preliminarily determine that the earlier of the shipment date or commercial invoice date is the most appropriate selection for the date of sale for Tolko's sales in both the comparison and U.S. markets, with the exception of VMI sales, for which the commercial invoice date is the most appropriate selection for the date of sale.

For both its comparison-market and U.S. sales, West Fraser reported the invoice date as the date of sale. West Fraser explained that the invoice date is the date on which the merchandise is shipped, and submitted documentation supporting this assertion.<sup>107</sup> Based on this documentation, we preliminarily determine that the invoice date is the most appropriate selection for the date of sale for West Fraser's sales in both the comparison and U.S. markets.

## **XI. RANDOM-LENGTH BOARD SALES**

All four respondents made a portion of their U.S. and home market sales during the POI on a random-length<sup>108</sup> (also referred to as a mixed-tally) basis.<sup>109</sup> Random-length sales are sales consisting of different lengths of boards in which one overall price is provided in the customer invoice. While the invoices of random-length sales list only one, overall "tally price," this price is derived through consideration of the current price of each board requested by the potential customer, suggested from internal price guidelines maintained by each respondent.<sup>110</sup> Based on the suggested length-specific prices of each board in the internal price guidelines, and the quantities of each board requested by the potential customer, respondents make an offer that is stated as an overall, gross-unit tally price.

After negotiations, a final tally price is reached. To calculate the final length-specific price, the respondents take the two aggregates (the value using the internal price guidelines and the negotiated tally price) and adjust the value of each sold board proportionately from the length-specific price using the internal price guidelines to the negotiated price appearing on the invoice. The result of this adjustment is that the sum of the length-specific prices multiplied by the corresponding quantities reconciles with the invoice value.<sup>111</sup>

Not all of the mandatory respondents reported that they record and maintain length-specific prices in their normal books and records that reconcile to the overall, negotiated tally price paid

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<sup>106</sup> See Tolko's Supplemental Section A response, dated April 3, 2017, at A-5.

<sup>107</sup> See West Fraser's February 28, 2017, Section A response, at A-25 and Exhibits A-11 and A-12, and West Fraser's March 21, 2017, Sections B and C Response at B-25 and C-20-21, respectively.

<sup>108</sup> For purposes of this investigation, we are defining a random-length or mixed tally sale as any sale which contains boards of multiple lengths, and for which a tally price (*i.e.*, the average price of the boards) has been reported.

<sup>109</sup> See Resolute's April 24, 2017 Supplemental Questionnaire Response at "Tally Sale Attachment;" Canfor's Feb 28, 2017 Section A Questionnaire Response at A-27 – A-28; West Fraser's March 21, 2017, Sections B and C Response at B-31 and C-26; Tolko's March 22, 2017 Section B Response at B-43, and Section C Response at C-48.

<sup>110</sup> *Id.*

<sup>111</sup> *Id.*

by the purchasers.<sup>112</sup> Nonetheless, all of the mandatory respondents were able to apply the adjustment described above and report length-specific prices at the time of sale.<sup>113</sup>

Sections 772(a) and (b) and 773(a)(1)(B)(i) of the Act direct the Department to use the price at which the product was sold in determining EP, CEP, and NV. As described above, regardless of whether the Department relies on the overall invoice price, *i.e.*, the final tally price, or the length-specific prices reported by the respondents, the prices will reconcile to the overall invoice price. That being said, the overall, aggregate invoice price is just that – an aggregate price, and, therefore, does not, on its own, reflect the price differences between lengths of boards making up that aggregate. This is significant, because length is one of the necessary physical characteristics of the product control number (CONNUM) used for product comparison purposes in our antidumping calculations.

Accordingly, we had the respondents report length-specific prices which reflect the relative difference in market value for each individual board which is considered when deriving the overall invoice price of the random-length sale. We subsequently used these prices as the EP or CEP in calculating each respondent’s weighted-average dumping margin. This approach is consistent with *Lumber IV*, where, for companies able to report length-specific prices for random-length sales, the Department relied on such prices, stating that its “objective...is to use prices that reflect as accurately as possible the length-specific prices of each length within a random-length sale.”<sup>114</sup>

## **XII. EXPORT PRICE AND CONSTRUCTED EXPORT PRICE**

According to section 772(a) of the Act, EP is the price at which the merchandise under consideration is first sold (or agreed to be sold) before the date of importation by the producer or exporter of the subject merchandise outside of the United States to an unaffiliated purchaser in the United States or to an unaffiliated purchaser for exportation to the United States, as adjusted under section 772(c) of the Act. Pursuant to section 772(b) of the Act, CEP is the price at which the merchandise under consideration is first sold (or agreed to be sold) in the United States before or after the date of importation by or for the account of the producer or exporter of such merchandise or by a seller affiliated with the producer or exporter, to a purchaser not affiliated with the producer or exporter, as adjusted under sections 772(c) and (d) of the Act.

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<sup>112</sup> See *e.g.* Resolute’s April 24, 2017 Supplemental Questionnaire Response at “Tally Sale Attachment” (noting that “Resolute does not maintain any data on tally sales in the ordinary course of business.”); Tolko’s May 24, 2017 response at 3 (“Tolko’s normal books and records neither identify sales made in tallies nor do they track any length-specific “base” or shadow price for individual lengths within a tally sale on which the uniform tally price was based.”).

<sup>113</sup> See Resolute’s April 24, 2017, Supplemental Questionnaire Response at “Tally Sale Attachment and Exhibits SB-22 and SC-7; Canfor’s June 8, 2017, response at Exhibits B-71 and C-29; West Fraser’s May 26, 2017, Supplemental Questionnaire Response, sales database RFPHM03 and US\_26MAY2017; Tolko’s June 9, 2017 response, sales databases *tolkus05* and *tolkhm05*.

<sup>114</sup> See *Notice of Final Results of Antidumping Duty Administrative Review: Certain Softwood Lumber Products from Canada*, 70 FR 73437 (December 12, 2005) and the accompanying IDM at Comment 6.

For EP sales reported by the four respondents, we used the EP methodology, in accordance with section 772(a) of the Act, when the merchandise under consideration was first sold by the producer/exporter outside of the United States directly to the first unaffiliated purchaser in the United States prior to importation and because use of the CEP methodology was not otherwise warranted. For each respondent's VMI sales, where the merchandise under consideration is sold after the date of importation from inventory located within the United States, we used the CEP methodology, consistent with section 772(b) of the Act.

We calculated EP based on packed prices to unaffiliated purchasers in the United States. We made deductions from the starting price, where applicable, for rebates and discounts, and for movement expenses, *i.e.*, inland freight, brokerage and handling, and warehousing, in accordance with section 772(c)(2)(A) of the Act. We also deducted from EP export taxes collected by the GOC pursuant to the Softwood Lumber Agreement (SLA) between the United States and Canada in force during portions of the POI.<sup>115</sup> We added U.S. direct selling expenses, *i.e.*, imputed credit expenses, bank charges, and warranty expenses to the normal value.

We calculated CEP in accordance with section 772(c)(2)(A) of the Act. We made deductions, where applicable, from the starting price for rebates and discounts, movement expenses, and export taxes, as incurred for EP sales, but also including domestic inland freight to U.S. warehouses and reload centers, U.S. warehousing, and U.S. movement expenses from warehouses to the unaffiliated customer. We deducted expenses associated with economic activities occurring in the United States, including direct selling expenses (*i.e.*, imputed credit expenses, bank charges, and warranty expenses) and indirect selling expenses (including inventory carrying costs).<sup>116</sup> For further details regarding the calculation of EP and CEP for Canfor, Resolute, Tolko, and West Fraser, please see the preliminary analysis memorandum for each company.<sup>117</sup>

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<sup>115</sup> While the Department has a practice of not deducting AD duties and CVDs, and Section 772(c)(2)(B) of the Act prohibits the Department from deducting any export tax intended to offset countervailable subsidies received, the Department preliminarily finds that the export taxes specified by the SLA are collected by the GOC and were applied based on export volume, prevailing prices, and other mechanisms unrelated to AD duties and CVDs.

<sup>116</sup> While the Department typically deducts selling expenses associated with economic activities occurring in the U.S. from CEP, because all indirect selling expenses and a portion of inventory carrying costs for sales to unaffiliated U.S. customers are being incurred by the Canadian sales offices, for these preliminary results, the Department finds that it is appropriate to deduct these costs, because they are directly related to the sales to an unaffiliated customer.

<sup>117</sup> See Memoranda to File "Analysis Memorandum for the Preliminary Determination of the Antidumping Duty Investigation of Certain Softwood Lumber Products from Canada: Canfor Corporation (Canfor)," (Canfor Preliminary Analysis Memo), "Analysis Memorandum for the Preliminary Determination of the Antidumping Duty Investigation of Certain Softwood Lumber Products from Canada: Resolute FP Canada Inc. (Resolute)," (Resolute Preliminary Analysis Memo), "Analysis Memorandum for the Preliminary Determination of the Antidumping Duty Investigation of Certain Softwood Lumber Products from Canada: Tolko Marketing and Sales Ltd. (Tolko)," (Tolko Preliminary Analysis Memo) "Analysis Memorandum for the Preliminary Determination of the Antidumping Duty Investigation of Certain Softwood Lumber Products from Canada: West Fraser Mills Ltd. (West Fraser)" (West Fraser Preliminary Analysis Memo), each dated concurrently with this memorandum.

West Fraser reported that it realized gains and incurred losses on the sale of futures contracts for its U.S. sales.<sup>118</sup> Consistent with *OJ from Brazil*,<sup>119</sup> we are taking account of these gains and losses as price adjustments. For a full discussion of this issue, see West Fraser Preliminary Analysis Memo.

### XIII. NORMAL VALUE

#### A) Home Market Viability

In order to determine whether there is a sufficient volume of sales in the home market to serve as a viable basis for calculating NV, *i.e.*, the aggregate volume of home market sales of the foreign like product is equal to or greater than five percent of the aggregate volume of U.S. sales, we normally compare the respondent's volume of home-market sales of the foreign like product to the volume of U.S. sales of the subject merchandise, in accordance with sections 773(a)(1)(A) and (B) of the Act. If we determine that no viable home market exists, we may, if appropriate, use a respondent's sales of the foreign like product to a third-country market as the basis for comparison market sales in accordance with section 773(a)(1)(C) of the Act and 19 CFR 351.404.

In this investigation, we preliminarily determine that the aggregate volume of the respondents' home market (*i.e.* Canadian) sales of the foreign like product was greater than five percent of the aggregate volume of its U.S. sales of the merchandise under consideration.<sup>120</sup> Therefore, for all respondents, we used home market sales as the basis for determining NV, in accordance with section 773(a)(1)(B) of the Act and 19 CFR 351.404.<sup>121</sup>

#### B) Level of Trade

Section 773(a)(1)(B)(i) of the Act states that, to the extent practicable, the Department will calculate NV based on sales at the same level of trade (LOT) as the U.S. sales. Sales are made at different levels of trade if they are made at different marketing stages (or their equivalent).<sup>122</sup> Substantial differences in selling activities are a necessary, but not sufficient, condition for determining that there is a difference in the stages of marketing.<sup>123</sup> In order to determine whether the comparison market sales are at different stages in the marketing process than the U.S. sales, we examine the distribution system in each market, *i.e.*, the chain of distribution,

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<sup>118</sup> See West Fraser's March 21, 2017, Section C Questionnaire Response at C-27 and C-28.

<sup>119</sup> See *Notice of Final Determination of Sales at Less Than Fair Value and Affirmative Final Determination of Critical Circumstances: Certain Orange Juice from Brazil*, 71 FR 2183 (January 13, 2006) (*OJ from Brazil*), and accompanying Issues and Decision Memorandum (IDM) at Comment 8.

<sup>120</sup> See Canfor's June 8, 2017 Supplemental Response, at Exhibits B-71 and C-29; Resolute Section A Response, at A-3; Tolko Section A Response, at A-2; West Fraser Section A Response, at A-3 and Exhibit A-1.

<sup>121</sup> See Canfor Preliminary Analysis Memo; Resolute Preliminary Analysis Memo; Tolko Preliminary Analysis Memo; West Fraser Preliminary Analysis Memo.

<sup>122</sup> See 19 CFR 351.412(c)(2).

<sup>123</sup> *Id.*; see *OJ from Brazil* at Comment 7.

including selling functions and class of customer (customer category), and the level of selling expenses for each type of sale.

Pursuant to section 773(a)(1)(B)(i) of the Act, in identifying LOTs for EP and comparison market sales, *i.e.*, NV based on either home-market or third-country prices,<sup>124</sup> we consider the starting prices before any adjustments. 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.<sup>125</sup>

When the Department is unable to match U.S. sales of the foreign like product in the comparison market at the same level of trade as the EP or CEP, the Department may compare the U.S. sale to sales at a different level of trade in the comparison market. In comparing EP or CEP sales at a different level of trade in the comparison market, where available data make it possible, we make a level-of-trade adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP sales only, if the NV LOT is at a more advanced stage of distribution than the level of trade of the CEP and there is no basis for determining whether the difference in levels of trade between NV and CEP affects price comparability, *i.e.*, no LOT adjustment is possible, the Department will grant a CEP offset, as provided in section 773(a)(7)(B) of the Act.<sup>126</sup>

In this investigation, we obtained information from the respondents regarding the marketing stages involved in making their reported comparison markets and U.S. sales, including a description of the selling activities performed by each respondent for each channel of distribution.

Canfor reported that it had five channels of distribution in its comparison market and three channels of distribution in its U.S. markets, and that it had five customer categories in both its comparison and U.S. markets.<sup>127</sup> Canfor reported making mill direct sales, reload sales (reload sales consist of warehouses where inventory is held for sale or for purposes of consolidating orders for shipment via rail or truck), and sales made from remanufacturing facilities all at the same level of trade. Similar to VMI sales but distinct from mill local and employee sales which are discussed below, Canfor reported that mill direct sales, reload sales, and sales made from remanufacturing facilities involved numerous sales activities and logistic planning.<sup>128</sup>

While it reported that its selling activities for VMI sales in both the comparison and U.S. markets were made at a different level of trade than its other sales,<sup>129</sup> the Department twice requested information, including both narrative explanations and company records, that would support Canfor's claim that its VMI sales were at a different level of trade than its other sales. Canfor

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<sup>124</sup> Where NV is based on constructed value (CV), we determine the NV level of trade based on the level of trade of the sales from which we derive selling, general and administrative expenses, and profit for CV, where possible. *See* 19 CFR 351.412(c)(1).

<sup>125</sup> *See Micron Tech., Inc. v. United States*, 243 F.3d 1301, 1314-16 (Fed. Cir. 2001).

<sup>126</sup> *See OJ from Brazil at Comment 7.*

<sup>127</sup> *See* Canfor's May 24, 2017 response at Exhibits B-62 and C-22.

<sup>128</sup> *See* Canfor's Section A Response at 19 through 21, and Exhibit A-9.

<sup>129</sup> *See* Canfor's Section A Response at 22 and 23, and Exhibit A-9.

initially only pointed to statements it had already made and stated that its ledgers and personnel records were not such that would support its claims.<sup>130</sup>

In a subsequent questionnaire, the Department cited to Canfor's failure to support its level of trade claim with regard to VMI sales and provided Canfor with another opportunity to place information on the record that would support its claims. However, Canfor again stated that it was unable to provide the Department with additional evidence supporting its claims with regard to VMI sales. Because Canfor did not provide the Department with the information that the Department requested to determine whether its VMI sales were at a different level of trade than its other sales, the Department continues to find Canfor's VMI sales at the same level of trade as all sales, other than mill local and employee sales.

Canfor also made a very small amount of mill local and employee sales in the home market. Canfor stated that such sales required far less sales activities relative to all other types of sales.<sup>131</sup> Selling activities can be generally grouped into four selling function categories for analysis: 1) sales and marketing; 2) freight and delivery; 3) inventory maintenance and warehousing; and 4) warranty and technical support. Based on these selling function categories, we find that there is one LOT in the home market for Canfor's mill local and employee sales. Both mill local and employee sales are ordered directly from the mill and picked up directly from the mill by the customers,<sup>132</sup> and involve no sales activities from the main sales offices.<sup>133</sup> Canfor further specified that the effort per sale of all other sales channels and customer categories is greater than for mill local employee sales.<sup>134</sup> Thus, the Department has treated mill local and employee sales at one level of trade and all other sales at another level of trade and has applied a LOT adjustment accordingly. Moreover, because these facts do not establish CEP sales as a separate level of trade to comparison market sales, we also determined that no granting of a CEP offset is warranted. Accordingly, we have not granted a CEP offset, pursuant to 773(a)(7)(B) of the Act.

Resolute, Tolko and West Fraser each reported that it had three channels of distribution in both comparison and U.S. markets: mill direct sales, sales from reload centers, and VMI sales.<sup>135</sup> They also reported multiple customer categories, all of which existed in both the comparison and U.S. markets, such as: Building Material Distributor, Retail Building Material Dealer & Pro Dealer, Buying Group, Home Improvement Warehouse, Integrator, Office Wholesaler, Industrial Distributor, Industrial OEM, Hybrid – Multi-segment Customer, General Contractor, Production Builder, Manufactured Housing, Retailer, and Off-grade Distributor.<sup>136</sup> Each company submitted a selling functions chart which shows a full listing of different selling functions and the level of effort expended for each function, which demonstrated that these companies do not

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<sup>130</sup> See Canfor's March 31, 2017 response at 33.

<sup>131</sup> See Canfor's April 21, 2017 response at 8.

<sup>132</sup> See Canfor's Section A Response at A-19.

<sup>133</sup> See Canfor's March 31, 2017 response at 38.

<sup>134</sup> See Canfor's April 21, 2017 response at 7-8.

<sup>135</sup> See Resolute Section A Response, at A-14 through A-18; See Tolko Section A Response, at A-22 through A-26; See West Fraser Section A Response, at A-18 through A-20 and West Fraser's March 21, 2017, Sections B and C Response at B-25.

<sup>136</sup> See Resolute Section A Response, at A-18 through A-19; See Tolko Section A Response, at A-26; See West Fraser Section A Response, at A-21.

substantially differentiate selling activities or terms of sale by customer category in either the comparison market, or the U.S. market for either EP or CEP sales.<sup>137</sup> Therefore, we preliminarily determine that only one level of trade exists in comparison and U.S. markets for Resolute, Tolko and West Fraser. For this reason, we preliminarily determine that a LOT adjustment is not warranted for any of these three respondents. Moreover, because these facts do not establish CEP sales as a separate level of trade to comparison market sales, we also determined that no granting of a CEP offset is warranted. Accordingly, we have not granted a CEP offset, pursuant to 773(a)(7)(B) of the Act.

### C) Cost of Production (COP) Analysis

Section 773(b)(2)(A)(ii) of the Act requires the Department to request constructed value (CV) and COP information from respondent companies in all AD proceedings.<sup>138</sup> Accordingly, the Department requested CV and COP information from the four mandatory respondents. We examined their cost data and determined that our quarterly cost methodology is not warranted and, therefore, we applied our standard methodology of using annual costs based on the reported data.

#### 1. Calculation of COP

In accordance with section 773(b)(3) of the Act, we calculated COP based on the sum of costs of materials and fabrication for the foreign like product, plus amounts for general and administrative expenses and interest expenses. We relied on the COP data submitted by Canfor,<sup>139</sup> Resolute,<sup>140</sup> Tolko<sup>141</sup> and West Fraser<sup>142</sup>, with adjustments as discussed in the COP and CV calculation memoranda for each company.

#### 2. Test of Comparison-Market Sales Prices

On a product-specific basis, pursuant to section 773(b) of the Act, we compared the adjusted weighted-average COPs to the comparison market sales prices of the foreign like product to determine whether the sales prices were below the COPs. In particular, in determining whether to disregard comparison market sales made at prices below the COP, we examined whether such sales were made within an extended period of time in substantial quantities and at prices which permitted the recovery of all costs within a reasonable period of time, in accordance with sections 773(b)(2)(B), (C), and (D) of the Act. For purposes of this comparison, we used COPs exclusive of selling and packing expenses. The prices were net of billing adjustments,

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<sup>137</sup> See Resolute Section A Response, at Exhibit A-7; See Tolko Section A Response, at Exhibit A-13; See West Fraser Section A Response, at Exhibit A-9.

<sup>138</sup> *Id.*, 80 FR at 46794-95.

<sup>139</sup> See Memorandum, “Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Determination – Canfor,” dated concurrently with this memorandum.

<sup>140</sup> See Memorandum, “Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Determination – Resolute,” dated concurrently with this memorandum.

<sup>141</sup> See Memorandum, “Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Determination – Tolko,” dated concurrently with this memorandum.

<sup>142</sup> See Memorandum, “Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Determination – West Fraser,” dated concurrently with this memorandum.

movement charges, direct and indirect selling expenses and packing expenses, where appropriate.

### 3. Results of the COP Test

In determining whether to disregard home market sales made at prices below the COP, we examined, in accordance with sections 773(b)(1)(A) and (B) of the Act, whether: 1) within an extended period of time, such sales were made in substantial quantities; and 2) such sales were made at prices which permitted the recovery of all costs within a reasonable period of time in the normal course of trade. In accordance with sections 773(b)(2)(B) and (C) of the Act, where less than 20 percent of the respondent's comparison-market sales of a given product are at prices less than the COP, we do not disregard any below-cost sales of that product because we determine that in such instances the below-cost sales were not made within an extended period of time and in "substantial quantities." Where 20 percent or more of a respondent's sales of a given product are at prices less than the COP, we disregard the below-cost sales because: 1) they were made within an extended period of time in "substantial quantities," in accordance with sections 773(b)(2)(B) and (C) of the Act; and, 2) based on our comparison of prices to the weighted-average COPs for the POI, they were at prices which would not permit the recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Act.

We found that, for certain products, more than 20 percent of the comparison-market sales during the POI were at prices less than the COP and, in addition, such sales did not provide for the recovery of costs within a reasonable period of time. We, therefore, excluded these sales and used the remaining sales, if any, as the basis for determining NV, in accordance with section 773(b)(1) of the Act.

#### D) Calculation of NV Based on Comparison-Market Prices

For those comparison products for which there were an appropriate number of sales at prices above the COP for Canfor, Resolute, Tolko and West Fraser, we calculated NV based on delivered prices to unaffiliated customers in the comparison market. We made deductions, as appropriate for the reported terms of sale, from the starting price for certain movement expenses, *i.e.*, inland freight and warehousing, and for certain direct selling expenses, *i.e.*, credit expenses, warranty expenses, and bank charges, pursuant to section 773(a)(6)(B)(ii) of the Act. We then added U.S. direct selling expenses, *i.e.*, credit expenses, warranty expenses and bank charges, and in accordance with section 773(a)(6)(A) and (B) of the Act, deducted comparison-market packing costs and added U.S. packing costs.

West Fraser reported that it realized gains and incurred losses on the sale of futures contracts in the home market.<sup>143</sup> Consistent with *OJ from Brazil*,<sup>144</sup> we are taking account of these gains and losses as price adjustments. For a full discussion of this issue, *see* West Fraser Preliminary Analysis Memo.

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<sup>143</sup> See West Fraser's May 23, 2017, Second Supplemental Sections B and C Questionnaire Response at 16.

<sup>144</sup> See *OJ from Brazil* IDM at Comment 8.

When comparing U.S. sales with comparison-market sales of similar, but not identical, merchandise, we also made adjustments for differences in costs attributable to differences in the merchandise, in accordance with section 773(a)(6)(C)(ii) of the Act and 19 CFR 351.411. We based this adjustment on the difference in the variable cost of manufacturing of the foreign-like product and that of the subject merchandise.

E) Price-to-CV Comparisons

Where we were unable to find a comparison-market match of identical or similar merchandise, we based NV on CV in accordance with section 773(a)(4) of the Act. Where appropriate, we made adjustments to CV in accordance with section 773(a)(8) of the Act. In accordance with section 773(e) of the Act, we calculated CV based on the sum of the respondents' material and fabrication costs, selling, general and administrative expenses (SG&A expenses), profit, and U.S. packing costs. We calculated the COP component of CV as described above in the "Calculation of Cost of Production" section of this memorandum. In accordance with section 773(e)(2)(A) of the Act, we based SG&A expenses and profit on the 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 foreign country. Finally, we made circumstances-of-sale adjustments by deducting direct selling expenses incurred on comparison market sales from, and adding U.S. direct selling expenses, to CV, in accordance with section 773(a)(8) of the Act and 19 CFR 351.410.

#### **XIV. CURRENCY CONVERSION**

We made currency conversions into U.S. dollars, in accordance with section 773A of the Act and 19 CFR 351.415(a), based on the exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank.

**XV. CONCLUSION**

We recommend applying the above methodology for this preliminary determination.

\_\_\_\_\_  
Agree

\_\_\_\_\_  
Disagree  
6/23/2017

**X** *Ronald K. Lorentzen*  
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Signed by: RONALD LORENTZEN

\_\_\_\_\_  
Ronald K. Lorentzen  
Acting Assistant Secretary  
for Enforcement and Compliance