



C-560-829  
Investigation  
**Public Document**  
ADCVDOPS/II/KJ

**DATE:** June 22, 2015

**MEMORANDUM TO:** Paul Piquado  
Assistant Secretary  
for Enforcement and Compliance

**FROM:** Christian Marsh   
Deputy Assistant Secretary  
for Antidumping and Countervailing Duty Operations

**SUBJECT:** Decision Memorandum for the Preliminary Affirmative  
Countervailing Duty Determination in the Countervailing Duty  
Investigation of Certain Uncoated Paper from Indonesia

---

## I. SUMMARY

The Department of Commerce (the Department) preliminarily determines that countervailable subsidies are being provided to the producers and exporters of certain uncoated paper from Indonesia, as provided in section 703 of the Tariff Act of 1930, as amended (the Act).

## II. BACKGROUND

### A. Initiation and Case History

On January 21, 2015, United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union; Domtar Corporation; Finch Paper LLC; P.H. Glatfelter Company; and Packaging Corporation of America (collectively, the petitioners) filed petitions with the Department seeking the imposition of antidumping duties (AD) and countervailing duties (CVD) on certain uncoated paper from, inter alia, Indonesia.<sup>1</sup> Supplements to the CVD petition concerning certain uncoated paper from Indonesia are described in the Initiation Checklist.<sup>2</sup>

On February 9, 2015, in accordance with section 702(b)(4)(A)(ii), the Department held consultations with representatives of the Government of Indonesia (GOI).<sup>3</sup> On February 18,

---

<sup>1</sup> See "Petitions for the Imposition of Antidumping Duties on Imports of Certain Uncoated Paper from Australia, Brazil, China, Indonesia, and Portugal and Countervailing Duties on Imports from China and Indonesia," dated January 21, 2015 (Petitions).

<sup>2</sup> See Department Memorandum regarding "Countervailing Duty Initiation Checklist: Certain Uncoated Paper from Indonesia" (February 10, 2015) (Initiation Checklist).

<sup>3</sup> See Memorandum to the File, "Consultations with Officials from the Government of Indonesia regarding the Countervailing Duty Petition Concerning Certain Uncoated Paper" (February 9, 2015).



2015, the Department published the initiation of the CVD investigations on certain uncoated paper from the People's Republic of China and Indonesia.<sup>4</sup>

In the "Respondent Selection" section of the Initiation Notice, the Department stated that it intended to select respondents based on U.S. Customs and Border Protection (CBP) data.<sup>5</sup> Accordingly, on February 12, 2015, the Department released the CBP data to all interested parties under an administrative protective order (APO), and requested comments regarding the data and respondent selection.<sup>6</sup> On February 24, 2015, we received consolidated comments from PT Anugrah Kertas Utama (AKU) and APRIL Fine Paper Macao Commercial Offshore Limited (AFPM) (who claim to be part of a group of companies known as APRIL).<sup>7</sup> On February 25, 2015, we also received comments on behalf of the petitioners.<sup>8</sup> No other interested parties submitted comments on respondent selection. On March 25, 2015, we selected Great Champ Trading Limited (Great Champ) and Indah Kiat Pulp & Paper TBK (IK), the two largest publicly-identifiable producers/exporters of the subject merchandise by volume during the POI, for individual examination as mandatory respondents in this investigation.<sup>9</sup>

On February 23, 2015, pursuant to 19 CFR 351.205(b)(2), the petitioners requested that the Department postpone the preliminary determination of this investigation. On March 12, 2015, the Department postponed the preliminary determination until June 22, 2015, in accordance with section 703(c)(1)(A) of the Act.<sup>10</sup>

On March 26, 2015, we issued our CVD questionnaire to the GOI and mandatory respondents.<sup>11</sup> On April 7 and 9, 2015, respectively, IK and Great Champ notified the Department that they would not be responding to the CVD questionnaire.<sup>12</sup> On April 10, 2015, the petitioners submitted respondent selection comments in light of the withdrawal of the mandatory respondents.<sup>13</sup> On the same date, we selected AFPM and Pabrik Kertas Tjiwi Kimia (TK) as additional mandatory respondents in this investigation.<sup>14</sup> On April 13, 2015, we issued the CVD questionnaire to AFPM and TK.

---

<sup>4</sup> See Certain Uncoated Paper From the People's Republic of China and Indonesia: Initiation of Countervailing Duty Investigations, 80 FR 8598 (February 18, 2015) (Initiation Notice).

<sup>5</sup> See Initiation Notice at 8601.

<sup>6</sup> See Letter from Nancy Decker, to All Interested Parties (February 12, 2015) (Letter to Parties).

<sup>7</sup> See Letter from AKU and AFPM, "Certain Uncoated Paper from Indonesia: Comments on Customs Data" (February 24, 2015).

<sup>8</sup> See Letter from the petitioners, "Certain Uncoated Paper from Indonesia – Petitioners' Respondent Selection Comments" (February 25, 2015).

<sup>9</sup> See Memorandum to Christian Marsh, "Respondent Selection for the Countervailing Duty Investigation of Uncoated Paper from Indonesia," dated March 25, 2015.

<sup>10</sup> See Certain Uncoated Paper From the People's Republic of China and Indonesia: Postponement of Preliminary Determinations in the Countervailing Duty Investigations, 80 FR 12977 (March 12, 2015).

<sup>11</sup> See Letter from Nancy Decker, "Countervailing Duty Investigation of Certain Uncoated Paper from Indonesia: Countervailing Duty Questionnaire" (March 26, 2015) (Initial CVD Questionnaire).

<sup>12</sup> See Letter from IK, "Questionnaire Responses, Certain Uncoated Paper from Indonesia, Investigation Nos. A-560-828 and C-560-829" (April 7, 2015) (IK Letter); and letter from Great Champ, dated April 8, 2015, and received on April 9, 2015 (Great Champ Letter).

<sup>13</sup> See Letter from the Petitioners, "Certain Uncoated Paper from Indonesia-Petitioners' Respondent Selection Comments in Light of the Withdrawal of Both Mandatory Respondents," dated April 10, 2015.

<sup>14</sup> See Memorandum to Christian Marsh, "Countervailing Duty Investigation of Certain Uncoated Paper from Indonesia: Selection of Additional Mandatory Respondents," dated April 10, 2015.

On April 27, 2015, AFPM submitted its response to the company affiliation section of the initial questionnaire.<sup>15</sup> In this response, AFPM notified the Department that AKU, an Indonesian manufacturer, produced the subject merchandise that AFPM shipped to the United States. On May 6, 2015, we issued a supplemental questionnaire to AKU/AFPM and some of their affiliates with respect to the company affiliation response (hereinafter, we refer to AKU/AFPM and their affiliates, collectively, as the APRIL companies) and we received responses between May 15 and 22, 2015. TK did not respond to the Department's questionnaire.

On May 13, 2015, the petitioners filed new allegations of a countervailable subsidy program to the uncoated paper industry in Indonesia. The petitioners alleged that these subsidies consist of debt forgiveness to the Raja Garuda Mas (RGM) Group and Asia Pacific Resources International Limited companies.<sup>16</sup> The petitioners also alleged that the RGM Group and APRIL companies were uncreditworthy from at least 2002 to 2006, within the meaning of 19 CFR 351.505(a)(4)(i). We initiated an investigation of this alleged subsidy program, and will also investigate RGM/APRIL's creditworthiness for the 2002-2006 period in the context of a post-preliminary analysis.<sup>17</sup>

We received responses to the remainder of the initial questionnaire from the APRIL companies and from the GOI on May 26, 2015. We issued supplemental questionnaires to the APRIL companies and the GOI from May 28 through June 5, 2015, and received responses from June 8 through June 15, 2015.

On June 3, 2015, both the petitioners and the APRIL companies submitted benchmark factual information. Also, on June 3, 2015, the petitioners submitted an additional subsidy allegation based on the initial questionnaire responses. The petitioners alleged that the subsidy consists of special arrangements for the depreciation of tangible assets used by the hardwood plantations and forestry sectors for income tax purposes. We initiated an investigation of this alleged subsidy program which we will examine in the context of a post-preliminary analysis.<sup>18</sup> On June 15, 2015, the parties provided rebuttal benchmark factual information.

## **B. Period of Investigation**

The period of investigation (POI) is January 1, 2014, through December 31, 2014.

---

<sup>15</sup> See Affiliated Company Questionnaire Response, dated April 27, 2015 (Affiliated QR). On April 9, 2015, prior to being selected as a mandatory respondent, AKU/AFPM submitted a similar response and reiterated its request to be a voluntary respondent.

<sup>16</sup> The APRIL companies are part of the Asia Pacific Resources International Limited group of companies, which are in turn part of the Raja Garuda Mas (RGM) Group. The RGM Group has been known as Royal Golden Eagle (RGE) Group since 2009. See the petitioners' May 13, 2015, uncreditworthiness allegation at Exhibit 4.

<sup>17</sup> See Memoranda to Melissa Skinner, "New Subsidy Allegations," and "Uncreditworthiness Allegation for RGM/APRIL," dated June 18, 2015.

<sup>18</sup> See Memorandum to Melissa Skinner, "New Subsidy Allegations," dated June 18, 2015.

### III. ALIGNMENT

On the same day that the Department initiated this CVD investigation, the Department also initiated an AD investigation of certain uncoated paper from Indonesia.<sup>19</sup> The AD and CVD investigations cover the same class or kind of merchandise from the same country. On June 17, 2015, in accordance with section 705(a)(1) of the Act and 19 CFR 351.210(b)(4)(i), the petitioners requested alignment of the final CVD determination with the final AD determination of certain uncoated paper from Indonesia. Therefore, in accordance with section 705(a)(1) of the Act and 19 CFR 351.210(b)(4)(i), we are aligning the final CVD determination in this investigation with the final determination in the companion AD investigation. Consequently, the final CVD determination will be issued on the same date as the final AD determination, which is currently scheduled to be issued no later than November 2, 2015, unless postponed.

### IV. SCOPE COMMENTS

In accordance with the Preamble to the Department's regulations, we set aside a period of time in the Initiation Notice for parties to raise issues regarding product coverage, and we encouraged all parties to submit comments within 20 calendar days of the signature date of that notice.<sup>20</sup> On March 31, 2015, Gartner Studios, Inc. (Gartner Studios), a United States importer and vendor of print and social stationery, requested permission from the Department to submit additional factual information regarding the scope of the investigations of uncoated paper.<sup>21</sup> After the Department granted Gartner Studios' request,<sup>22</sup> Gartner Studios submitted additional factual information and sought guidance regarding the scope coverage on April 14, 2015.<sup>23</sup> Per the Department's request,<sup>24</sup> Gartner Studios provided the Department with samples and the Harmonized Tariff Schedule categories applicable to the specific products for which Gartner Studios requested a clarification to the scope of the investigations.<sup>25</sup> On May 8, 2015, the

---

<sup>19</sup> See Certain Uncoated Paper from Australia, Brazil, the People's Republic of China, Indonesia, and Portugal: Initiation of Less-Than-Fair-Value Investigations, 80 FR 8608 (February 18, 2015).

<sup>20</sup> See Antidumping Duties; Countervailing Duties, 62 FR 27296, 27323 (May 19, 1997) (Preamble); see also Initiation Notice.

<sup>21</sup> See Letter from Gartner Studios, "Certain Uncoated Paper from Australia, Brazil, the People's Republic of China, Indonesia, and Portugal; Request for Permission to Submit Additional Factual Information Regarding the Investigations' Scope," dated March 31, 2015.

<sup>22</sup> See Letter from the Department, "Antidumping Duty Investigations Of Certain Uncoated Paper From Australia, Brazil, The People's Republic Of China, Indonesia, And Portugal; And Countervailing Duty Investigations Of Certain Uncoated Paper From The People's Republic Of China And Indonesia: Gartner Studios's Request For Permission To Submit Additional Factual Information Pertaining To The Scope Of The Investigations," dated April 6, 2015.

<sup>23</sup> See Letter from Gartner Studios, "Antidumping Duty Investigations on Certain Uncoated Paper from Australia, Brazil, the People's Republic of China (PRC), Indonesia, and Portugal, and Countervailing Duty Investigations on Certain Uncoated Paper from Indonesia and the PRC," dated April 14, 2015.

<sup>24</sup> See the Department's Memorandum to the File, "Antidumping Duty Investigations on Certain Uncoated Paper from Australia, Brazil, the People's Republic of China (PRC), Indonesia, and Portugal, and Countervailing Duty Investigations on Certain Uncoated Paper from Indonesia and the PRC: Phone Call with Counsel to Gartner Studios, Inc.," dated April 23, 2015.

<sup>25</sup> See Letter from Gartner Studios, "Antidumping Duty Investigations on Certain Uncoated Paper from Australia, Brazil, the People's Republic of China (PRC),Indonesia, and Portugal, and Countervailing Duty Investigations on Certain Uncoated Paper from Indonesia and the PRC," dated April 28, 2015.

petitioners filed a response to Gartner Studios' request.<sup>26</sup> On May 13, 2015, the Department issued to Gartner Studios a supplemental questionnaire,<sup>27</sup> to which Gartner Studios submitted a response.<sup>28</sup>

We are currently evaluating the scope comments filed by the interested parties. We will issue our preliminary decisions regarding the scope of the AD and CVD investigations either before or in the preliminary determinations of the companion AD investigations, which are due for signature on August 19, 2015. We will incorporate the scope decisions from the AD investigations into the scope of the final CVD determinations after considering any relevant comments submitted in case and rebuttal briefs.

## V. SCOPE OF THE INVESTIGATION

The merchandise covered by this investigation includes uncoated paper in sheet form; weighing at least 40 grams per square meter but not more than 150 grams per square meter; that either is a white paper with a GE brightness level<sup>29</sup> of 85 or higher or is a colored paper; whether or not surface-decorated, printed (except as described below), embossed, perforated, or punched; irrespective of the smoothness of the surface; and irrespective of dimensions (Certain Uncoated Paper).

Certain Uncoated Paper includes (a) uncoated free sheet paper that meets this scope definition; (b) uncoated groundwood paper produced from bleached chemi-thermo-mechanical pulp (BCTMP) that meets this scope definition; and (c) any other uncoated paper that meets this scope definition regardless of the type of pulp used to produce the paper.

Specifically excluded from the scope are (1) paper printed with final content of printed text or graphics and (2) lined paper products, typically school supplies, composed of paper that incorporates straight horizontal and/or vertical lines that would make the paper unsuitable for copying or printing purposes.

Imports of the subject merchandise are provided for under Harmonized Tariff Schedule of the United States (HTSUS) categories 4802.56.1000, 4802.56.2000, 4802.56.3000, 4802.56.4000, 4802.56.6000, 4802.56.7020, 4802.56.7040, 4802.57.1000, 4802.57.2000, 4802.57.3000, and 4802.57.4000. Some imports of subject merchandise may also be classified under 4802.62.1000,

---

<sup>26</sup> See Letter from Petitioners, "Certain Uncoated Paper From Australia, Brazil, The People's Republic Of China, Indonesia, and Portugal: Response To Gartner Studios," dated May 8, 2015.

<sup>27</sup> See Letter from the Department, "Antidumping Duty Investigations Of Certain Uncoated Paper From Australia, Brazil, The People's Republic Of China, Indonesia, and Portugal; and Countervailing Duty Investigations Of Certain Uncoated Paper From The People's Republic Of China and Indonesia: Supplemental Question for Gartner Studios," dated May 13, 2015.

<sup>28</sup> See Letter from Gartner Studios, "Certain Uncoated Paper from Australia, Brazil, the People's Republic of China, Indonesia, and Portugal; Response to Supplemental Question," dated May 18, 2015.

<sup>29</sup> One of the key measurements of any grade of paper is brightness. Generally speaking, the brighter the paper the better the contrast between the paper and the ink. Brightness is measured using a GE Reflectance Scale, which measures the reflection of light off a grade of paper. One is the lowest reflection, or what would be given to a totally black grade, and 100 is the brightest measured grade. "Colored paper" as used in this scope definition means a paper with a hue other than white that reflects one of the primary colors of magenta, yellow, and cyan (red, yellow, and blue) or a combination of such primary colors.

4802.62.2000, 4802.62.3000, 4802.62.5000, 4802.62.6020, 4802.62.6040, 4802.69.1000, 4802.69.2000, 4802.69.3000, 4811.90.8050 and 4811.90.9080. While HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the investigation is dispositive.

## **VI. INJURY TEST**

Because Indonesia is a “Subsidies Agreement Country” within the meaning of section 701(b) of the Act, the U.S. International Trade Commission (ITC) is required to determine whether imports of the subject merchandise from Indonesia materially injure, or threaten material injury to, a U.S. industry. On March 9, 2015, the ITC determined that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of certain uncoated paper from, inter alia, Indonesia.<sup>30</sup>

## **VII. USE OF FACTS OTHERWISE AVAILABLE AND ADVERSE INFERENCES**

Sections 776(a)(1) and (2) of the Act provide that the Department shall, subject to section 782(d) of the Act, use the “facts otherwise available” if necessary information is not on the record or an interested party or any other person: (A) withholds information that has been requested; (B) fails to provide information within the deadlines established, or in the form and manner requested by the Department, subject to subsections (c)(1) and (e) of section 782 of the Act; (C) significantly impedes a proceeding; or (D) provides information that cannot be verified as provided by section 782(i) of the Act.

Section 776(b) of the Act further provides that the Department may use an adverse inference in relying on the facts otherwise available when a party fails to cooperate by not acting to the best of its ability to comply with a request for information. For purposes of this preliminary determination, we find it necessary to rely on adverse facts available (AFA) for Great Champ, IK, and TK,<sup>31</sup> as detailed below.

### **A. Use of Facts Otherwise Available**

As discussed above in the “Case History” section, the Department selected Great Champ, IK, and TK as mandatory respondents and issued the Initial CVD Questionnaire to Great Champ directly, as well as to the GOI, with instructions to provide the questionnaire to IK and TK.<sup>32</sup> Great Champ and IK subsequently notified the Department that they would not be responding to the questionnaire.<sup>33</sup> While TK did not provide such notification,<sup>34</sup> the GOI stated it understood that TK would not be participating in this investigation.<sup>35</sup> As for the GOI, it asserted in its initial

---

<sup>30</sup> See Certain Uncoated Paper from Australia, Brazil, China, Indonesia, and Portugal: Investigation Nos. 701-TA-528-529 and 731-TA-1264-1268 (Preliminary); and Certain Uncoated Paper from Australia, Brazil, China, Indonesia, and Portugal, 80 FR 13890 (March 17, 2015).

<sup>31</sup> TK and IK are part of the Asia Pulp & Paper/Sinar Mas Group (APP/SMG). See Petition at Exhibit IV-10 and IV-12, respectively.

<sup>32</sup> See Initial CVD Questionnaire.

<sup>33</sup> See IK Letter and Great Champ Letter.

<sup>34</sup> Counsel for TK withdrew its notice of appearance on April 10, 2015.

<sup>35</sup> See GOI Initial CVD Questionnaire Response, dated May 26, 2015 (GOI IQR) at 1.

questionnaire response that it was only providing a complete response for the four programs used by the APRIL companies.<sup>36</sup> With respect to the remaining ten programs upon which we initiated, the GOI either provided general descriptions of those programs or stated that it would not provide a response to the program-specific questions since they were not used by the APRIL companies.<sup>37</sup> Nor did the GOI provide any reasons to explain why it was unable to provide the requested information.

As a result of these companies' failure to participate in this investigation and their decisions not to respond to the Initial CVD Questionnaire, we preliminarily find that Great Champ, IK, and TK withheld information that had been requested and failed to provide information within the deadlines established. Further, by not responding to the questionnaire, these companies significantly impeded this proceeding. We reach the same finding for the GOI with respect to those programs for which it failed to provide pertinent information. Thus, in reaching our preliminary determination, pursuant to sections 776(a)(1), (2)(A), (B) and (C) of the Act, we based the CVD rate for Great Champ, IK, and TK on facts otherwise available.

#### B. Application of the AFA Rate: Great Champ IK, and TK

We preliminarily determine that an adverse inference is warranted, pursuant to section 776(b) of the Act, because by not responding to the Initial CVD Questionnaire, Great Champ, IK, and TK failed to cooperate by not acting to the best of their ability to comply with a request for information in this investigation. Accordingly, we preliminarily find that AFA is warranted to ensure that Great Champ, IK, and TK do not obtain a more favorable result by failing to cooperate than had they fully complied with our request for information.<sup>38</sup>

In this investigation, the Department is examining the programs on which we originally initiated the investigation based upon information provided in the Petition.<sup>39</sup> Because the GOI did not provide pertinent information on these ten programs, we are preliminarily making an adverse inference on financial contribution and specificity. Therefore, as AFA, we preliminarily determine that these ten programs provide a financial contribution within the meaning of section 771(5)(D) of the Act, and are specific in accordance with section 771(5A) of the Act. Because Great Champ, IK, and TK failed to act to the best of their ability in this investigation, as discussed above, we are preliminarily making an adverse inference that each of these programs were used by Great Champ, IK, and TK. As AFA, we also preliminarily determine that the programs confer a benefit in accordance with section 771(5)(E) of the Act.

#### C. Selection of the AFA Rate

In deciding which facts to use as AFA, section 776(b) of the Act and 19 CFR 351.308(c)(1) and (2) authorize the Department to rely on information derived from: (1) the petition; (2) a final determination in the investigation; (3) any previous review or determination; or (4) any other information placed on the record. The Department's practice when selecting an adverse rate

---

<sup>36</sup> See GOI IQR at e.g., 1-2, 7, and 44-46.

<sup>37</sup> Id.

<sup>38</sup> See Statement of Administrative Action accompanying the Uruguay Round Agreements Act, H.R. Doc. 103-316, Vol. I, at 870 (1994), reprinted at 1994 U.S.C.C.A.N. 4040, 4199 (SAA).

<sup>39</sup> See Initiation Checklist at 7-19.

from among the possible sources of information is to ensure that the rate is sufficiently adverse “as to effectuate the statutory purposes of the adverse facts available rule to induce respondents to provide the Department with complete and accurate information in a timely manner.”<sup>40</sup> The Department’s practice also ensures “that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully.”<sup>41</sup>

It is the Department’s practice in CVD proceedings with cooperative respondents to compute an AFA rate for the non-cooperating company(ies) using the highest calculated program-specific rates determined for the cooperating respondents in the instant investigation, or, if not available, rates calculated in prior CVD cases involving the same country.<sup>42</sup> Specifically, the Department applies the highest calculated rate for the identical program in the investigation if a responding company used the identical program, even if the rate is *de minimis*, excluding a rate of zero. If no responding company used the identical program in the instant case, or if the rate of the identical case is zero, the Department will use the rate from the identical program from another CVD proceeding involving the same country, unless the rate is *de minimis*. If there is no identical program match within the investigation, or if the rate from the identical program from another CVD proceeding involving the same country is *de minimis*, the Department uses the highest above-*de minimis* rate calculated for the same or for a similar program (based on treatment of the benefit) in another CVD proceeding involving the same country so long as the producer of the subject merchandise or the industry to which it belongs could have used the programs for which the rates were calculated. Absent an above-*de minimis* subsidy rate calculated for the same or for a similar program, the Department applies the highest calculated subsidy rate for any program otherwise identified in a CVD case involving the same country that could conceivably be used by the non-cooperating company(ies).<sup>43</sup>

In applying AFA to Great Champ, IK, and TK, we are guided by the Department’s methodology detailed above. We begin by selecting, as AFA, the highest calculated identical program-specific (non-zero) rates determined for the cooperating respondents in the instant investigation. Accordingly, we are applying the subsidy rate we calculated for the APRIL companies for the following programs:

---

<sup>40</sup> See, e.g., Drill Pipe From the People’s Republic of China: Final Affirmative Countervailing Duty Determination, Final Affirmative Critical Circumstances Determination, 76 FR 1971 (January 11, 2011); see also Notice of Final Determination of Sales at Less Than Fair Value: Static Random Access Memory Semiconductors From Taiwan, 63 FR 8909, 8932 (February 23, 1998).

<sup>41</sup> See SAA, at 870.

<sup>42</sup> See, e.g., Certain Tow-Behind Lawn Groomers and Certain Parts Thereof from the People’s Republic of China: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Countervailing Duty Determination with Final Antidumping Duty Determination, 73 FR 70971, 70975 (November 24, 2008) (unchanged in Certain Tow-Behind Lawn Groomers and Certain Parts Thereof From the People’s Republic of China: Final Affirmative Countervailing Duty Determination, 74 FR 29180 (June 19, 2009) and accompanying Issues and Decision Memorandum at “Application of Facts Available, Including the Application of Adverse Inferences”); Aluminum Extrusions From the People’s Republic of China: Final Affirmative Countervailing Duty Determination, 76 FR 18521 (April 4, 2011), and accompanying Issues and Decision Memorandum at “Application of Adverse Inferences: Non-Cooperative Companies;” and Circular Welded Carbon-Quality Steel Pipe From India: Final Affirmative Countervailing Duty Determination, 77 FR 64468 (October 22, 2012) and accompanying Issues and Decision Memorandum at “Selection of the Adverse Facts Available Rate.”

<sup>43</sup> Id.; see also, e.g., Lightweight Thermal Paper from the People’s Republic of China: Final Affirmative Countervailing Duty Determination, 73 FR 57323 (October 2, 2008), and accompanying Issues and Decision Memorandum at 8-10.

- **Provision of Standing Timber for Less Than Adequate Remuneration**
- **Government Prohibition of Log Exports**

For all programs other than those previously mentioned, we are applying, where available, the highest subsidy rate calculated for the same or similar program in a CVD investigation or administrative review involving Indonesia.<sup>44</sup> For this preliminary determination, we are able to match based on program name, description,<sup>45</sup> and treatment of the benefit, the following programs to the same programs from other CVD proceedings involving Indonesia:

- **Debt Forgiveness through the Indonesian Government’s Acceptance of Financial Instruments with No Market Value<sup>46</sup>**
- **Debt Forgiveness through APP/SMG’s Buyback of Its Own Debt from the GOI<sup>47</sup>**
- **Export Financing from Export-Import Bank of Indonesia<sup>48</sup>  
Export Credit Guarantees<sup>49</sup>**
- **Exemptions from Import Income Tax Withholding for Companies in Bonded Zone Locations<sup>50</sup>**

For the following programs we were unable to find a similar program based on program type and treatment of the benefit from other CVD proceedings involving Indonesia:

- **Export Credit Insurance**
- **Tax Incentives for Investment in Specified Business Lines and/or in Specified Regions by Indonesia’s Investment Coordinating Board (BKPM) – Corporate Income Tax Deduction**
- **Tax Incentives for Investment in Specified Business Lines and/or in Specified Regions by BKPM – Accelerated Depreciation and Amortization**
- **Tax Incentives for Investment in Specified Business Lines and/or in Specified Regions by BKPM – Extension of Loss Carry-Forwards**
- **Preferential Treatment for Bonded Zone Locations – Waiver of License and Fee Requirements**
- **Exemptions From Sales Taxes for Capital Goods and Equipment Used to Produce Exports**

<sup>44</sup> We did not include the two debt forgiveness programs listed below, *i.e.*, Debt Forgiveness through the Indonesian Government’s Acceptance of Financial Instruments with No Market Value, and Debt Forgiveness through APP/SMG’s Buyback of Its Own Debt from the GOI, in our AFA rate analysis for Great Champ, as these programs were specific to APP/SMG (which includes IK and TK).

<sup>45</sup> For descriptions of these programs, see Initiation Checklist at 7-19.

<sup>46</sup> See Coated Free Sheet Paper from Indonesia: Final Affirmative Countervailing Duty Determination, 72 FR 60642 (October 25, 2007) (CFS Final), and accompanying Issues and Decision Memorandum (CFS IDM) at “4. Debt Forgiveness Through the GOI’s Acceptance of Instruments that Had No Market Value.”

<sup>47</sup> See CFS Final, and CFS IDM at “VI.A.5. Debt Forgiveness through SMG/APP’s the Buyback of its Own Debt from the GOI.”

<sup>48</sup> See Final Affirmative Countervailing Duty Determination: Certain Cut-to-Length Carbon-Quality Steel Plate from Indonesia, 64 FR 73155, 73161-2 (December 29, 1999), at “F. Rediscount Loan Program.”

<sup>49</sup> Id.

<sup>50</sup> Id. The name of the program we initiated on was “Preferential Treatment for Bonded Zone Locations-Income Tax Reductions on Imported Capital Goods, Equipment, and Raw Materials for the Portion of the Production Destined for Export.” We revised the title of the program based on the description provided by the GOI.

With respect to the program rate for the three above-mentioned income tax programs alleged in the petition, which pertain to the reduction of income tax paid, we applied an adverse inference that Great Champ, IK, and TK paid no income tax during the POI. The standard income tax rate for corporations in Indonesia in effect during the POI was 25 percent.<sup>51</sup> Thus, the highest possible benefit for these three income tax programs is 25 percent. Accordingly, we are applying the 25 percent AFA rate on a combined basis (*i.e.*, the three programs combine to provide a 25 percent benefit).

For each of the other programs, we used the highest calculated rate from any non-company-specific program, 14.21 percent,<sup>52</sup> from other CVD proceedings involving Indonesia.

Accordingly, we preliminarily determine the AFA countervailable subsidy rate for Great Champ to be 125.97 percent ad valorem, and for IK and TK to be 131.12 percent ad valorem.<sup>53</sup>

#### D. Corroboration of Secondary Information

Section 776(c) of the Act provides that, when the Department relies on secondary information rather than on information obtained in the course of an investigation or review, it shall, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal. Secondary information is defined as “information derived from the petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 concerning the subject merchandise.”<sup>54</sup> The SAA provides that to “corroborate” secondary information, the Department will satisfy itself that the secondary information to be used has probative value.<sup>55</sup>

The Department will, to the extent practicable, examine the reliability and relevance of the information to be used. The SAA emphasizes, however, that the Department need not prove that the selected facts available are the best alternative information.<sup>56</sup>

With regard to the reliability aspect of corroboration, unlike other types of information, such as publicly available data on the national inflation rate of a given country or national average interest rates, there typically are no independent sources for data on company-specific benefits resulting from countervailable subsidy programs. Moreover, as stated above, we are applying subsidy rates which were calculated in previous CVD investigations or reviews. Additionally, no information has been presented which calls into question the reliability of these previously calculated subsidy rates. With respect to the relevance aspect of corroboration, the Department will consider information reasonably at its disposal in considering the relevance of information used to calculate a countervailable subsidy benefit. The Department will not use information where circumstances indicate that the information is not appropriate as AFA.<sup>57</sup>

---

<sup>51</sup> See GOI Supplemental Questionnaire Response, dated June 15, 2015 (GOI SQR) at 2.

<sup>52</sup> See CFS Final, and CFS IDM at “1. GOI Provision of Standing Timber for Less Than Adequate Remuneration.”

<sup>53</sup> See Section VII.D. below for program-specific rates.

<sup>54</sup> See SAA, at 870.

<sup>55</sup> *Id.*

<sup>56</sup> *Id.*, at 869-870.

<sup>57</sup> See, e.g., Fresh Cut Flowers From Mexico: Final Results of Antidumping Duty Administrative Review, 61 FR 6812 (February 22, 1996).

In the absence of record evidence concerning the alleged programs, the Department reviewed the information concerning Indonesian subsidy programs in other cases. Where we have a program-type match, we find that, because these are the same or similar programs, they are relevant to the programs in this case. Additionally, the relevance of these rates is that they are actual calculated CVD rates for Indonesia programs from which the non-cooperative respondents could actually receive a benefit. Thus, due to the lack of participation of Great Champ, IK and TK, and the resulting lack of record information concerning these programs as they relate to these companies, the Department has corroborated the rates it selected to use as AFA to the extent practicable for this preliminary determination.

D. Preliminary AFA Rates Determined for Programs Used by Great Champ, IK, and TK

As explained above, we are making the adverse inference that Great Champ, IK, and TK received countervailable subsidies under each of the subsidy programs that the Department included in its initiation.<sup>58</sup> Listed below are the AFA rates applicable to each program.

---

<sup>58</sup> While we initiated an investigation of “Exemption from Import Duties for Capital Goods and Equipment for Companies in Bonded Zone Locations,” we are preliminarily finding this program not countervailable and, therefore, we have not included it in the AFA rate calculation. For further discussion, see section “IX. Analysis of Programs,” below.

Program	Subsidy Rate (%)
Provision of Standing Timber for Less Than Adequate Remuneration <sup>59</sup>	28.20
Government Prohibition of Log Exports <sup>60</sup>	14.99
Exemptions from Import Income Tax Withholding for Companies in Bonded Zone Locations <sup>61</sup>	5.05
Export Financing from Export-Import Bank of Indonesia	5.05
Export Credit Insurance	14.21
Export Credit Guarantees	5.05
Income Tax Programs: <ul style="list-style-type: none"> <li>• Tax Incentives for Investment in Specified Business Lines and/or in Specified Regions by Indonesia’s Investment Coordinating Board (BKPM) – Corporate Income Tax Deduction</li> <li>• Tax Incentives for Investment in Specified Business Lines and/or in Specified Regions by BKPM – Accelerated Depreciation and Amortization</li> <li>• Tax Incentives for Investment in Specified Business Lines and/or in Specified Regions by BKPM – Extension of Loss Carry-Forwards</li> </ul>	25.00
Preferential Treatment for Bonded Zone Locations – Waiver of License and Fee Requirements	14.21
Exemptions From Sales Taxes for Capital Goods and Equipment Used to Produce Exports	14.21
<b>Total AFA Rate Before Adding Company-Specific Subsidy Programs</b>	<b>125.97</b>

Great Champ (No Company-Specific Subsidy Programs)	Rate %
<b>Total AFA Rate</b>	<b>125.97</b>

IK/TK (Including Company-Specific Subsidy Programs)	Rate %
Debt Forgiveness through the Indonesian Government’s Acceptance of Financial Instruments with No Market Value	0.75
Debt Forgiveness through APP/SMG’s Buyback of Its Own Debt from the GOI	4.40
<b>Total AFA Rate for APP Companies</b>	<b>131.12</b>

<sup>59</sup> For further discussion, see section “IX. Analysis of Programs,” below.

<sup>60</sup> Id.

<sup>61</sup> Id.

## VIII. SUBSIDIES VALUATION

### A. Allocation Period

The Department normally allocates the benefits from non-recurring subsidies over the average useful life (AUL) of renewable physical assets of the industry under consideration. Pursuant to 19 CFR 351.524(d)(2) and the U.S. Internal Revenue Service's Table of Class Lives and Recovery Periods, the AUL for assets used to manufacture certain uncoated paper is 13 years.<sup>62</sup> No party in this proceeding disputes this allocation period.

Furthermore, for non-recurring subsidies, we apply the "0.5 percent test," as described in 19 CFR 351.524(b)(2). Under this test, we divide the amount of subsidies approved under a given program in a particular year by the relevant sales value (*e.g.*, total sales or export sales) for the same year. If the amount of the subsidies is less than 0.5 percent of the relevant sales value, then the benefits are allocated to the year of receipt rather than across the AUL.

### B. Attribution of Subsidies

*Cross Ownership:* In accordance with 19 CFR 351.525(b)(6)(i), the Department normally attributes a subsidy to the sales of products domestically produced by the company that received the subsidy. However, 19 CFR 351.525(b)(6)(ii)-(v) provides additional rules for the attribution of subsidies received by respondents with cross-owned affiliates. Subsidies to the following types of cross-owned affiliates are covered in these additional attribution rules: (ii) producers of the subject merchandise; (iii) holding companies or parent companies; (iv) producers of an input that is primarily dedicated to the production of the downstream product; or (v) an affiliate producing non-subject merchandise that otherwise transfers a subsidy to a respondent.

According to 19 CFR 351.525(b)(6)(vi), cross-ownership exists between two or more corporations where one corporation can use or direct the individual assets of the other corporation(s) in essentially the same ways it can use its own assets. This section of the Department's regulations states that this standard will normally be met where there is a majority voting ownership interest between two corporations or through common ownership of two (or more) corporations. The CVD Preamble to the Department's regulations further clarifies the Department's cross-ownership standard. According to the CVD Preamble, relationships captured by the cross-ownership definition include those where:

the interests of two corporations have merged to such a degree that one corporation can use or direct the individual assets (or subsidy benefits) of the other corporation in essentially the same way it can use its own assets (or subsidy benefits) . . . Cross-ownership does not require one corporation to own 100 percent of the other corporation. Normally, cross-ownership will exist where there is a majority voting ownership interest between two corporations or through common ownership of two (or more) corporations. In certain circumstances, a

---

<sup>62</sup> See U.S. Internal Revenue Service Publication 946 (2013), "Appendix B – Table of Class Lives and Recovery Periods," submitted in the Petition at Volume IV, Exhibit IV-1.

large minority voting interest (for example, 40 percent) or a “golden share” may also result in cross-ownership.<sup>63</sup>

Thus, the Department’s regulations make clear that the agency must look at the facts presented in each case in determining whether cross-ownership exists. The U.S. Court of International Trade has upheld the Department’s authority to attribute subsidies based on whether a company could use or direct the subsidy benefits of another company in essentially the same way it could use its own subsidy benefits.<sup>64</sup>

As noted above, AFPM notified the Department that it is a trading company located in Macao that exports, but does not produce, subject merchandise.<sup>65</sup> It is part of a group of companies including forestry/logging companies, pulp producers, and paper producers linked by varying degrees of common ownership.

In this investigation, we are examining whether the producers/exporters of the subject merchandise are cross-owned with one another, and with their input suppliers, as outlined in 19 CFR 351.525(b)(6)(iv). The alleged subsidies pertaining to stumpage that we are investigating are conferred on the forestry/logging companies which harvest standing timber and sell pulpwood to the pulp producers that supply pulp to the paper producers/exporters. Therefore, we must examine whether cross-ownership exists among and across the suppliers of pulpwood, the pulp producers, and the paper producers/exporters. Accordingly, the companies under examination are as follows:<sup>66</sup>

- **AFPM** – exporter of subject merchandise;
- **AKU** – producer of subject merchandise;
- **PT Riau Andalan Kertas (RAK)** - producer of subject merchandise;
- **PT Intiguna Primatama (IP)** - producer and supplier to AKU of pulp which AKU uses in the production of subject merchandise;
- **PT Riau Andalan Pulp & Paper (RAPP)** - harvester of standing timber and producer of woodchip and pulp; supplier of woodchip to IP and pulp to RAK; and
- **PT Esensindo Cipta Cemerlang (ECC)** – producer and supplier to AKU and RAK of filler, used in the production of subject merchandise.<sup>67</sup>

Based on Asia Pacific Resources International Holdings Limited (Bermuda) ultimate majority ownership of the companies listed above (with the exception of ECC, as discussed below), we preliminarily find that these companies are cross-owned within the meaning of 19 CFR 351.525(b)(6)(vi).

---

<sup>63</sup> See Countervailing Duties, 63 FR 65348, 65401 (November 25, 1998) (CVD Preamble).

<sup>64</sup> See Fabrique de Fer de Charleroi, SA v. United States, 166 F. Supp. 2d 593, 600-604 (CIT 2001).

<sup>65</sup> See Affiliated QR.

<sup>66</sup> While PT Riau Prima Energi and PT Asia Prima Kimiaraya, suppliers of electricity and steam to the APRIL companies, respectively, provided responses to our Initial CVD Questionnaire, we preliminarily determine not to attribute any of their subsidies to the paper producers under examination.

<sup>67</sup> See Affiliated QR, AKU IQR, and AKU SQR.

AKU and RAK are producers of the subject merchandise. Therefore, in accordance with 19 CFR 351.525(b)(6)(ii), we attributed subsidies that these companies received to the combined sales of these companies, net of intercompany sales.

RAPP produced and supplied inputs to IP and RAK. IP used the input it received (*i.e.*, woodchips) to produce an intermediate product (*i.e.*, pulp), which in turn, AKU used to produce paper. RAK used the input it received (*i.e.*, pulp) to produce paper. Hence, these inputs are dedicated to the production of higher value-added products (including paper) by IP, RAK, and AKU. As such, these inputs are “merely {links} in the overall production chain.”<sup>68</sup> Therefore, we preliminarily find that the inputs RAPP supplied to IP and RAK, and that IP supplied to AKU, are primarily dedicated to the production of paper, pursuant to 19 CFR 351.525(b)(6)(iv).<sup>69</sup> Regarding attribution of the subsidies that RAPP and IP received, 19 CFR 351.525(b)(6)(iv) states the following:

If there is cross-ownership between an input supplier and a downstream producer, and production of the input product is primarily dedicated to production of the downstream product, the Secretary will attribute subsidies received by the input producer to the combined sales of the input and downstream products produced by both corporations (excluding the sales between the two corporations).

Therefore, pursuant to 19 CFR 351.525(b)(6)(iv), we preliminarily attributed subsidies received by RAPP to the combined sales of RAPP, IP, and the subject merchandise producers (*i.e.*, AKU and RAK), net of intercompany sales. We attributed subsidies received by IP to the combined sales of IP and the subject merchandise producers (AKU and RAK), net of intercompany sales.<sup>70</sup>

The APRIL companies reported that ECC was 51 percent owned by a third party company Imerys Pigment Pte. Ltd. (now known as Imerys Asia Pacific Pte. Ltd. (Singapore)); while the APRIL company group controls 49 percent of ECC’s shares.<sup>71</sup> Furthermore, ECC supplies virtually all of the filler used in the production of the subject merchandise by AKU and RAK.<sup>72</sup> Much of the corporate information with respect to the relationship between ECC and the APRIL companies is business proprietary and therefore is discussed in the Preliminary Calculation Memorandum.<sup>73</sup> For the reasons explained in that memorandum, we preliminarily find ECC to

---

<sup>68</sup> See CVD Preamble.

<sup>69</sup> See Certain Coated Paper from Indonesia: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Countervailing Duty Determination with Final Antidumping Duty Determination, 75 FR 10761 (March 9, 2010) (CCP Prelim), unchanged in Certain Coated Paper Suitable for High-Quality Print Graphics Using Sheet-Fed Presses from Indonesia: Final Affirmative Countervailing Duty Determination, 75 FR 59209 (September 27, 2010) (CCP Final).

<sup>70</sup> See, e.g., Certain Coated Paper Suitable for High-Quality Print Graphics Using Sheet-Fed Presses From the People’s Republic of China: Final Affirmative Countervailing Duty Determination, 75 FR 59212 (September 27, 2010) (Coated Paper from the PRC), and accompanying Issues and Decision Memorandum at 9-10, where we discuss the attribution methodology for cross-owned input suppliers under a similar corporate structure.

<sup>71</sup> See AKU IQR at 9, and Affiliated QR at Attachment 3.

<sup>72</sup> See AKU Supplemental Questionnaire Response, dated June 15, 2015 (AKU SQR), at 7-8.

<sup>73</sup> See Memorandum to the File, “Preliminary Determination Benefit Calculations for the APRIL Companies,” dated concurrently with this memorandum (Preliminary Calculation Memorandum).

be cross-owned with the APRIL companies within the meaning of 19 CFR 351.525(b)(6)(vi). In addition, we preliminarily find that the input supplied by ECC to AKU and RAK can be used, in whole or in part, in the production of subject merchandise or in intermediate goods that are subsequently used to make subject merchandise. Thus we find that filler provided by ECC is primarily dedicated to the production of paper, pursuant to 19 CFR 351.525(b)(6)(iv). Accordingly, we are preliminarily attributing subsidies received by ECC to the combined sales of ECC and the subject merchandise producers (AKU and RAK), net of intercompany sales.

i. Entered Value Adjustment

The APRIL companies reported that AKU's affiliate, AFPM, issued invoices for AKU's sales of subject merchandise to the United States. Thus, the APRIL companies requested the Department make an adjustment to the calculated subsidy rate to account for the mark-up between the export value from Indonesia and the entered value of subject merchandise into the United States.

The APRIL companies stated that the adjustment is appropriate for the following reasons: 1) the U.S. invoice is issued through AKU's affiliate, AFPM, and includes a mark-up from the invoice issued from AKU to AFPM; 2) the exporter, AKU, and the party that invoices the customer, AFPM, are affiliated; 3) the U.S. invoice establishes the customs value to which countervailing duties are applied; 4) there is a one-to-one correlation between the AKU invoice and the AFPM invoice; 5) the merchandise is shipped directly to the United States; and 6) the invoices can be tracked as back-to-back invoices that are identical except for price.<sup>74</sup>

The Department has a practice of making an adjustment to the calculated subsidy rate when the sales value used to calculate that subsidy rate does not match the entered value of the merchandise, e.g., where subject merchandise is exported to the United States with a mark-up from an affiliated company, and where the respondent can provide data to demonstrate that the six criteria above are met.<sup>75</sup> In the instant case, the information submitted by the APRIL companies supports their claim and the information also permits an accurate calculation of the adjustment. Therefore, we preliminarily made the adjustment.<sup>76</sup>

### C. Denominators

When selecting an appropriate denominator for use in calculating the ad valorem subsidy rate, the Department considers the basis for the respondents' receipt of benefits under each program. Where the program has been found to be countervailable as a domestic subsidy, we use the recipient's total sales as the denominator. Similarly, where the program has been found to be countervailable as an export subsidy, we use the recipient's total export sales as the denominator. In the "Programs Preliminarily Determined to be Countervailable" section, below, we describe the denominators we used to calculate the countervailable subsidy rates for the various subsidy programs.

---

<sup>74</sup> See AKU IQR at 3, 13-14, and Exhibit 28; and AKU SQR at 8-10.

<sup>75</sup> See Multilayered Wood Flooring From the People's Republic of China: Final Affirmative Countervailing Duty Determination, 76 FR 64313 (October 18, 2011), and accompanying Issues and Decision Memorandum at 7-8.

<sup>76</sup> See Preliminary Calculation Memorandum.

## D. Benchmark Interest Rates

19 CFR 351.509(a)(2) states that when a program provides for a deferral of direct taxes, a benefit exists to the extent that appropriate interest charges are not collected. For purposes of this preliminary determination, and consistent with 19 CFR 351.505(a)(2)(iv), we used the Indonesian short-term monthly lending rates in foreign currency, as compiled by the International Monetary Fund in its International Financial Statistics.<sup>77</sup>

## IX. ANALYSIS OF PROGRAMS

Based upon our analysis of the record and the responses to our questionnaires, we preliminarily determine the following.

### A. Programs Preliminarily Determined to Be Countervailable

#### 1. Provision of Standing Timber for Less Than Adequate Remuneration

The petitioners contend that the GOI controls nearly all of Indonesia's harvestable forest land and leases logging rights to companies, charging a royalty (stumpage rate) for the right to harvest roundwood (i.e., logs). The petitioners claim that numerous studies and the Department's determinations in CCP Final and CFS Final demonstrate that the stumpage rates charged by the GOI are far less than the value of the stumpage.<sup>78</sup>

In both the CFS and CCP investigations, the GOI reported that virtually all harvestable forest land is owned by the GOI.<sup>79</sup> While GOI has reported harvest from private forest land ownership in Indonesia has increased since the CFS and CCP investigations, the GOI reports that it still owned the vast majority of the forest land in Indonesia during the POI.<sup>80</sup> We found that the GOI allows timber to be harvested from government-owned land under two main types of concession licenses: (1) IUPHHK HPH licenses to harvest timber in the natural forest; and (2) IUPHHK HTI licenses to harvest timber from plantations. During the POI, the official fee of IUPHHK was regulated by Minister of Forestry Regulation No. 76/Menhut-II/2014. This fee depends on the size and location of the forest area. Each time a company harvests timber, pursuant to its IUPHHK, the company must issue a production report. Fees charged by the GOI for Provisi Sumber Daya Hutan (PSDH), Dana Reboisasi (DR), and Penggantian Nilai Tegakan (PNT) are

---

<sup>77</sup> While we requested a short-term loan interest rate benchmark from the respondent, the respondent provided a short-term interest rate associated with bank cash deposits, rather than a short-term loan. Therefore, we were unable to use this information in the preliminary determination. See AKU SQR at 19-20.

<sup>78</sup> See Certain Coated Paper Suitable for High-Quality Print Graphics Using Sheet-Fed Presses from Indonesia: Final Affirmative Countervailing Duty Determination, 75 FR 59209 (September 27, 2010) (CCP Final), and accompanying Issues and Decision Memorandum (CCP IDM); CFS Final and CFS IDM. This program was also found to provide a benefit in Final Affirmative Countervailing Duty Determination and Final Negative Critical Circumstances Determination: Certain Lined Paper Products from Indonesia, 71 FR 47174 (August 16, 2006), and accompanying Issues and Decision Memorandum.

<sup>79</sup> See CFS Final and CFS IDM at 18; and CCP Final and CCP IDM at 12.

<sup>80</sup> See GOI IQR at 12 ("the proportion of forest areas on state-owned land and privately-owned land... is around 88% and 12% (respectively)"). The GOI derived these percentages using the harvests from private lands and state-owned forest areas. See GOI IQR at 8 and Exhibit 4.

calculated based on this production report.<sup>81</sup> HTI license holders pay PSDH fees (“cash stumpage” or royalty fees) based on the per unit of timber harvested. In addition to paying PSDH fees, HPH license holders pay DR fees (per-unit rehabilitation fees) and PNT fees (replacement of stumpage fees) for timber harvested from natural forests. According to the GOI, the purpose of the IUPHHK, PSDH, DR and PNT is to implement sustainable forestry management.<sup>82</sup>

Based on the foregoing facts, we preliminarily determine that the provision of standing timber provides a financial contribution as described in section 771(5)(D)(iii) of the Act.

Information provided by the GOI recognizes 32 industry categories for goods in Indonesia. Of these 32 categories, standing timber was provided by the GOI to four industries during the POI, including the paper industry.<sup>83</sup> As such, we preliminarily determine that the provision of stumpage is specific in accordance with section 771(5A)(D)(iii) of the Act, because it is limited to a group of industries.

The provision of standing timber provides a benefit as described in section 771(5)(E)(iv) of the Act, to the extent that the GOI received less than adequate remuneration, when measured against a market benchmark for stumpage. The Department’s regulations at 19 CFR 351.511(a)(2) set forth the basis for identifying benchmarks to determine whether a government good or service is provided for less than adequate remuneration. These potential benchmarks are listed in hierarchical order by preference: (1) market prices from actual transactions within the country under investigation; (2) world market prices that would be available to purchasers in the country under investigation; or (3) an assessment of whether the government price is consistent with market principles. This hierarchy reflects a logical preference for achieving the objectives of the statute. The most direct means of determining whether the government required adequate remuneration is by comparison with private transactions for a comparable good or service in the country. Thus, the preferred benchmark in the hierarchy is an observed market price for the good, in the country under investigation, from a private supplier (or, in some cases, from a competitive government auction) located either within the country or outside the country (the latter transaction would be in the form of an import). This preference is because such prices generally would be expected to reflect most closely the commercial environment of the purchaser under investigation.

In accordance with the first preference in the hierarchy, to determine the existence and extent of the benefit, we would need to identify an observed market stumpage price from a private supplier in Indonesia. As noted above, the GOI reported private forests accounted for only 12 percent of the total harvest in 2014 (5,320,695 m<sup>3</sup> out of a total of 45,034,394 m<sup>3</sup>).<sup>84</sup> Additionally, in CFS

---

<sup>81</sup> IUPHHK, previously known as “Iuran Hak Pengusahaan Hutan/Iuran Hasil Hutan,” was established in 1967 based on Government Regulation No. 22 tahun 1967. Later, in 2007, based on Government Regulation No. 6 of 2007, Iuran Hasil Hutan became PSDH and DR. PNT was established in 2014 based on Minister of Forestry Regulation No. 52 of 2014. The calculation rates for PSDH, DR, and PNT were established pursuant to the Minister of Forestry Regulation No. 18 of 2007, which was replaced by the Minister of Forestry Regulation No. 52 of 2014. See GOI IQR at 14.

<sup>82</sup> See GOI IQR at 12-15 and Exhibit 8.

<sup>83</sup> See GOI SQR at 3-4.

<sup>84</sup> See GOI IQR at 8 and Exhibit 4.

Final, the Department found that there were only 233,811 hectares of private forest land out of 57 million hectares in Indonesia.<sup>85</sup> The GOI did not provide any updated information on the percentage of government ownership of forest land other than the total harvest from publicly- and privately-owned forests. Thus, the GOI plays a predominant role in the market for standing timber. As such, we preliminarily determine that there are no market-determined stumpage fees in Indonesia upon which to base a “first tier” benchmark. Furthermore, because standing timber cannot be imported, there are no actual stumpage import prices to consider. This is consistent with our findings in CFS Final and CCP Final.

A “second tier” benchmark, according to the regulations, relies on world market prices that would be available to the purchasers in the country in question, though not necessarily reflecting prices of actual transactions involving the particular producer. In selecting a world market price under this second approach, the Department examines the facts on the record regarding the nature and scope of the market for that good to determine if that market price would be available to an in-country purchaser. As discussed in the CVD Preamble, the Department will consider whether the market conditions in the country are such that it is reasonable to conclude that a purchaser in the country could obtain the good or service on the world market. For example, a European price for electricity normally would not be an acceptable comparison price for electricity provided by a Latin American government, because electricity from Europe in all likelihood would not be available to consumers in Latin America. However, as another example, the world market price for commodity products, such as certain metals and ores, or for certain industrial and electronic goods commonly traded across borders, could be an acceptable comparison price for a government-provided good, provided that it is reasonable to conclude from record evidence that the purchaser would have access to such internationally traded goods.<sup>86</sup>

The APRIL companies suggested that the most accurate and preferred methodology for calculating the stumpage benchmark under the second tier would be to compare Indonesian stumpage fees with the stumpage fees in another country such as Malaysia. However, standing timber (and stumpage fees) in one country are not available to users in another country because standing timber cannot be traded across borders; only the logs produced from the standing timber can be traded. Thus, there are no world market prices for stumpage, and, therefore, we cannot apply a “second tier” benchmark.<sup>87</sup>

Because we are not able to conduct our analysis under the “second tier” of the regulations, consistent with the hierarchy, we are preliminarily measuring the adequacy of remuneration by assessing whether the government price is consistent with market principles (i.e., the “third tier” as described in the Department’s regulations). This approach is set forth in 19 CFR 351.511(a)(2)(iii) and is explained further in the CVD Preamble at 65378:

Where the government is the sole provider of a good or service, and there are no world market prices available or accessible to the purchaser, we will assess whether the government price was set in accordance with market principles

---

<sup>85</sup> See CFS Final and CFS IDM at 18.

<sup>86</sup> See CVD Preamble at 65377.

<sup>87</sup> See CCP Final and CCP IDM at 8.

through an analysis of such factors as the government's price-setting philosophy, costs (including rates of return sufficient to ensure future operations), or possible price discrimination.

The regulations do not specify how the Department is to conduct such a market principles analysis. By its nature, the analysis depends upon available information concerning the market sector at issue and, therefore, must be developed on a case-by-case basis.

The GOI did not provide information or documentation to demonstrate that the stumpage fees it charges are established in accordance with market principles. Although the PSDH, DR and PNT fees are established as percentages of the reference price of forest products, we cannot conclude that the reference price is reflective of market principles or is a market-determined price. However, because a log export ban is in place (see further discussion below), the reference price is currently determined solely from domestic prices.<sup>88</sup> Through its ownership of a large majority of Indonesia's harvestable forests, the GOI has almost complete control over access to the timber supply. In addition, the ban on the export of logs affects the price for logs.<sup>89</sup> As such, the reference prices for logs cannot be considered to be market-based. Furthermore, the percentage that is applied to the reference price to calculate the PSDH, DR, and PNT fees is administratively set by the GOI. Thus, we preliminarily determine that the stumpage fees, charged by the GOI as a percentage of a non-market-determined reference price, are not based on market principles.<sup>90</sup>

Because the government price is not set in accordance with market principles, we looked for an appropriate proxy to determine a market-based stumpage benchmark. It is generally accepted that the market value of timber is derivative of the value of the downstream products. The species, dimension, and growing condition of a tree largely determine the downstream products that can be produced from a tree; the value of a standing tree is derived from the demand for logs produced from that tree and the demand for logs is, in turn, derived from the demand for the products produced from those logs.<sup>91</sup>

Both the petitioners and respondents made recommendations for the appropriate basis for calculating benchmark prices. The petitioners note that in both the CFS and CCP cases, the Department selected Malaysian pulp log export prices as reported by World Trade Atlas as a reliable proxy for establishing a market-based benchmark price, consistent with 19 CFR 351.511(a)(2)(iii).<sup>92</sup> Accordingly, in this investigation they provided Malaysian pulp log export prices from Global Trade Atlas (GTA) for various species of pulpwood, including acacia mangium and certain species of mixed hardwood (MHW) reported as harvested or purchased by the APRIL companies. The GTA data did not include Malaysian export price data for eucalyptus, an acacia sub-species that the APRIL companies also harvested. As there is limited

---

<sup>88</sup> See GOI IQR at Exhibit 8.4.

<sup>89</sup> See GOI SQR at 5-6.

<sup>90</sup> See Coated Free Sheet Paper from Indonesia: Notice of Preliminary Affirmative Countervailing Determination, 71 FR 17498 (April 9, 2007), unchanged in CFS Final.

<sup>91</sup> See, e.g., Notice of Final Results of Countervailing Duty Administrative Review and Rescission of Certain Company-Specific Reviews: Certain Softwood Lumber Products from Canada, 69 FR 75917 (December 20, 2004), and the accompanying Issues and Decision Memorandum at 16-18.

<sup>92</sup> CCP IDM at V.A.1 (pages 9-12) (excluding shipments to Indonesia), V.A.2 (page 13); CFS IDM at VI.A.1 (pages 20-25), VI.A.2 (page 34).

data available from Malaysia for eucalyptus pulpwood, the petitioners provided alternative external benchmark data for eucalyptus from World Timber Price Quarterly, which includes quarterly 2014 prices for eucalyptus pulpwood from Portugal and Brazil, and eucalyptus chip from Chile.<sup>93</sup>

The APRIL companies provided information related to stumpage fees for timber harvesting in the Malaysian State of Sarawak, and relevant GTA export data for Malaysia, Uruguay, and South Africa.<sup>94</sup>

For the purposes of this preliminary determination, the Department finds that a species-specific benchmark is the most appropriate basis for calculating a stumpage benefit. Based on the information provided by both the GOI and the APRIL companies, stumpage fees are assessed on a species-specific basis. This approach is consistent with the Department's finding in CFS Final and CCP Final.<sup>95</sup>

As a result of the geographic proximity and the similarities of forest conditions, climate, and tree species between Indonesia and Malaysia, we preliminarily determine that Malaysian pulp log export prices as reported in the GTA are the most appropriate source to use in our analysis. We relied on these export prices to derive a market-based stumpage benchmark, which we compared to GOI stumpage fees in order to determine whether the GOI is providing standing timber for less than adequate remuneration.

We calculated unit values from the GTA export statistics for acacia mangium pulp logs, and for MHW. We were unable to obtain GTA unit values for Malaysian MHW using the tariff classifications applied in the CCP Final. AKU reported that the MHW RAPP harvest included logs of the species meranti and campuran,<sup>96</sup> and we were able to obtain GTA data for Malaysian exports of these logs. Accordingly, we used the weighted-average GTA unit value of meranti and campuran logs as the benchmark for MHW logs.

For the eucalyptus benchmark, we were unable to identify any relevant Malaysian export data from the GTA. We declined to consider the data from alternate countries proposed by the parties; instead, we relied on an Australian value, consistent with our approach in the CCP Final, because of Australia's closer geographic proximity to Indonesia. We obtained 2012 Australian prices for eucalyptus hardwood chip exports from an Australian market study entitled "Australian Hardwood Chip Export Volume & Price Forecasts and Stumpage and Harvest Cost Review."<sup>97</sup> RAPP also reported harvesting logs of another acacia sub-species, acacia crassicaarpa, but we were unable to identify a specific benchmark for this sub-species. Therefore, for purposes of the preliminary determination, we used the average of the benchmarks described

---

<sup>93</sup> See the petitioners' June 3, 2015, Benchmark Submission; June 9, 2015, comments; and June 15, 2015, Rebuttal Benchmark Submission.

<sup>94</sup> See the APRIL companies' June 3, 2015, Benchmark Submission, and June 15, 2015, Rebuttal Benchmark Submission.

<sup>95</sup> See Coated Free Sheet Paper from Indonesia: Notice of Preliminary Affirmative Countervailing Duty Determination, 72 FR 17498 (April 9, 2007) at 17504, unchanged in CFS Final; and CCP Prelim at 10767, unchanged in CCP Final.

<sup>96</sup> See AKU IQR at page 22.

<sup>97</sup> See Preliminary Calculation Memorandum.

above for the other two acacia sub-species, acacia mangium and eucalyptus, as the benchmark for acacia crassicarpa.

We adjusted the benchmark log prices to remove the Indonesian costs of extraction (harvesting) of the standing timber. To determine the Indonesian harvesting costs (including a reasonable amount for profit associated with extraction), we used RAPP's reported harvesting costs. We also used profit information contained in "Addicted to Rent: Corporate and Spatial Distribution of Forest Resources in Indonesia; Implications of Forest Sustainability and Government Policy."<sup>98</sup> This study is an independent source on the record that provides information on profit in Indonesia.<sup>99</sup>

The deduction of the harvesting costs, and profit associated with harvesting, from the unit values results in a derived benchmark stumpage price for each species. We compared these derived benchmark prices for each type or species of standing timber to the Indonesian stumpage fees, and found the GOI's stumpage fees to be lower than the market benchmark prices. Accordingly, we preliminarily determine that a benefit is provided in accordance with section 771(5)(E)(iv) of the Act because the GOI provides standing timber for less than adequate remuneration.

To calculate the benefit received under this program, we first multiplied the benchmark prices for each type of timber by the appropriate harvest quantity. After multiplying each stumpage benchmark by the appropriate harvest quantity, we summed all the values to calculate the total amount of fees that should have been paid at the market-based benchmark stumpage rate. We then subtracted the total of the actual PSDH, DR and PNT fees paid by RAPP during the POI, from the total amount of stumpage fees that should have been paid.

We then divided the benefit by the total external sales of AKU, RAK, RAPP, and IP (*i.e.*, the total FOB sales values of the pulp and paper producers minus any cross-owned inter-company sales) to calculate a net countervailable subsidy rate of 28.20 percent ad valorem for this program.<sup>100</sup>

## 2. Government Prohibition of Log Exports

The petitioners alleged that the GOI provides a countervailable subsidy to pulp and paper producers through the GOI's ban on log exports. As support for their allegation, they relied on CFS Final and CCP Final in which the Department found that the GOI's imposition of an export ban on logs and chipwood provided a countervailable subsidy to downstream wood processing industries, including the pulp and paper producing industries.<sup>101</sup>

In CFS Final and CCP Final, the Department determined that the log export ban provided a financial contribution in accordance with sections 771(5)(B)(iii) and 771(5)(D)(iii) of the Act. Specifically, the Department found that the GOI, through the log export ban, entrusted or directed forestry/harvesting companies to provide lower-price inputs (logs and chipwood) to

---

<sup>98</sup> See the petitioners' June 3, 2015, Benchmark Submission, at Exhibit 18; and Preliminary Calculation Memorandum.

<sup>99</sup> This study was also used in CCP Final. See CCP Prelim at 10767, unchanged in CCP Final.

<sup>100</sup> See Preliminary Calculation Memorandum.

<sup>101</sup> See CFS Final and CFS IDM at 32; and CCP Final and CCP IDM at 12.

companies in the pulp and paper producing industries. The Department determined that the log export ban provided a benefit in accordance with section 771(5)(E)(iv) of the Act. Specifically, the GOI's log export ban allowed the cross-owned forestry companies in the respondent's corporate group to purchase inputs (logs and chipwood) from unaffiliated forestry companies below market prices.

Finally, in the CFS Final, the Department determined that the log export ban was specific under section 771(5A)(D)(i) of the Act. Specifically, the Department found the GOI's decree banning the exports of logs and chipwood to be de jure specific within the meaning of section 771(5A)(D)(i) of the Act, because it is restricted by law to only a limited group of industries and because it covers only a small number of products within those industries. Furthermore, in the CCP Final, the Department determined the log export ban is de facto specific pursuant to section 771(5A)(D)(iii)(I) of the Act because the industries receiving subsidies from the operation of the ban are limited in number.

In their questionnaire responses, the GOI and the APRIL companies state that the World Trade Organization (WTO) has ruled that this type of government action cannot constitute a subsidy program.<sup>102</sup> Our finding here and our CVD law are consistent with our WTO commitments. As discussed in the CFS and CCP cases, the Department has an obligation to follow the Act, the SAA, and regulations, barring instructions to amend our practices in a manner "not inconsistent" with the conclusions of the WTO.<sup>103</sup> Moreover, WTO decisions "do not have any power to change U.S. law or to order such a change."<sup>104</sup> Instead, Section 129 of the Act addresses the implementation of WTO dispute settlement reports. Therefore, the Department is obligated to follow U.S. law in reaching its CVD determinations, and, as discussed below, the GOI's log export ban constitutes a countervailable subsidy under U.S. law.

In CFS Final, we stated that the GOI had submitted that the stated intent of the log and chipwood export ban was to reduce environmental degradation and to manage the forest in a sustainable manner.<sup>105</sup> Nonetheless, based on the totality of the evidence on the record in the CFS Final, including independent studies on the impact of the log export ban in Indonesia, we found that the record evidence refuted the GOI's claim that the log export ban is used to protect forest resources, and instead showed that GOI imposed or maintained the log export ban in order to provide lower priced inputs (i.e., logs and chipwood) to industries that consume those inputs.<sup>106</sup> Thus, in CFS Final, we concluded that one of the purposes of the GOI's ban was to develop the downstream industries, which was the basis on which the Department determined that the GOI entrusts or directs domestic log suppliers to sell logs at suppressed prices to domestic consumers, thus providing a good to pulp and paper producers for less than adequate remuneration.<sup>107</sup> In

---

<sup>102</sup> See WT/DS 194 United States -- Measures Treating Export Restraints As Subsidies (adopted by WTO DSB August 23, 2001).

<sup>103</sup> See CFS Final and CFS IDM at 97; and CCP Final and CCP IDM at 28.

<sup>104</sup> See SAA accompanying the Uruguay Round Agreements Act, H.R. Doc. 103-316, Vol. 1 at 659. See also CFS Final and CFS IDM at 97; and CCP Final and CCP IDM at Comment 4.

<sup>105</sup> See CFS IDM at 27.

<sup>106</sup> See CFS IDM at 29-31.

<sup>107</sup> See CFS Final and CFS IDM at 27; and CCP Final and CCP IDM at 13.

CCP Final, we found that although the GOI may have begun the process of legalizing exports on certain forest products, the ban on exports on logs was still in effect.<sup>108</sup>

In the instant case, the GOI confirmed that a ban on the exportation of logs was still in effect during the POI of this investigation, although under a new Ministry of Trade decree.<sup>109</sup> It also noted that during the POI it was not illegal to export chipwood or pulpwood.<sup>110</sup> Neither the GOI nor the APRIL companies placed any additional information on the record to the contrary that causes us to reconsider our prior findings. Indeed, the ban on log exports continues to be in effect (only downstream log products (e.g., wood chips and pulpwood) are allowed to be exported). In addition, the petitioners and the GOI submitted information showing that the log export ban's effect is to grow the wood processing industry, to encourage processing industries in Indonesia, and to suppress prices in Indonesia.<sup>111</sup> As such, we preliminarily determine that the log export ban continues to provide a countervailable subsidy to pulp and paper producers. The ban constitutes a financial contribution in accordance with sections 771(5)(B)(iii) and 771(5)(D)(iii) of the Act through the GOI's entrustment or direction of forestry/harvesting companies to provide goods (i.e., logs). Furthermore, the log export ban is de facto specific pursuant to section 771(5A)(D)(iii)(I) of the Act because the industries receiving subsidies from the operation of the ban are limited in number.<sup>112</sup>

Moreover, it provides a benefit in accordance with section 771(5)(E)(iv) of the Act to extent that the prices paid by the APRIL companies to unaffiliated forestry/harvesting companies for their purchases of logs are less than the benchmark price. To determine whether the log export ban provided a benefit to the APRIL companies during the POI, the Department compared the price paid by the APRIL companies for the logs it purchased during the POI from unaffiliated forestry/harvesting companies to a benchmark price based on the criteria stipulated in 19 CFR 351.511(a)(2).

We explain above what the Department's regulations at 19 CFR 351.511(a)(2) state regarding the basis for identifying comparative benchmarks for determining whether a government good or service is provided for less than adequate remuneration. In the instant case, there are no meaningful or usable private domestic prices for logs or actual import prices to evaluate for purposes of identifying a "first tier" benchmark (i.e., market prices from actual transactions within the country under investigation). As discussed above, the GOI reported that the harvest from privately-owned forest land is only 12 percent of the country's total harvest.<sup>113</sup> We also note that all logs, including logs harvested from private land, are subject to the export ban.<sup>114</sup> Therefore, because of the GOI's predominant role in the Indonesian market for logs, we find that it is not possible to determine a private domestic log benchmark price in Indonesia, pursuant to 19 CFR 351.511(a)(2)(i), for the GOI's log export ban. Accordingly, Indonesian import prices likewise would not reflect market prices.

---

<sup>108</sup> See CCP Final at 12-13.

<sup>109</sup> See GOI IQR at 33 and Exhibit 15, and GOI SQR at 5-6

<sup>110</sup> See GOI SQR at 5-6.

<sup>111</sup> See GOI SQR at Exhibit S-12, and Petition at IV-21-22, and Exhibits IV-31 and IV-32.

<sup>112</sup> As noted above, information provided by the GOI recognizes 32 industry categories for goods. Of these 32 categories, logs were provided to four industries during the POI, including the paper industry. See GOI SQR at 5-6.

<sup>113</sup> See GOI IQR at 12.

<sup>114</sup> See GOI IQR at 33 and Exhibit 15.

Because there are no market prices from actual transactions in the country to use as a benchmark, we next looked for a “second tier” benchmark which, according to the regulations, relies on world market prices that would be available to the purchasers in the country in question, though not necessarily reflecting prices of actual transactions involving that particular producer. In selecting a world market price under this second approach, the Department examines the facts on the record regarding the nature and scope of the market for that good to determine if that market price would be available to an in-country purchaser. As noted above, as well as in CFS Final and CCP Final, Indonesia and Malaysia share the same geographic proximity and the similarities of forest conditions, climate, and tree species. During the POI, pulpwood and logs were exported from Malaysia to a number of countries. The Department finds that the public export statistics of Malaysian pulpwood reported in the GTA are reliable for establishing a benchmark under the “second tier” as a world market price that would be available to a purchaser in Indonesia.

Therefore, we are using the species-specific Malaysian export statistics as the starting point for calculating the benchmark price for pulpwood and logs, as described above with respect to the benchmark for “Provision of Standing Timber for Less Than Adequate Remuneration.” AKU did not identify the sub-species for RAPP’s purchases of acacia logs. Therefore, for the preliminary determination, we are using the average of the benchmarks described above for the other two acacia sub-species, *i.e.*, acacia mangium and eucalyptus, as the benchmark for the unspecified acacia purchases. We also note that under the Department’s regulations, applicable delivery charges and import duties should be added to the benchmark price before determining whether the Indonesian price for pulpwood confers a benefit.<sup>115</sup> We preliminarily made the applicable adjustments to the benchmark price, as discussed in the Preliminary Calculation Memorandum.<sup>116</sup>

When we compare the benchmark prices to the prices that RAPP paid to the unaffiliated pulpwood suppliers on a per-unit basis, we find that there is a benefit conferred through the GOI’s log export ban and thus, entrustment or direction to forestry/harvesting companies to provide lower-price logs to pulp and paper producers. To calculate the subsidy, we first calculated a per cubic meter benefit for each species of logs. We then multiplied the volume of each species purchased by RAPP from unaffiliated forestry/harvesting companies in order to calculate the total species benefit.

We then summed the benefit for each species and divided this amount by the total FOB external sales values of the APRIL companies’ pulp and paper producers (*i.e.*, RAPP, IP, RAK, and AKU). We did not include in this log export ban calculation any of RAPP’s harvested pulpwood because we have captured any benefit it receives on that wood, from the log export ban, in the stumpage benefit calculation. On this basis, we preliminarily calculate a net countervailable subsidy rate of 14.99 percent ad valorem for the APRIL companies.<sup>117</sup>

---

<sup>115</sup> See 19 CFR 351.511(a)(2); see also U.S. Steel Corp. v. United States, No. 08-00239, Slip Op. 09-152 at 17-18 (CIT Dec. 30, 2009).

<sup>116</sup> See Preliminary Calculation Memorandum.

<sup>117</sup> Id.

B. Program Preliminarily Determined Not to Have Conferred a Benefit

Exemption from Import Income Tax Withholding for Companies in Bonded Zone Locations<sup>118</sup>

The GOI explained that the purpose of bonded zones is to facilitate processing goods for export in duty free/conditions. The GOI stated that goods processed in a bonded zone may be sold for domestic consumption up to 50 percent (or more, based on Ministry of Industry's approval) of a company's prior year export value. The GOI indicated that any company from any industry can apply for a bonded zone facility provided it can fulfill all the requirements in the bonded zone regulations. The GOI explained that the bonded zone facilities are outside the Indonesian customs territory. The GOI noted that companies in bonded zones are required to file reports every four months, and are obligated to keep accurate records related to the movement of equipment, goods, and inventory in and out of their bonded zones. These requirements are subject to audit by the Directorate General of Customs and Excise.<sup>119</sup>

Income tax in Indonesia is administered based on a combination of self-assessment and withholding tax systems. According to the system, certain types of income and transactions are subject to withholding taxes which are collected by its payer or withholder. At the end of the respective fiscal year, the withholding tax paid will be credited against total income tax payable. Under Article 22 of Indonesia's Income Tax Law, imports into Indonesia are subject to an income tax withholding equal to either 2.5 percent or 7.5 percent of the total import value, depending on whether the importer owns an Import Identification Number.<sup>120</sup>

Specifically, when a company that is not located in a bonded zone imports merchandise, that company is required to pay a "withholding" amount for "import income tax" upon importation of capital goods, equipment, or raw materials. Any import income tax collected (or prepaid) through this withholding is credited towards the company's total income tax payable at the end of the tax year. However, when a company imports into a bonded zone, that company is not required to pay any import income tax withholding upon entry. The GOI claims that, as a result, there is no withholding or prepaid import income tax to be credited towards the bonded zone company's end-of-year income tax payable. Thus, according to the GOI, whether a company is subject to withholding import income tax or not, the ultimate net effect on its overall income tax liability for the year stays the same. As a result, the GOI contends that there is no revenue forgone by the government as a result of this program.<sup>121</sup>

The APRIL companies reported that they were exempted from the tax withholding requirement because of their bonded zone location.<sup>122</sup> We preliminarily find that such withholding exemption for companies in bonded zones constitutes a deferral of direct taxes within the

---

<sup>118</sup> We initiated this program as "Preferential Treatment for Bonded Zone Locations-Income Tax Reductions on Imported Capital Goods, Equipment, and Raw Materials for the Portion of the Production Destined for Export." We revised the title of the program based on the description provided by the GOI.

<sup>119</sup> See GOI IQR at 59-67.

<sup>120</sup> See GOI IQR at 63.

<sup>121</sup> See GOI IQR at 63-64.

<sup>122</sup> See AKU IQR at 35.

meaning of 19 CFR 351.509(a)(2), according to which a benefit exists to the extent that appropriate interest charges are not collected.

As a result, we preliminarily determine that this import income tax program provides a financial contribution in the form of revenue forgone by the government under section 771(5)(D)(ii) of the Act. The GOI stated that activities in a bonded zone must primarily be for export, and record information ties this program to exportation.<sup>123</sup> Therefore, the import income tax withholding exemptions are contingent upon export performance and, thus, specific pursuant to section 771(5A)(B) of the Act. Consistent with 19 CFR 351.509(a)(2), we are treating the import income tax otherwise subject to withholding, *i.e.*, the tax amount deferred, as a government-provided loan that provides a benefit in the form of uncollected interest charges.

To calculate the benefit from this program, we summed the import income tax withholding exempted for each of the cross-owned APRIL companies during the POI, applied the monthly short-term interest benchmark discussed above in the “Subsidies Valuation” section, and summed the uncollected interest for the entire POI. We divided the summed amount for each company by its respective external sales value, and then added the resulting company-specific percentages to obtain the overall subsidy rate. However, the calculation of the benefit results in a rate that is less than 0.005 percent and, as such, does not have an impact on the APRIL companies’ overall subsidy rate.<sup>124</sup> Consistent with our past practice, we did not include this program in our net subsidy rate calculations for the APRIL companies.

C. Program Preliminarily Determined Not to Be Countervailable

Exemption from Import Duties for Capital Goods and Equipment for Companies in Bonded Zone Locations

As noted above, the GOI asserted that bonded zones are outside the customs territory of Indonesia and are subject to audits by the Indonesian customs authority. The GOI explained that imports into bonded zones are exempt from import duties based on their location outside the Indonesian customs territory. The GOI noted that import duties are still payable if the capital goods or equipment that had been imported into a bonded zone are subsequently sold in the domestic market within four years after the initial importation into the bonded zone.

The APRIL companies’ location in a bonded zone places them outside of the customs territory of Indonesia.<sup>125</sup> Consequently, imports of capital goods and equipment by the APRIL companies that stay within the bonded zone are not subject to import duties in Indonesia. The APRIL companies explained that they did not sell capital goods in Indonesia during the POI or throughout the AUL. They claimed that because imports of capital goods and equipment by the APRIL companies are not subject to duties in Indonesia, the GOI has not foregone revenue by not collecting duties on the companies’ imports.

---

<sup>123</sup> See GOI IQR at 59-60.

<sup>124</sup> See Preliminary Calculation Memorandum.

<sup>125</sup> See AKU IQR at 34 and AKU SQR at 15-16.

In CWP from Vietnam, we found a similar type of program not countervailable, reasoning that goods imported from foreign countries into non-tariff zones outside the customs territory of Vietnam for use only in non-tariff zones are not liable for import duties and, as such, there is no financial contribution by the government because the government has not foregone revenue by not collecting taxes. Furthermore, we noted that such free trade areas must be subject to rigorous customs enforcement measures that ensure goods entering the free trade area are accounted for through exportation or entry into the country's customs territory and, in the latter case, appropriate duties are collected.<sup>126</sup> In this case, the GOI explained that bonded zones are subject to customs reports and audits.<sup>127</sup> The Department previously verified that the GOI's customs enforcement system is extensive; it includes physical inspection of goods entering and exiting the bonded zones by customs officials assigned to each zone, routine reporting requirements, and periodic audits.<sup>128</sup> Therefore, because the APRIL companies are located in a bonded zone that is subject to rigorous customs enforcement measures, and their imports within the bonded zone are not subject to Indonesian customs duties, we preliminarily determine there is no financial contribution within the meaning of section 771(5)(D)(ii) of the Act, and accordingly find this program not to be countervailable.

D. Programs Preliminarily Determined Not To Be Used by the Cooperating Respondent

1. Debt Forgiveness through the Indonesian Government's Acceptance of Financial Instruments with No Market Value
2. Debt Forgiveness through APP/SMG's Buyback of Its Own Debt from the GOI
3. Export Financing from Export-Import Bank of Indonesia
4. Export Credit Insurance
5. Export Credit Guarantees
6. Tax Incentives for Investment in Specified Business Lines and/or in Specified Regions by Indonesia's Investment Coordinating Board (BKPM) – Corporate Income Tax Deduction
7. Tax Incentives for Investment in Specified Business Lines and or in Specified Regions by the BKPM – Accelerated Depreciation and Amortization
8. Tax Incentives for Investment in Specified Business Lines and or in Specified Regions by the BKPM – Extension of Loss Carry-Forwards
9. Preferential Treatment for Bonded Zone Locations
  - a. Waiver of License and Fee Requirements
  - b. Exemption from Sales Taxes for Capital Goods and Equipment Used to Produce Exports

E. Programs for Which More Information is Needed

We intend to request that the APRIL companies provide information regarding the items listed below. If appropriate, we will address these items in a post-preliminary analysis.

---

<sup>126</sup> See Circular Welded Carbon-Quality Steel Pipe From the Socialist Republic of Vietnam: Final Negative Countervailing Duty Determination, 77 FR 64471 (October 22, 2012) (CWP from Vietnam), and accompanying Issues and Decision Memorandum at 4 and 13-15.

<sup>127</sup> See GOI IQR at 59-67, and GOI SQR at 10-11.

<sup>128</sup> See Frozen Warmwater Shrimp from the Republic of Indonesia: Final Negative Countervailing Duty Determination, 78 FR 50383 (August 19, 2013), and accompanying Issues and Decision Memorandum at Comment 17.

1. Debt Forgiveness to the RGM Group and Asia Pacific Resources International Limited Companies
2. Creditworthiness of the RGM Group and APRIL Companies from 2002 to 2006
3. Special Arrangements for the Depreciation of Tangible Assets used by the Hardwood Plantations and Forestry Sectors for Income Tax Purposes

## **X. ITC NOTIFICATION**

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

In accordance with section 705(b)(2) of the Act, if our final determination is affirmative, the ITC will make its final determination within 45 days after the Department makes its final determination.

## **XI. DISCLOSURE AND PUBLIC COMMENT**

The Department intends to disclose to interested parties the calculations performed in connection with this preliminary determination within five days of its public announcement.<sup>129</sup> Case briefs or other written comments may be submitted to Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS) no later than seven days after the date on which the final verification report is issued in this proceeding, and rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than five days after the deadline date for case briefs.<sup>130</sup>

Parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.<sup>131</sup> This summary should be limited to five pages total, including footnotes. Interested parties who wish to request a hearing, or to participate if one is requested, must do so in writing within 30 days after the publication of this preliminary determination in the Federal Register.<sup>132</sup> Requests should contain the party's name, address, and telephone number; the number of participants; and a list of the issues to be discussed. If a request for a hearing is made, the Department intends to hold the hearing at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, at a date and time to be determined. Parties will be notified of the date and time of any hearing.

---

<sup>129</sup> See 19 CFR 351.224(b).

<sup>130</sup> See 19 CFR 351.309.

<sup>131</sup> See 19 CFR 351.309(c)(2) and (d)(2).

<sup>132</sup> See 19 CFR 351.310(c).

Parties must file their case and rebuttal briefs, and any requests for a hearing, electronically using ACCESS.<sup>133</sup> Electronically filed documents must be received successfully in their entirety by 5:00 p.m. Eastern Time,<sup>134</sup> on the due dates established above.

## XII. VERIFICATION

As provided in section 782(i)(1) of the Act, we intend to verify the information submitted in response to the Department's questionnaires.

## XIII. CONCLUSION

We recommend that you approve the preliminary findings described above.

✓  
Agree

\_\_\_\_\_  
Disagree

Paul Piquado  
Paul Piquado  
Assistant Secretary  
for Enforcement and Compliance

22 JUNE 2015  
(Date)

<sup>133</sup> See 19 CFR 351.303(b)(2)(i).

<sup>134</sup> See 19 CFR 351.303(b)(1).