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DEPARTMENT OF COMMERCE

International Trade Administration

C-122-854

Supercalendered Paper from Canada: Final Affirmative Countervailing Duty Determination

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce

SUMMARY: The Department of Commerce (the Department) determines that countervailable subsidies are being provided to producers and exporters of supercalendered paper (SC paper) from Canada. The period of investigation is January 1, 2014, through December 31, 2014.

EFFECTIVE DATE: Insert date of publication in the *Federal Register*.

FOR FURTHER INFORMATION CONTACT: Dana Mermelstein or David Neubacher, AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-1391 and (202) 482-5823, respectively.

SUPPLEMENTARY INFORMATION:

Background

The petitioner in this investigation is the Coalition for Fair Paper Imports. The Coalition for Fair Paper Imports is composed of Madison Paper Industries and Verso Corporation. In addition to the Government of Canada, the mandatory respondents in this investigation are (1) Port Hawkesbury Paper LP, 6879900 Canada Inc., Port Hawkesbury Investments Ltd., Port Hawkesbury Paper GP, Port Hawkesbury Paper Holdings Ltd., Port Hawkesbury Paper Inc., and

Pacific West Commercial Corporation (collectively, Port Hawkesbury); and (2) Resolute FP Canada Inc., Fibrek General Partnership, Forest Products Mauricie LP, Produits Forestiers Petit-Paris Inc., and Société en Commandite Scierie Opitciwan (collectively, Resolute).

Case History

The events that have occurred since the Department published the *Preliminary Determination*¹ on August 3, 2015, are discussed in the Issues and Decision Memorandum.² The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>, and is available to all parties in the Central Records Unit, room B8024 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/>.

Scope of the Investigation

The product covered by this investigation is SC paper. For a complete description of the scope of the investigation, *see* Appendix 1 to this notice.

Methodology

The Department conducted this countervailing duty investigation in accordance with section 701 of the Tariff Act of 1930, as amended (the Act). The subsidy programs under investigation and the issues raised in the case and rebuttal briefs by parties in this investigation are discussed in the Issues and Decision Memorandum, which is hereby adopted by this notice.

¹ *See Supercalendered Paper from Canada: Preliminary Affirmative Countervailing Duty Determination*, 80 FR 45951 (August 3, 2015) (*Preliminary Determination*), and accompanying Preliminary Decision Memorandum.

² *See* Memorandum from Gary Taverman, Associate Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Enforcement and Compliance, regarding "Decision Memorandum for the Final Determination in the Countervailing Duty Investigation of Supercalendered Paper from Canada," dated concurrently with this notice (Issues and Decision Memorandum).

A list of the issues that parties have raised, and to which we responded in the Issues and Decision Memorandum, is attached to this notice as Appendix 2. Based on our analysis of the comments received and our findings at verification, we made certain changes to the respondents' subsidy rate calculations since the *Preliminary Determination*.

For this determination, we have relied partially on facts available for Resolute. Further, we have drawn an adverse inference in selecting from among the facts otherwise available to calculate the *ad valorem* rate for Resolute, because the company did not act to the best of its ability when responding to the Department's request for information.³ For further information, see "Use of Facts Otherwise Available and Adverse Inferences" in the Issues and Decision Memorandum.

Suspension of Liquidation

In accordance with section 705(c)(1)(B)(i) of the Act, we calculated a rate for each individually investigated respondent company. Section 705(c)(5)(A)(i) of the Act states that, for companies not individually investigated, we will determine an "all others" rate equal to the weighted-average countervailable subsidy rates established for exporters and producers individually investigated, excluding any zero and *de minimis* countervailable subsidy rates, and any rates determined entirely under section 776 of the Act.

Notwithstanding the language of section 705(c)(5)(A)(i) of the Act, we have calculated the "all others" rate as a weighted average of the rates of Port Hawkesbury and Resolute, using the publicly ranged values for each company's exports of subject merchandise to the United

³ See sections 776(a) and (b) of the Act.

States to calculate the weighted average, because to use the actual sales values risks disclosure of proprietary information.⁴

We determine the countervailable subsidy rates to be:

Company	Subsidy Rate
Port Hawkesbury	20.18 percent
Resolute	17.87 percent
All Others	18.85 percent

As a result of our *Preliminary Determination*, and pursuant to section 703(d) of the Act, we instructed U.S. Customs and Border Protection (CBP) to suspend liquidation of all entries of subject merchandise from Canada that were entered or withdrawn from warehouse, for consumption on or after August 3, 2013, the date of publication of the *Preliminary Determination* in the *Federal Register*, and to collect cash deposits of estimated countervailing duty at the rates determined in the *Preliminary Determination*.

In accordance with section 705(c)(1)(B)(ii) of the Act, we are directing CBP to continue to suspend liquidation of all imports of the subject merchandise from Canada that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the *Federal Register*. The suspension of liquidation instructions will remain in effect until further notice. We are also directing CBP to collect cash deposit of estimated countervailing duty at the rates identified above.

We will issue a countervailing duty order pursuant to section 706(a) of the Act if the United States International Trade Commission (ITC) issues a final affirmative injury

⁴ See Memorandum to the File, "Calculation of the All Others Rate for the Final Determination in the Countervailing Duty Investigation of Supercalendered Paper from Canada," (October 13, 2015).

determination. If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated and all estimated duties deposited or securities posted as a result of the suspension of liquidation will be refunded or canceled.

ITC Notification

In accordance with section 705(d) 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 related to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order (APO), without the written consent of the Assistant Secretary for Enforcement and Compliance.

Return or Destruction of Proprietary Information

In the event that the ITC issues a final negative injury determination, this notice will serve as the only reminder to parties subject to an APO of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

This determination is issued and published pursuant to sections 705(d) and 777(i) of the Act.

Paul Piquado
Assistant Secretary
for Enforcement and Compliance

October 13, 2015 _____
Date

Appendix 1

Scope of the Investigation

The merchandise covered by this investigation is supercalendered paper (SC paper). SC paper is uncoated paper that has undergone a calendering process in which the base sheet, made of pulp and filler (typically, but not limited to, clay, talc, or other mineral additive), is processed through a set of supercalenders, a supercalender, or a soft nip calender operation.¹

The scope of this investigation covers all SC paper regardless of basis weight, brightness, opacity, smoothness, or grade, and whether in rolls or in sheets. Further, the scope covers all SC paper that meets the scope definition regardless of the type of pulp fiber or filler material used to produce the paper.

Specifically excluded from the scope are imports of paper printed with final content of printed text or graphics.

Subject merchandise primarily enters under Harmonized Tariff Schedule of the United States (HTSUS) subheading 4802.61.3035, but may also enter under subheadings 4802.61.3010, 4802.62.3000, 4802.62.6020, and 4802.69.3000. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the investigation is dispositive.

¹ Supercalendering and soft nip calendering processing, in conjunction with the mineral filler contained in the base paper, are performed to enhance the surface characteristics of the paper by imparting a smooth and glossy printing surface. Supercalendering and soft nip calendering also increase the density of the base paper.

Appendix 2

List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the Investigation
- IV. Subsidies Valuation
 - a. Period of Investigation
 - b. Allocation Period
 - c. Attribution of Subsidies
 - d. Denominators
 - e. Loan Interest Rate Benchmarks and Discount Rates
- V. Use of Facts Otherwise Available and Adverse Inferences
- VI. Analysis of Programs
 - a. Programs Determined to be Countervailable
 - b. Programs Determined To Be Not Used or Not to Confer a Benefit During the POI
 - c. Program Determined To Be Not Countervailable
- VII. Analysis of Comments
 - Comment 1: The Department's Selection of Mandatory and Voluntary Respondents
 - Comment 2: The Calculation of the All Other's Rate
 - Comment 3: Whether the Department Should Allow Irving to Post Bonds Until the Final Results of an Expedited Review
 - Comment 4: Whether Port Hawkesbury is Creditworthy
 - Comment 5: Whether the GNS' Hot Idle Funding is Extinguished
 - Comment 6: Whether the GNS' FIF Funding is Extinguished
 - Comment 7: Whether Assistance Under the Outreach Agreement is Countervailable
 - Comment 8: Whether Port Hawkesbury's Private Stumpage Purchases Provide an Appropriate Benchmark for Port Hawkesbury's Crown Stumpage Purchases
 - Comment 9: Land for MTAR
 - Comment 10: Whether the NSUARB is an Authority
 - Comment 11: Whether the Government Entrusted or Directed NSPI to Provide a Financial Contribution
 - Comment 12: Whether to Use a Tier 1 Benchmark
 - Comment 13: Whether the Port Hawkesbury LRR is based on Market Principles
 - Comment 14: Whether Steam for LTAR Provides a Countervailable Subsidy
 - Comment 15: Whether the Property Tax Reduction in Richmond County Provides a Countervailable Subsidy
 - Comment 16: Whether the PWCC Indemnity Loan Program Should be Excluded from Port Hawkesbury's Cash Deposit Rate
 - Comment 17: Whether to Apply AFA to Resolute
 - Comment 18: Whether the Support for the Forest Industry Program (Investissement Québec Loans) Provides Countervailable Subsidies to Resolute's SC Paper Production
 - Comment 19: Whether Certain Programs Provides Countervailable Subsidies to Resolute's SC Paper Production

Comment 20: Whether Subsidies are Extinguished by Changes in Ownership

VIII. Conclusion

Appendix I: Acronym and Abbreviation Table

Appendix II: Litigation Table

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Appendix V: Miscellaneous Table (Regulatory, Statutory, Articles, *etc.*)

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