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DEPARTMENT OF COMMERCE

International Trade Administration

(C-122-854)

Supercalendered Paper from Canada: Initiation of Countervailing Duty Investigation

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

DATES: Effective Date: (Insert date of publication in the *Federal Register*.)

FOR FURTHER INFORMATION CONTACT: Joshua Morris or Shane Subler, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-1779 or (202) 482-0189, respectively.

SUPPLEMENTARY INFORMATION

The Petition

On February 26, 2015, the Department of Commerce (the Department) received a countervailing duty (CVD) petition<sup>1</sup> concerning imports of supercalendered paper (SC paper) from Canada, filed in proper form on behalf of the Coalition for Fair Paper Imports (the petitioner).<sup>2</sup> The petitioner is an *ad hoc* association of domestic producers of SC paper.

On March 3 and 13, 2015, we requested information and clarification for certain areas of the Petition.<sup>3</sup> The petitioner responded to these requests on March 9 and 16, 2015.<sup>4</sup>

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<sup>1</sup> See Petition for the Imposition of Countervailing Duties on Supercalendered Paper from Canada (February 26, 2015) (Petition).

<sup>2</sup> The Coalition for Fair Paper Imports consists of Madison Paper Industries and Verso Corporation.

<sup>3</sup> See Letters from the Department, “Petition For The Imposition Of Countervailing Duties on Imports of Supercalendered Paper from Canada: Supplemental Questions” (March 3, 2015) and “Petition For The Imposition

In accordance with section 702(b)(1) of the Tariff Act of 1930, as amended (the Act), the petitioner alleges that the Government of Canada (the GOC) and certain Canadian provinces are providing countervailable subsidies, within the meaning of sections 701 and 771(5) of the Act, to imports of SC paper from Canada, and that such imports are materially injuring, or are threatening material injury to, the domestic industry in the United States pursuant to section 701 of the Act. Consistent with section 702(b)(1) of the Act, the Petition is accompanied by information reasonably available to petitioner supporting its allegations.

The Department finds that the petitioner filed the Petition on behalf of the domestic industry because the petitioner is an interested party as defined in section 771(9)(F) of the Act, and that the petitioner has demonstrated sufficient industry support with respect to the initiation of the investigation the petitioner is requesting.<sup>5</sup>

#### Period of Investigation

The period for which we are measuring subsidies, *i.e.*, the period of investigation (POI), is January 1, 2014, through December 31, 2014.

#### Scope of the Investigation

The product covered by this investigation is SC paper from Canada. For a full description of the scope of this investigation, *see* the “Scope of the Investigation” in Appendix I of this notice.

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Of Countervailing Duties on Imports of Supercalendered Paper from Canada: Additional Supplemental Question” (March 13, 2015).

<sup>4</sup> *See* Letters from the petitioner, “Supercalendered Paper From Canada/Petitioner’s Response To The Department’s Questions Regarding The Petition” (March 9, 2015) (Petition Supplement) and “Supercalendered Paper From Canada/Response to the March 13, 2015 Additional Supplemental Question for Volume II of the Petition” (March 16, 2015).

<sup>5</sup> *See* “Determination of Industry Support for the Petition” below.

### Comments on the Scope of the Investigation

During our review of the Petition, we issued questions to, and received responses from, the petitioner pertaining to the proposed scope to ensure that the scope language in the Petition would be an accurate reflection of the products for which the domestic industry is seeking relief.

As discussed in the preamble to our regulations,<sup>6</sup> we are setting aside a period for interested parties to raise issues regarding product coverage (scope). The period for scope comments is intended to provide the Department with ample opportunity to consider all comments and to consult with parties prior to the issuance of the preliminary determination. If scope comments include factual information,<sup>7</sup> all such factual information should be limited to public information. All such comments must be filed by 5:00 p.m. Eastern Time (ET) on April 7, 2015, which is 20 calendar days from the signature date of this notice. Any rebuttal comments, which may include factual information, must be filed by 5:00 p.m. ET on April 17, 2015, which is 10 calendar days after the initial comments are due.

We request that any factual information the parties consider relevant to the scope of the investigation be submitted during this time period. However, if a party subsequently finds that additional factual information pertaining to the scope of the investigation may be relevant, the party may contact the Department and request permission to submit the additional information.

### Filing Requirements

All submissions to the Department must be filed electronically using the Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS).<sup>8</sup> An electronically

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<sup>6</sup> See *Antidumping Duties; Countervailing Duties*, 62 FR 27296, 27323 (May 19, 1997).

<sup>7</sup> See 19 CFR 351.102(b)(21).

<sup>8</sup> See *Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures*, 76 FR 39263 (July 6, 2011) for details of our electronic filing requirements. Information on help using ACCESS can be found at <https://access.trade.gov/help.aspx> and a handbook can be found at <https://access.trade.gov/help/Handbook%20on%20Electronic%20Filing%20Procedures.pdf>.

filed document must be received successfully in its entirety by the time and date noted above. Documents excepted from the electronic submission requirements must be filed manually (*i.e.*, in paper form) with Enforcement and Compliance's APO/Dockets Unit, Room 18022, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, and stamped with the date and time of receipt by the deadlines noted above.

### Consultations

Pursuant to section 702(b)(4)(A)(i) of the Act, we notified the GOC of the receipt of the Petition. Also, in accordance with section 702(b)(4)(A)(ii) of the Act, we invited representatives of the GOC for consultations with respect to the Petition.<sup>9</sup> Consultations were held on March 12, 2015.<sup>10</sup> This memorandum is on file electronically *via* ACCESS.

### Determination of Industry Support for the Petition

Section 702(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 702(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) at least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 702(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, the Department shall: (i) poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A); or (ii) determine industry support using a statistically valid sampling method to poll the industry.

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<sup>9</sup> See Letter from the Department, "Supercalendered Paper from Canada" (February 26, 2015).

<sup>10</sup> See Ex-Parte Memorandum, "Ex-Parte Meeting with Officials of the Government of Canada on the Countervailing Duty Petition on Supercalendered Paper from Canada" (March 13, 2015).

Section 771(4)(A) of the Act defines the “industry” as the producers as a whole of a domestic like product, or those producers whose collective output of a domestic like product constitutes a major proportion of the total domestic production of the product. Thus, to determine whether a petition has the requisite industry support, the statute directs the Department to look to producers and workers who produce the domestic like product. The International Trade Commission (ITC), which is responsible for determining whether “the domestic industry” has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC must apply the same statutory definition regarding the domestic like product,<sup>11</sup> they do so for different purposes and pursuant to a separate and distinct authority. In addition, the Department’s determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law.<sup>12</sup>

Section 771(10) of the Act defines the domestic like product as “a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title.” Thus, the reference point from which the domestic like product analysis begins is “the article subject to an investigation” (*i.e.*, the class or kind of merchandise to be investigated, which normally will be the scope as defined in the Petition).

With regard to the domestic like product, the petitioner does not offer a definition of the domestic like product distinct from the scope of the investigation. Based on our analysis of the information submitted on the record, we have determined that SC paper constitutes a single

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<sup>11</sup> See section 771(10) of the Act.

<sup>12</sup> See *USEC, Inc. v. United States*, 132 F. Supp. 2d 1, 8 (CIT 2001) (citing *Algoma Steel Corp., Ltd. v. United States*, 688 F. Supp. 639, 644 (CIT 1988), *aff’d* 865 F.2d 240 (Fed. Cir. 1989)).

domestic like product and we have analyzed industry support in terms of that domestic like product.<sup>13</sup>

In determining whether the petitioner has standing under section 702(c)(4)(A) of the Act, we considered the industry support data contained in the Petition with reference to the domestic like product as defined in the “Scope of the Investigation,” in Appendix I of this notice. To establish industry support, the petitioner provided its own production of the domestic like product in 2014.<sup>14</sup> The petitioner identifies its individual member companies, Madison Paper Industries and Verso Corporation, as the companies constituting the U.S. SC paper industry and states that there are no other known producers of SC paper in the United States; therefore, the Petition is supported by 100 percent of the U.S. industry.<sup>15</sup>

Based on the data provided in the Petition, Petition Supplement, and other information readily available to the Department, we determine that the petitioner has established industry support.<sup>16</sup> First, the Petition established support from domestic producers (or workers) accounting for more than 50 percent of the total production of the domestic like product and, as such, the Department is not required to take further action in order to evaluate industry support (*e.g.*, polling).<sup>17</sup> Second, the domestic producers (or workers) met the statutory criteria for industry support under section 702(c)(4)(A)(i) of the Act because the domestic producers (or workers) who support the Petition account for at least 25 percent of the total production of the

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<sup>13</sup> For a discussion of the domestic like product analysis in this case, *see* Countervailing Duty Investigation Initiation Checklist: Supercalendered Paper from Canada (Initiation Checklist), at Attachment II, Analysis of Industry Support for the Petition Covering Supercalendered Paper from Canada (Attachment II). This checklist is dated concurrently with this notice and on file electronically *via* ACCESS. Access to documents filed *via* ACCESS is also available in the Central Records Unit, Room 7046 of the main Department building.

<sup>14</sup> *See* Petition at Volume I, at I-3.

<sup>15</sup> *Id.*, at I-3; *see also* Petition Supplement at 3 and Exhibit S-3.

<sup>16</sup> *Id.*

<sup>17</sup> *See* section 702(c)(4)(D) of the Act; *see also* Initiation Checklist, at Attachment II.

domestic like product.<sup>18</sup> Finally, the domestic producers (or workers) met the statutory criteria for industry support under section 702(c)(4)(A)(ii) of the Act because the domestic producers (or workers) who support the Petition account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petition.<sup>19</sup> Accordingly, the Department determines that the Petition was filed on behalf of the domestic industry within the meaning of section 702(b)(1) of the Act.

The Department finds that the petitioner filed the Petition on behalf of the domestic industry because it is an interested party as defined in section 771(9)(F) of the Act and it has demonstrated sufficient industry support with respect to the CVD investigation that it is requesting the Department initiate.<sup>20</sup>

#### Injury Test

Because Canada is a “Subsidies Agreement Country” within the meaning of section 701(b) of the Act, section 701(a)(2) of the Act applies to this investigation. Accordingly, the ITC must determine whether imports of the subject merchandise from Canada materially injure, or threaten material injury to, a U.S. industry.

#### Allegations and Evidence of Material Injury and Causation

The petitioner alleges that imports of the subject merchandise are benefitting from countervailable subsidies and that such imports are causing, or threaten to cause, material injury to the U.S. industry producing the domestic like product. The petitioner alleges that subject imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act.<sup>21</sup>

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<sup>18</sup> *Id.*

<sup>19</sup> *Id.*

<sup>20</sup> *Id.*

<sup>21</sup> See Petition at Volume I, at I-13 – I-14 and Exhibit I-6; see also Petition Supplement at 3 and Exhibit S-4.

The petitioner contends that the industry's injured condition is illustrated by reduced market share, underselling and price suppression or depression, lost sales and revenues, and other adverse impacts on the domestic industry, including declining capacity utilization rates and shipments, declining employment variables, and decline in domestic industry performance.<sup>22</sup> We assessed the allegations and supporting evidence regarding material injury, threat of material injury, and causation, and we determined that these allegations are properly supported by adequate evidence and meet the statutory requirements for initiation.<sup>23</sup>

#### Initiation of Countervailing Duty Investigation

Section 702(b)(1) of the Act requires the Department to initiate a CVD investigation whenever an interested party files a CVD petition on behalf of an industry that: (1) alleges the elements necessary for an imposition of a duty under section 701(a) of the Act; and (2) is accompanied by information reasonably available to the petitioner supporting the allegations. In the Petition, the petitioner alleges that producers of SC paper in Canada benefited from countervailable subsidies bestowed by the GOC and certain Canadian provincial governments. We have examined the Petition and find that it complies with the requirements of section 702(b)(1) of the Act. Therefore, in accordance with section 702(b)(1) of the Act, we are initiating a CVD investigation to determine whether manufacturers, producers, or exporters of SC Paper from Canada receive countervailable subsidies from the GOC and the certain Canadian provincial governments.

Based on our review of the Petition, we find that there is sufficient information to initiate a CVD investigation of 28 of the 29 alleged programs. For a full discussion of the basis for our decision to initiate or not to initiate on each program, *see* Initiation Checklist.

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<sup>22</sup> *Id.*, at I-14 – I-20 and Exhibits I-7 – I-13.

<sup>23</sup> *See* Initiation Checklist, at Attachment III, Analysis of Allegations and Evidence of Material Injury and Causation for the Countervailing Duty Petition Covering Supercalendered Paper from Canada.

### Respondent Selection

The petitioner named four companies as producers/exporters of SC paper from Canada.<sup>24</sup>

We will address the question of respondent selection subsequent to this initiation.

### Distribution of Copies of the Petition

In accordance with section 702(b)(4)(A)(i) of the Act and 19 CFR 351.202(f), a copy of the public version of the Petition has been provided to representatives of the GOC *via* ACCESS. To the extent practicable, we will attempt to provide a copy of the public version of the Petition to each known exporter (as named in the Petition), as provided in 19 CFR 351.203(c)(2).

### ITC Notification

We have notified the ITC of our initiation, as required by section 702(d) of the Act.

### Preliminary Determination by the ITC

The ITC will preliminarily determine, within 45 days after the date on which the Petition was filed, whether there is a reasonable indication that imports of SC paper from Canada are materially injuring, or threatening material injury to, a U.S. industry.<sup>25</sup> A negative ITC determination will result in the investigation being terminated; otherwise, the investigation will proceed according to statutory and regulatory time limits.

### Submission of Factual Information

Factual information is defined in 19 CFR 351.102(b)(21) as: (i) evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of

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<sup>24</sup> See Petition at Volume II, at Exhibit II-3.

<sup>25</sup> See section 703(a) of the Act.

remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by the Department; and (v) evidence other than factual information described in (i)–(iv). The regulation requires any party, when submitting factual information, to specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct. Time limits for the submission of factual information are addressed in 19 CFR 351.301, which provides specific time limits based on the type of factual information being submitted. Please review the regulations prior to submitting factual information in this investigation.

#### Extensions of Time Limits

Parties may request an extension of time limits before the expiration of a time limit established under Part 351, or as otherwise specified by the Secretary. In general, an extension request will be considered untimely if it is filed after the expiration of the time limit established under Part. For submissions that are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. on the due date. Under certain circumstances, we may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, we will inform parties in the letter or memorandum setting forth the deadline (including a specified time) by which extension requests must be filed to be considered timely. An extension request must be made in a separate, stand-alone submission; under limited circumstances we will grant untimely-filed requests for the extension of time limits. Review *Extension of Time Limits; Final Rule*, 78 FR 57790 (September 20, 2013), available at

<http://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm>, prior to submitting factual information in this segment.

### Certification Requirements

Any party submitting factual information in an AD or CVD proceeding must certify to the accuracy and completeness of that information.<sup>26</sup> The Department intends to reject factual submissions if the submitting party does not comply with the certification requirements provided in 19 CFR 351.303(g) and implemented in the *Final Rule*.<sup>27</sup>

### Notification to Interested Parties

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305. On January 22, 2008, we published *Antidumping and Countervailing Duty Proceedings: Documents Submission Procedures; APO Procedures*, 73 FR 3634 (January 22, 2008). Parties wishing to participate in this investigation should ensure that they meet the requirements of these procedures (*e.g.*, the filing of letters of appearance as discussed at 19 CFR 351.103(d)).

This notice is issued and published pursuant to sections 702 and 777(i) of the Act.

Dated: March 18, 2015.

Paul Piquado  
Assistant Secretary  
for Enforcement and Compliance

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<sup>26</sup> See section 782(b) of the Act.

<sup>27</sup> See *Certification of Factual Information to Import Administration During Antidumping and Countervailing Duty Proceedings*, 78 FR 42678 (July 17, 2013) (*Final Rule*); see also frequently asked questions regarding the *Final Rule*, available at [http://enforcement.trade.gov/tlei/notices/factual\\_info\\_final\\_rule\\_FAQ\\_07172013.pdf](http://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf).

## Appendix I

### 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.<sup>28</sup>

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.

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<sup>28</sup> 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.