

In addition, Commerce noted that, even had stumpage not been generally available, it would still not be considered countervailable since, under Section 771 (5)(B)(ii) of the Tariff Act, it did not provide goods or services at preferential rates. That is to say, stumpage was not made available to certain users at a price lower than that charged to others but was available on the same terms to all those who cared to make use of it. There has been no subsequent change in this policy. Finally, in examining under section 771 (5)(B)(iv) of the Tariff Act whether governments had assumed any costs of manufacture, production or distribution, Commerce found that the opposite was in fact the case and that costs were imposed by the provinces on the producers. Consequently, under any test, there was no government assumption of costs. This situation also remains the same.

In the current investigation, petitioners have placed a great deal of emphasis on Commerce's recent review of the Mexican carbon black decision and on what they consider to be new interpretations of "specificity" and "preferentiality". With regard to specificity, it is clear that the review dealt only with the emphasis placed on certain factors in the Mexican case and that its findings in no way affect the earlier decision on lumber. The use of carbon black feedstock in Mexico was limited to a single industry and to only two companies, in contrast to the multiplicity of industries and users in Canada. Unlike timber, moreover, such feedstock is not a natural resource but a semi-processed product. There can consequently be no comparison between the two cases.

With regard to preferentiality, petitioners have noted the various alternative tests for "preferentiality" which were laid out in Commerce's notice of the preliminary results of its review and have suggested that these be applied to the softwood lumber case in place of the traditional approach outlined above. These tests, however, generally do not fit the circumstances. In the case of standing timber, there can scarcely be a comparison with the prices charged by provincial governments for a similar or related good. So far as a comparison with the prices charged by other sellers is concerned, private prices are generally comparable under comparable conditions. While sometimes they may be somewhat higher, this is largely due to the fact that successful bidders need not bear the costs of forest management, road building and the other responsibilities required of those with Crown tenure. As for the third alternative, that of comparing the price charged for the good with the government's cost of providing it, it is clear that over time revenues related to timber sales more than cover government costs when such an analysis is properly carried out.