

a Province's Harvest. The province must also demonstrate that the mechanism by which it translates the reference prices to the administered portion of the harvest is transparent. The Department can determine that a timber sales system is market-based only if the mechanism by which market references prices are applied in the administered pricing system is transparent and accurate.

In determining whether a system is transparent, the Department will consider the extent to which—(1) the province relies on publicly available information on market prices as a starting point for setting stumpage; (2) the province collects information from private market participants in a rigorous, systematic, and verifiable manner and regularly publishes this information; (3) information on adjustments and the basis for those adjustments is publicly available; (4) the calculation involved in adjusting market prices to apply to the harvest on public lands, while taking into account the appropriate adjustments, produces an observable result consistent with the reference point in the market and is based on objective verifiable information, including where possible market-determined costs; and (5) the results of the calculation (*i.e.*, the resulting stumpage fees) are publicly available to all market participants so that they can serve, in some respects, as a safeguard of the stumpage system.

Adjustments should be kept to the minimum necessary, and must be fully and economically justified, and transparent so as to maintain a close and accurate link between market-determined and administered prices and avoid adjustments that might lead to the over- or under-valuation of timber.

To the extent that prices and costs in the reference market are identified and translated using surveys of private transactions, great care must be exercised in survey design. Surveys should be representative, timely, and reflective of the commercial experience of buyers, sellers, and other commercial intermediaries to ensure there is no opportunity for reporting bias. Moreover, as discussed below, the tremendous information requirements needed for accurate transmission of stumpage prices raise the need for an extensive information collection and reporting function.

Given the significant variation in stumpage prices associated with the numerous characteristics of each plot, an accurate transmission from the reference market to the administered harvest requires a significant amount of information. The Department must be satisfied that all relevant characteristics of the administered portion of the harvest are adequately accounted for in the reference market. These factors could include, among others, the biophysical characteristics of the different plots of trees subject to stumpage transactions; different harvesting conditions, and different industry characteristics (*i.e.*, large and small producers of different types of products). Because of this, the information requirements from the reference market are quite high.

c. Comparability of Obligations Imposed on Purchaser. The terms and conditions that apply to sales of timber in reference markets

are likely to be different from those that apply to the purchase of standing timber under a long-term tenure on provincial land. The use of reference markets will therefore necessarily require some adjustment for the differences in the terms and conditions applicable to the two forms of timber sales contract. Transparency in the calculation and application of those adjustments will be essential for the Department to determine that the administered pricing system properly translates the reference prices to the provincial harvest in a manner that ensures that the provinces receive adequate remuneration.

II. Examples of Market-Based Timber Sales

As noted above, market reference prices may come from a single source (*e.g.*, competitive auctions) or multiple sources (auctions, private market transactions, within or outside the province). The Department recognizes that some provinces may choose to rely on a variety of mechanisms to facilitate the operation of market forces within the province. Regardless of the mechanism adopted, consistent with Part I of this Policy Bulletin, market reference prices must come from open, competitive, independently functioning markets and ensure that provinces receive adequate remuneration for all provincial timber. What follows is a series of examples of how the Department would apply its policy guidance in the context of a specific market.

A. Auctions of Provincial Timber

One means of establishing a market price for standing timber as a reference price for setting stumpage would involve selling a substantial portion of a province's own timber at auction. That, combined with the elimination of the constraints currently in place on the ability of the tenure holders to respond to changing market conditions, could provide a sufficient basis for finding that the system was market-based, thereby ensuring that a province received adequate remuneration for its timber, and providing the legal basis for revocation of the outstanding order with respect to that province.

1. Example of Auction Sales

Province A eliminates existing constraints on tenure holders in the form of minimum cut requirements, appurtenancy clauses, and mill closure limitations. Province A also eliminates or reforms any minimum processing requirements in order to ensure that market forces are fully at play within the province and between the province and other jurisdictions. In addition, Province A makes its tenures freely divisible and transferable and fully subject to competition policy. In addition, Province A manages its harvest, particularly its annual allowable cut, on the basis of sound forestry and full rotational economics, rather than as a means of artificially expanding supply.

With respect to pricing, Province A implements an auction system for sales of provincial timber that ensures a sufficient volume of timber and a representative sample of transactions to permit the auction prices to serve as an open, competitive and independently functioning market and as an

adequate (*i.e.*, statistically reliable) reference point for setting stumpage prices on the administered portion of the harvest. Province A manages its harvest and locates its auctions in a manner best designed to maximize participation and competition for the fiber, and introduces other reforms in its timber allocation system that have the effect of increasing the share of competitive sales progressively over time.

To encourage participation by all market participants in the auction process, Province A ensures that there are no barriers to eligibility for bidding or the use of fiber other than those necessary to ensure that the bidder can fulfill the contract. Tenure reforms undertaken by Province A ensure that a sufficient portion is sold through competitive markets, either as timber or logs, to provide the number and range of transactions necessary to extrapolate accurately from the auction sales to prices charged for stumpage on the administered portion of the harvest. Tenure reforms undertaken by Province A result in the need for all, or virtually all, market participants to, obtain a significant share of their fiber from the reference market or competitive log markets on an ongoing basis.

In terms of auction design, Province A constructs the auction on the basis of sealed bids. Province A also adopts adequate procedures to ensure against collusive bidding. Prices for all auction sales are published regularly for the benefit of all market participants. Auction winners should be required to harvest the timber within a specified period.

Province A can demonstrate that it ties its stumpage rates, accounting for any necessary adjustments, directly and accurately to the prices observed in auctions for similar stands of timber. Province A publishes stumpage charged so that the information is broadly available to all market participants.

In addition, in an effort to expand the competition for fiber throughout the province generally, Province A reinforces the operation of log markets within the province on the basis of price, rather than fiber swaps. Province A ensures that increasing amounts of fiber will flow through such log markets by virtue of eliminating the constraints on tenure that would currently prevent sales on log markets, rather than swaps. Province A ensures that information on log market transactions are broadly available to all interested market participants by establishing the means for all transactions to be recorded with the province and then made available to the public. Administered timber volumes that flow through fully open and competitive log markets, unrestricted in market participants or by minimum processing requirements, would count towards the overall portion of crown timber subject to competitive pressure and help ensure that Province A receives adequate remuneration on all timber sales.

2. Analysis

If all the conditions outlined above and those discussed elsewhere in the Policy Bulletin were met, the Department would revoke the current countervailing duty order with respect to that province. Province A would have to demonstrate that it had the