UNITED STATES DEPARTMENT OF COMMERCE
International Trade Administration
Washington, D.C. 20230

C-122-854
Expedited Review
Public Document
E&C/OI: Team

November 18, 2016

MEMORANDUM TO: Gary Taverman
Associate Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

FROM: James Maeder JPM
Senior Director, Office I
for Antidumping and Countervailing Duty Operations

SUBJECT: Preliminary Results of Expedited Review of the Countervailing Duty Order on Supercalendered Paper from Canada

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I. SUMMARY

In this expedited review, the Department of Commerce (Department) preliminarily determines that countervailable subsidies are being provided to Irving Paper Limited. The Department also preliminarily determines that countervailable subsidies provided to Catalyst Paper Corporation are *de minimis.*

II. BACKGROUND

A. Initiation and Case History

On December 10, 2015, the Department published the countervailing duty (CVD) order on supercalendered paper (SC paper) from Canada.[1] On December 15 and 16, 2015, the Department received requests from Catalyst Pulp and Paper Sales Inc. (CPPSI) and its affiliated companies (collectively, Catalyst), and Irving Paper Limited (Irving) and its affiliated companies to conduct an expedited review in accordance with 19 CFR 351.214(k).[2] Irving supplemented its request on January 6, 2016.[3] Based upon these requests, the Department initiated an expedited

[1] *See Supercalendered Paper from Canada: Countervailing Duty Order*, 80 FR 76668 (December 10, 2015) (*Order*).
[2] *See* letter from Catalyst, "Supercalendered Paper from Canada: Catalyst's Request for Expedited Review" (December 15, 2015); *see also* letter from Irving, "Supercalendered Paper from Canada: Expedited Review Request of Irving Paper Limited Pursuant to 19 CFR 351.214(k)" (December 16, 2015).
[3] *See* letter from Irving, "Supercalendered Paper from Canada: Supplement to Expedited Review Request of Irving Paper Limited Pursuant to 19 CFR 351.214(k)," (January 6, 2015).

review of the CVD order on SC paper from Canada on February 8, 2016, for Catalyst and Irving.[4]

On February 10, 2016, the Department issued the CVD questionnaire to the Government of Canada (GOC) and instructed the GOC to forward it to Catalyst and Irving.[5] This questionnaire requested information regarding subsidies that were previously investigated. Catalyst and Irving submitted affiliation responses on February 25, 2016.[6] On March 18, 21, and 22, 2016, the GOC, the Government of British Columbia (GBC), the Government of New Brunswick (GNB), the Government of Nova Scotia (GNS), the Government of Ontario (GOO), the Government of Québec (GOQ), Irving, and Catalyst filed their initial questionnaire responses.[7] On April 1, 2016, the Coalition for Fair Paper Imports (the petitioner) submitted comments regarding the Catalyst IQR.[8] In response, Catalyst submitted rebuttal factual information on April 11, 2016.[9]

On February 29, 2016, the GOC requested consultations in accordance with section 702(b)(4)(ii) of the Tariff Act of 1930, as amended (the Act), and Article 13.2 (and footnote 44) of the Agreement on Subsidies and Countervailing Measures.[10] On March 8, 2016, officials from the GOC and the Department met.[11]

On February 16, 2016, the Department received new subsidy allegations (NSA) from the petitioner.[12] The GOC, GBC, GNB, GNS, Catalyst, and Irving submitted rebuttal comments in response to the petitioner's NSA on February 26 and 29, 2016.[13] The Department released its

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[4] *See Supercalendered Paper from Canada: Initiation of Expedited Review of the Countervailing Duty Order*, 81 FR 6506 (February 8, 2016).
[5] *See* letter from Department to the GOC, "Countervailing Duty Expedited Review of Supercalendered Paper from Canada: Countervailing Duty Questionnaire," (February 10, 2016) (Initial Questionnaire).
[6] *See* letter from Catalyst, "Supercalendered Paper from Canada: Catalyst's Affiliated Companies Response" (February 25, 2016) (Catalyst's Affiliated Companies Response); *see also* letter from Irving, "Supercalendered Paper from Canada: Response to Section III Questions Identifying Affiliated Companies" (February 25, 2016).
[7] *See* letter from Irving, "Supercalendered Paper from Canada: Response to Section III of the Questionnaire for Producers/Exporters" (March 18, 2016) (Irving IQR); *see also* letter from the GOC, GBC, GNB, GNS, GOO, and GOQ, "Supercalendered Paper from Canada: Response of the Government of Canada and the Governments of British Columbia, New Brunswick, Nova Scotia, Ontario, and Quebec to the Department's February 10, 2016 Questionnaire" (March 21, 2016) (GOC IQR, GBC IQR, GNB IQR); *see also* letter from Catalyst, "Supercalendered Paper from Canada: Catalyst's Questionnaire Response" (March 22, 2016) (Catalyst IQR).
[8] *See* letter from the petitioner, "Supercalendered Paper from Canada: Petitioner's Submission of Rebuttal Factual Information Regarding the March 18, 2016 Questionnaire Response of Catalyst" (April 1, 2016).
[9] *See* letter from Catalyst, "Supercalendered Paper from Canada: Catalyst's Rebuttal Factual Information" (April 11, 2016).
[10] *See* letter from the GOC, "Supercalendered Paper from Canada Expedited Review of Countervailing Duty Order; Request for Consultations" (February 29, 2016).
[11] *See* Memorandum to the File, "Ex Parte Meeting with the Government of Canada" (March 8, 2016).
[12] The Coalition for Fair Paper Imports was composed of Madison Paper Industries and Verso Corporation. *See* letter from the petitioner, "Expedited Review of the Countervailing Duty Order on Imports of Supercalendered Paper from Canada: New Subsidy Allegations Regarding Catalyst Paper and Irving Paper" (February 16, 2016).
[13] *See* letter from the GNB and Irving, "Supercalendered Paper from Canada, Countervailing Duty Expedited Review, Case No. C-122-854: Response to Petitioner's New Subsidy Allegations Concerning New Brunswick" (February 26, 2016); *see also* letter from Irving, "Supercalendered Paper from Canada: Response to Petitioner's New Subsidy Allegation Concerning the Provision of Stumpage in Nova Scotia" (February 26, 2016); *see also* letter from the GOC, the GBC, the GNB, and the GNS, "Supercalendered Paper from Canada: Response to Petitioner's New

analysis of the NSAs on April 18, 2016, and granted the petitioner an additional seven days to amend its allegations.[14] In response, the petitioner submitted its amended NSAs on April 25, 2016.[15] On May 5, 2016, the GOC, GBC, GNB, Irving, and Catalyst submitted rebuttal comments concerning the amended NSAs.[16] The Department sent NSA questionnaires to the GOC, Catalyst, and Irving on April 29, 2016, to which the GOC, GBC, GNB, Catalyst, and Irving submitted responses on May 27 and 31, 2016.[17] The petitioner filed rebuttal factual information pertaining to the NSA questionnaire responses on June 13, 2016.[18]

On May 26, 2016, the petitioner notified the Department that Madison Paper Industries ceased to produce subject merchandise on May 21, 2016, and, as a result, was no longer a member of the Coalition For Fair Paper Imports.[19] Since that date, the remaining member of the Coalition, Verso Corporation (Verso), is the petitioner.

On June 20, 2016, the Department extended the deadline for the preliminary results of the CVD expedited review from August 1, 2016, to November 7, 2016, in accordance with 19 CFR 351.214(i)(2).[20] The Department released an analysis of the amended NSAs on July 12, 2016.[21] On the same day, the Department sent additional NSA questionnaires to the GOC, GNB, and Irving, to which the GOC, GNB, and Irving responded on August 12 and 15, 2016.[22] On

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Subsidy Allegation Concerning the Provision of Stumpage in Nova Scotia" (February 26, 2016); *see also* letter from Catalyst, "Supercalendered Paper from Canada: Catalyst's Rebuttal to Petitioner's New Subsidy Allegations and Request for Meeting" (February 29, 2016).

[14] *See* letter from the Department, "Analysis of New Subsidy Allegations" (April 18, 2016).

[15] *See* letter from the petitioner, "Supercalendered Paper from Canada: Petitioner's Amended New Subsidy Allegations" (April 25, 2016) (Amended NSA Allegation).

[16] *See* letter from the GOC, GBC, GNB, and Irving, "Supercalendered Paper from Canada Expedited Review of Countervailing Duty Order; Response to Petitioner's Amended New Subsidy Allegations" (May 5, 2016); *see also* letter from Catalyst, "Supercalendered Paper from Canada: Catalyst's Rebuttal to Petitioner's Amended New Subsidy Allegations" (May 5, 2016).

[17] *See* letter from the Department to the GOC, "Countervailing Duty Expedited Review of Supercalendered Paper from Canada: New Subsidy Allegations Questionnaire" (April 29, 2016); *see also* letter from the Department to Catalyst, "Countervailing Duty Expedited Review of Supercalendered Paper from Canada: New Subsidy Allegations Questionnaire" (April 29, 2016); *see also* letter from the Department to Irving, "Countervailing Duty Expedited Review of Supercalendered Paper from Canada: New Subsidy Allegations Questionnaire" (April 29, 2016); *see also* letter from Irving, "Supercalendered Paper from Canada: Response to New Subsidy Allegations Questionnaire" (May 27, 2016) (Irving NSA); *see also* letter from the GOC, GBC, and GNB, "Supercalendered Paper from Canada: Response of the Government of Canada and the Governments of British Columbia and New Brunswick to the Department's April 29, 2016 New Subsidy Allegations Questionnaires" (May 31, 2016) (GOC NSA, GBC NSA, GNB NSA); *see also* letter from Catalyst, "Supercalendered Paper from Canada: Catalyst's New Subsidy Allegations Questionnaire Response" (May 31, 2016) (Catalyst NSA).

[18] *See* letter from the petitioner, "Supercalendered Paper from Canada: Petitioner's Submission of Rebuttal Factual Information Regarding the May 27, 2016 New Subsidy Allegation Questionnaire Responses of Catalyst and Irving Paper Limited" (June 13, 2016).

[19] *See* letter from the petitioner, "Supercalendered Paper from Canada: Notification of Change to Name of Petitioner" (May 26, 2016).

[20] *See* Memorandum to Gary Taverman, "Supercalendered Paper from Canada: Extension of Deadline for Preliminary Results of Countervailing Duty Expedited Review" (June 20, 2016).

[21] *See* Department Memorandum from Dana Mermelstein to James Maeder, "Analysis of Amended New Subsidy Allegations" (July 12, 2016).

[22] *See* letter from the Department to the GOC and GNB, "Countervailing Duty Expedited Review of Supercalendered Paper from Canada: New Subsidy Allegation Questionnaire" (July 12, 2016); *see also* letter from

August 15, 2016, Irving submitted related data files that were inadvertently omitted from their August 12, 2016, NSA questionnaire response.[23]

On August 1, 2, 5, and 12, 2016, the Department sent supplemental questionnaires to the GOC, GBC, GNB, Catalyst, and Irving.[24] On August 25 and 29, 2016, the GOC, GNB, and Irving submitted responses to the Department's August 5 supplemental questionnaires.[25] On August 26, 2016, Catalyst responded to the Department's August 1 supplemental questionnaire.[26] On August 30, 2016, Irving responded to the Department's August 12 supplemental questionnaire.[27] Also on August 30, 2016, the GOC, GBC, and GNB responded to the Department's August 2 supplemental questionnaire.[28]

Verso filed comments on the GNB's and Irving's August 25 and 29 questionnaire responses.[29] The Department sent a supplemental questionnaire to the GOC and GBC on September 2, 2016, to which they replied on September 13, 2016.[30] The Department sent supplemental questionnaires to the GOC, GNB, and Catalyst on September 8, 2016, to which the GOC, GNB,

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the Department to Irving, "Countervailing Duty Expedited Review of Supercalendered Paper from Canada: New Subsidy Allegation Questionnaire" (July 12, 2016); *see also* letter from Irving, "Supercalendered Paper from Canada: Response to New Subsidy Allegation Questionnaire" (August 12, 2016) (Irving NSA2); *see also* letter from the GOC and GNB, "Supercalendered Paper from Canada: Response of the Government of Canada and the Government of New Brunswick to the Department's July 12, 2016 New Subsidy Allegation Questionnaire" (August 15, 2016) (GNB NSA2).

[23] *See* letter from Irving, "Supercalendered Paper from Canada: Response to New Subsidy Allegation Questionnaire" (August 15, 2016).

[24] *See* letter from the Department to Catalyst, "Countervailing Duty Expedited Review of Supercalendered Paper from Canada: First Supplemental Questionnaire" (August 1, 2016); *see also* letter from the Department to the GOC, GBC, GNB, GNS, GOO, and GOQ, "Countervailing Duty Expedited Review of Supercalendered Paper from Canada: First Supplemental Questionnaire" (August 2, 2016); *see also* letter from the Department to the GOC, GBC, GNB, GNS, GOO, and GOQ, "Countervailing Duty Expedited Review of Supercalendered Paper from Canada: Second Supplemental Questionnaire" (August 5, 2016); *see also* letter from the Department to Irving, "Countervailing Duty Expedited Review of Supercalendered Paper from Canada: First Supplemental Questionnaire-LIREPP Program" (August 5, 2016); *see also* letter from the Department to Irving, "Countervailing Duty Expedited Review of Supercalendered Paper from Canada: Supplemental Questionnaire" (August 12, 2016).

[25] *See* letter from Irving, "Supercalendered Paper from Canada: Response to First Supplemental Questionnaire - LIREPP Program" (August 26, 2016); *see also* letter from the GOC and GNB, "Supercalendered Paper from Canada: Response of the Government of Canada and the Government of New Brunswick to the Department's August 5, 2016 Second Supplemental Questionnaire" (August 29, 2016).

[26] *See* letter from Catalyst, "Supercalendered Paper from Canada: Catalyst's First Supplemental Questionnaire Response" (August 26, 2016) (Catalyst SQR).

[27] *See* letter from Irving, "Supercalendered Paper from Canada: Response to August 12, 2016, Supplemental Questionnaire for Irving" (August 30, 2016) (Irving SQR).

[28] *See* letter from the GOC, GBC, and GNB, "Supercalendered Paper from Canada: Response of the Government of Canada, the Government of British Columbia and the Government of New Brunswick to the Department's August 2, 2016 Supplemental Questionnaire" (August 30, 2016) (GOC SQR, GBC SQR, GNB SQR).

[29] *See* letter from the petitioner, "Supercalendered Paper from Canada: Petitioner's Deficiency Comments on the Questionnaire Responses of Irving Paper Limited and the Government of New Brunswick" (September 2, 2016).

[30] *See* letter from the Department, "Countervailing Duty Expedited Review of Supercalendered Paper from Canada: Supplemental Questionnaire" (September 2, 2016); *see also* letter from the GOC and GBC, "Supercalendered Paper from Canada: Response of the Government of Canada and the Government of British Columbia to the Department's September 2, 2016 New Subsidy Allegations Questionnaire" (September 13, 2016).

and Catalyst responded on September 19 and 20, 2016.[31] On September 8, 2016, the GOC, GNB, and Irving submitted factual information.[32] The Department sent a supplemental questionnaire to Irving on September 13, 2016, to which Irving responded on September 23, 2016.[33]

On September 8, 9, and 13, 2016, the Department sent verification agendas to the GOC, GBC, GNB, Catalyst, and Irving.[34] In September and October, the Department conducted verification of the GBC's, Catalyst's, the GNB's, Irving's, and the GOC's questionnaire responses. The respondent parties submitted what they characterized to be minor corrections at the outset of respective verifications, and filed their corrections with the Department.[35] We accepted and verified all of the corrections. The respondent parties timely filed exhibits gathered during

[31] *See* letter from the Department, "Countervailing Duty Expedited Review of Supercalendered Paper from Canada: Supplemental Questionnaire - British Columbia Ban on Exports of Logs and Wood Residue" (September 8, 2016); *see also* letter from the Department, "Countervailing Duty Expedited Review of Supercalendered Paper from Canada: Supplemental Questionnaire" (September 8, 2016); *see also* letter from the GOC and GNB, "Supercalendered Paper from Canada: Response of the Government of Canada and the Government of New Brunswick to the Department's September 8, 2016 Supplemental Questionnaire" (September 16, 2016); *see also* letter from Catalyst, "Supercalendered Paper from Canada: Catalyst's Second Supplemental Questionnaire Response" (September 20, 2016) (Catalyst SQR2).

[32] *See* letter from the GOC and GNB, "Supercalendered Paper from Canada: Information on Additional Payments" (September 8, 2016); *see also* letter from Irving, "Supercalendered Paper from Canada: Submission of Factual Information under 19 CFR 351.102(b)(21)(v) & 351.301(c)(5)" (September 8, 2016) (Irving Factual Submission).

[33] *See* letter from the Department, "Countervailing Duty Expedited Review of Supercalendered Paper from Canada: Supplemental Questionnaire" (September 13, 2016); *see also* letter from Irving, "Supercalendered Paper from Canada: Response to the Supplemental Questionnaire dated September 13, 2016" (September 23, 2016).

[34] *See* letter from the Department, "Countervailing Duty Expedited Review of Supercalendered Paper from Canada: Verification of Questionnaire Responses provided by the Government of Canada and the Governments of the Provinces of British Columbia and New Brunswick" (September 8, 2016); *see also* letter from the Department, "Countervailing Duty Expedited Review of Supercalendered Paper from Canada; Verification of Catalyst's Questionnaire Responses" (September 9, 2016); *see also* letter from the Department, "Countervailing Duty Expedited Review of Supercalendered Paper from Canada; Verification of Irving's Questionnaire Responses (September 13, 2016).

[35] *See* letter from the GBC, "Supercalendered Paper from Canada: Minor Corrections Submitted during Verification of the Government of British Columbia" (September 21, 2016); letter from Catalyst, "Supercalendered Paper from Canada: Catalyst's Minor Corrections" (September 23, 2016); letter from the GNB, "Supercalendered Paper from Canada, Case No. C-122-854: Minor Corrections Presented at the Government of New Brunswick's Verification" (September 26, 2016); letter from Irving, "Supercalendered Paper from Canada: Minor Corrections" (September 30, 2016); and, letter from the GOC, "Supercalendered Paper from Canada: Pre-Verification Minor Corrections" (October 17, 2016).

verification.[36] We are releasing the verification reports concurrently with these preliminary results.[37]

On October 11, 2016, the petitioner, Catalyst, and Irving submitted factual information pertaining to benchmark data.[38] On October 21, 2016, the GNB submitted information to rebut the petitioner's benchmark submission.[39] On October 24, 25, and 31, the GNB and Irving, the GNC and Catalyst, the petitioner, and the GOC submitted pre-preliminary comments.[40] On October 28, 2016, the GBC and Catalyst rebutted the petitioner's pre-preliminary comments.[41] The GNB and Irving rebutted the petitioner's comments on November 1, 2016.[42]

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[36] *See* letter from the GOC, "Supercalendered Paper from Canada: Verification Exhibits," (October 18, 2016) (GOC Verification Exhibits); *see also* letter from the GOC, "Supercalendered Paper from Canada: ACOA Verification Exhibits" (September 26, 2016); (ACOA Verification Exhibits); *see also* letter from Irving "Supercalendered Paper from Canada: Submission of Verification Exhibits" (October 17, 2016) (Irving Verification Exhibits); *see also* letter from Catalyst "Supercalendered Paper from Canada: Catalyst's Verification Exhibits" (September 30, 2016) (Catalyst Verification Exhibits); *see also* letter from the GNB "Supercalendered Paper from Canada, Case No. C-122-854: The Government of New Brunswick's Verification Exhibits" (September 29, 2016) (GNB Verification Exhibits); *see also* letter from the GBC "Supercalendered Paper from Canada: Verification Exhibits of the Government of British Columbia" (September 26, 2016) (GBC Verification Exhibits).

[37] *See* Department Memorandum, "Countervailing Duty Expedited Review: Supercalendered Paper from Canada: Verification Report: Government of Canada," (GOC Verification Report) dated concurrently with these preliminary results; *see also* Department Memorandum, "Countervailing Duty Expedited Review: Supercalendered Paper from Canada: Verification Report: Government of British Columbia," (GBC Verification Report) dated concurrently with these preliminary results; *see also* Department Memorandum, "Countervailing Duty Expedited Review: Supercalendered Paper from Canada: Verification Report: Government of New Brunswick," (GNB Verification Report) dated concurrently with these preliminary results; *see also* Department Memorandum, "Countervailing Duty Expedited Review: Supercalendered Paper from Canada: Verification Report: Catalyst Paper," (Catalyst Verification Report) dated concurrently with these preliminary results; *see also* Department Memorandum, "Countervailing Duty Expedited Review: Supercalendered Paper from Canada: Verification Report: Irving Paper Limited," (Irving Verification Report) dated concurrently with these preliminary results.

[38] *See* letter from the petitioner, "Countervailing Duty Expedited Review of Supercalendered Paper From Canada: Petitioner's Benchmark Data Factual Information Submission" (October 11, 2016) (Petitioner Benchmark Submission); *see also* letter from Catalyst, "Supercalendered Paper from Canada: Catalyst's Benchmark Information" (October 11, 2016) (Catalyst Benchmark Submission); *see also* letter from Irving, "Supercalendered Paper from Canada: Submission of Factual information to Measure the Adequacy of Remuneration" (October 11, 2016).

[39] *See* Letter from the GNB, "Countervailing Duty Expedited Review of Supercalendered Paper from Canada, Case No. C-122-854: Rebuttal to Petitioner's Benchmark Data Factual Information Submission," (October 21, 2016).

[40] *See* letter from Irving and the GNB, "Supercalendered Paper from Canada: Pre-Preliminary Results Comments," (October 21, 2016); *see also* letter from the petitioner, "Countervailing Duty Expedited Review of Supercalendered Paper From Canada: Petitioner's Pre-Preliminary Determination Comments," (October 24, 2016); *see also* letter from Catalyst and the GBC, "Supercalendered Paper from Canada: Pre-Preliminary Comments of Catalyst and the Government of British Columbia," (October 24, 2016).

[41] *See* letter from Catalyst and the GBC, "Supercalendered Paper from Canada: Rebuttal of Catalyst and the Government of British Columbia to Petitioner's Pre-Preliminary Comments," (October 28, 2016).

[42] *See* letter from Irving and the GNB, "Supercalendered Paper from Canada Response to Petitioner's Pre-Preliminary Results Comments (November 1, 2016).

On November 3, 2016, the Department extended the preliminary results of review by an additional nine days, to November 16, 2016.[43] On November 16, the Department extended the preliminary results of review an additional two days, to November 18, 2016.[44]

B. Period of Review

The period of review (POR) is January 1, 2014, through December 31, 2014.

III. SCOPE OF THE ORDER

The merchandise covered by this order 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.[45]

The scope of this order 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 order is dispositive.

IV. 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 used in the production of subject merchandise. The Department finds the AUL in this proceeding to be 13 years, pursuant to 19 CFR 351.524(d)(2) and the U.S. Internal Revenue Service's 1977 Class Life Asset Depreciation

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[43] *See* Memorandum to Gary Taverman, "Supercalendered Paper from Canada: Extension of Deadline for Preliminary Results of Countervailing Duty Expedited Review" (November 3, 2016).
[44] *See* Memorandum to Gary Taverman, "Supercalendered Paper from Canada: Extension of Deadline for Preliminary Results of Countervailing Duty Expedited Review" (November 16, 2016).
[45] 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.

Range System.[46] The Department notified the respondents of the 13-year AUL in the initial questionnaire and requested data accordingly. No party in this proceeding disputed this allocation period.

Furthermore, for non-recurring subsidies, we have applied 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 products 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.[47] 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 large minority voting interest (for example, 40 percent) or a "golden share" may also result in cross-ownership.[48]

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[46] *See* U.S. Internal Revenue Service Publication 946 (2008), "How to Depreciate Property," at Table B-2: Table of Class Lives and Recovery Periods.
[47] *See Countervailing Duties; Final Rule*, 63 FR 65348 (November 25, 1998) (*CVD Preamble*).
[48] *Id*., 63 FR at 65401.

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 Court of International Trade 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.[49]

Catalyst

Catalyst reported that Catalyst Paper, the producer of subject merchandise, is a partnership between Catalyst Paper Corporation (CPC), a publicly-traded company, and Catalyst Pulp Operations Ltd. (CPOL). CPC is the controlling general partner, and sources and supplies all of the fiber inputs (logs, chips, sawdust and hog fuel) to Catalyst Paper. CPOL is a minority partner in Catalyst Paper. Further, Catalyst identified the following companies and their roles, and responded to the Department's questionnaires on their behalf:[50]

- CPPSI – Catalyst Paper sells the subject merchandise to CPPSI, which then exports it.
- Pacifica Poplars Ltd. (PPL) – Fiber supplier for subject merchandise from 2002-2008.
- Powell River Energy Inc. (PREI) – Supplies electricity and water access to Catalyst's Powell River mill. Catalyst owned 50.001 percent of it through Catalyst Paper Energy Holding Inc. from 2010 until 2013, when it sold its interest to an unrelated company.
- Catalyst Paper Energy Holding Inc. (CPEHI) – The entity through which Catalyst owned 50.001 percent in PREI from 2010-2013.

Catalyst reported that cross-ownership exists between Catalyst Paper, CPC, CPOL, CPPSI, PPL, PREI, and CPEHI. However, because PPL, PREI, and CPEHI did not receive non-recurring subsidies during the AUL years when their ownership interests may have indicated cross-ownership,[51] we need not reach a conclusion regarding the cross-ownership of these companies. Catalyst Paper, the producer of subject merchandise is controlled and is cross-owned with CPC within the definition of 19 CFR 351.525(b)(6)(vi). Therefore, subsidies received by Catalyst Paper will be attributed to the sales value of the products that are produced by Catalyst Paper pursuant to 19 CFR 351.525(b)(6)(i). Because CPC is cross-owned with Catalyst Paper, we are attributing subsidies received by CPC pursuant to 19 CFR 351.525(b)(6)(iii).

Irving

Irving is the producer of SC paper subject to this expedited review. Irving identified numerous companies with which it is affiliated and which may satisfy the criteria for cross-ownership for purposes of attributing to Irving subsidies received by these companies. As discussed more fully

[49] *See Fabrique de Fer de Charleroi, SA v. United States*, 166 F. Supp. 2d 593, 600-604 (CIT 2001).
[50] *See generally* Catalyst IQR; Catalyst's Affiliation Companies Response at 2.
[51] *See generally* Catalyst IQR.

in the Irving Cross Ownership Memorandum,[52] we have determined that J.D. Irving Limited (JDIL) and Irving Pulp & Paper Limited (IPP) are cross-owned with Irving as a result of their ownership by the same holding company that owns Irving. JDIL harvests timber and supplies woodchips to paper companies, including Irving and IPP. IPP provides pulp to Irving. Because JDIL provides inputs to IPP and Irving, and IPP provides inputs to Irving, and the inputs (woodchips and pulp) are primarily dedicated to the production of the downstream product, pulp and paper, we are attributing to Irving subsidies received by JDIL and IPP. In accordance with 19 CFR 351.525(b)(6)(iv), we are attributing subsidies to JDIL to the combined sales of JDIL, IPP, and Irving, less intercompany sales; we are attributing subsidies to IPP to the combined sales of Irving and IPP, less intercompany sales.

C. Denominators

In accordance with 19 CFR 351.525(b)(1)-(5), the Department considers the basis for the respondents' receipt of benefits under each program when attributing subsidies, *e.g.*, to the respondents' export or total sales. We have identified the denominator we used to calculate the countervailable subsidy rate for each program, as discussed below and in the calculation memoranda prepared for these preliminary results.[53]

D. Loan Interest Rate Benchmarks and Discount Rates

The Department is examining loans provided to Irving that were outstanding during the POI. The loans are denominated in Canadian dollars (C$). We are also examining non-recurring, allocable subsidies that the respondents received.[54] In the section below, we discuss the derivation of the benchmarks and discount rates for the POR and the years comprising the AUL period.

<u>Long-Term Loan Interest Rate Benchmark</u>

Section 771(5)(E)(ii) of the Act explains that the benefit for loans is the "difference between the amount the recipient of the loan pays on the loan and the amount the recipient would pay on a comparable commercial loan that the recipient could actually obtain on the market," indicating that a benchmark must be a market-based rate. Normally, the Department uses comparable commercial loans reported by the company for establishing an interest rate benchmark.[55] If the firm did not receive any comparable commercial loans during the relevant periods, the

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[52] *See* Department Memorandum, "Expedited Review of the Countervailing Duty Order on Supercalendered Paper from Canada: Cross-Ownership of Irving Paper Limited and its Affiliates," (Irving Cross Ownership Memorandum) dated concurrently with these preliminary results.
[53] *See* Department Memorandum, "Preliminary Negative Countervailing Duty Expedited Review Results: Supercalendered Paper from Canada: Preliminary Results Calculations for Catalyst Paper," (Catalyst Preliminary Calculation Memorandum) dated concurrently with these preliminary results; *see also* Department Memorandum, "Preliminary Affirmative Countervailing Duty Expedited Review Results: Supercalendered Paper from Canada: Preliminary Results Calculations for Irving Paper Limited," (Irving Preliminary Calculation Memorandum) dated concurrently with these preliminary results.
[54] *See* 19 CFR 351.524(b)(l).
[55] *See* 19 CFR 351.505(a)(3)(i).

Department's regulations provide that we "may use a national average interest rate for comparable commercial loans."[56] When loans are denominated in a foreign currency, 19 CFR 351.505(a)(2)(i) directs us to use a benchmark denominated in the same foreign currency as the loan.

Irving submitted interest rates, along with the underlying data, that it paid on other long-term commercial loans.[57]

See the "Analysis of Programs" section below for a description of the loan programs for which we required interest rate benchmarks.

Discount Rates

Consistent with 19 CFR 351.524(d)(3)(i)(A), for Irving, we used, as our discount rate, the long-term interest rate described above for the year in which the government approved non-recurring subsidies. For Catalyst, we used as our discount rate a national average long-term interest rate as published by the Bank of Canada. The interest rate benchmarks and discount rates used in our preliminary calculations are provided in the Irving Preliminary Calculation Memorandum and the Catalyst Preliminary Calculation Memorandum.

V. 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. Financial Assistance to Industry Program

The Financial Assistance to Industry Program (FAIP) provides funding from the GNB to eligible companies with the goal of helping companies establish or maintain their presence within the province.[58] According to the Economic Development Act, the legislation that enacted the FAIP, eligible companies may receive various forms of assistance.[59] Irving reported receiving assistance under the FAIP in the form of loans[60] and the payroll rebate program.[61] The payroll rebate program provides rebates on a percentage of salaries.[62] The Economic Development Act designates certain industrial, commercial, and business activities that are not eligible for financial

[56] *See* 19 CFR 351.505(a)(3)(ii).
[57] *See e.g.*, Irving IQR at Exhibit JDIL W-01(E).
[58] *See* GNB Verification Report at 3.
[59] *See* GNB IQR at Exhibit NB-FAIP-2 Economic Development Act at section 3; *see also id*. at Exhibit NB-FAIP-1 at 1.
[60] *See* Irving IQR at Exhibits IPL-11, JDIL LU-05 and JDIL S-05. Irving reported these loans as "Loan from the Government of New Brunswick" and "Province of New Brunswick: Financial Assistance to Industry." As discussed in the GNB Verification Report, both loans were provided under the FAIP. *See* GNB Verification Report at 3.
[61] *See* Irving IQR at Exhibit JDIL KH-04.
[62] *Id*.

assistance under the FAIP, including (a) logging; (b) primary agriculture; (c) primary mining; (d) quarrying; (e) broadcasting; (f) transportation; (g) communications; (h) publishing of news periodicals; (i) generation of electricity; (j) retail trade; (k) food catering; (l) warehousing; and (m) provision of personal services.[63]

We preliminarily determine that the FAIP is *de jure* specific, in accordance with section 771(5A)(D)(i) of the Act, because certain industries are explicitly ineligible. Furthermore, we preliminary determine that loans and the payroll rebates under the FAIP constitute a financial contribution in the form of a direct transfer of funds from the GNB under section 771(5)(D)(i) of the Act. We also preliminarily determine that a benefit exists under section 771(5)(E)(ii) of the Act and 19 CFR 351.505(a)(1) equal to the difference between the amounts paid by the company for the loans during the POR and the amounts the company would have paid on comparable commercial loans. A benefit also exists under 19 CFR 351.504(a) equal to the amount of the payroll rebate.

Irving reported that JDIL received assistance under this program in the form of payroll rebates, and that both Irving and JDIL received assistance in the form of loans.[64] Catalyst reported that it did not receive assistance under this program.[65]

Because JDIL was authorized in 2011 to receive payroll rebates to be distributed annually, we are treating the payroll rebate as a recurring benefit, because it is related to wages and, under 19 CFR 351.524(c), wage subsidies are considered to be recurring.[66] Therefore, we are measuring the benefit from the payroll rebates received during the POR by taking the total disbursement for 2014 and dividing by the combined sales of JDIL, IPP, and Irving, less intercompany sales.

For loans that Irving and JDIL received under the FAIP program, we calculated the benefit as the difference between the interest that Irving and JDIL paid on the loans and the interest that Irving and JDIL would have paid at the benchmark interest rate. For the loan benefits received by JDIL, we divided the benefit amount by the combined sales of JDIL, IPP, and Irving, less intercompany sales; for the loan benefits received by Irving, we divided this total benefit amount by its total sales. We added the resulting rates, for the payroll rebates and loans, to calculate a countervailable subsidy rate for Irving of 0.07 percent *ad valorem* for the FAIP.[67]

2. The Federal Pulp and Paper Green Transformation Program

The GOC reported that Catalyst and Irving received grants during the POR under the Federal Pulp and Paper Green Transformation Program (FPPGTP).[68] The purpose of the program was to improve the environmental performance of Canada's pulp and paper industry. The program is authorized by the national government and administered by Natural Resources Canada. Under

[63] *See* GNB IQR at Exhibit NB-FAIP-2, Regulation 82-197 section 3.
[64] *See* Irving IQR at Exhibits IPL-11, JDIL LU-05 and JDIL S-05.
[65] *See* Catalyst IQR at 24.
[66] *See* Irving IQR at Exhibit JDIL KH-04.
[67] *See* Irving Preliminary Calculation Memorandum.
[68] *See* GOC IQR, Volume V, at GOC-4.

the program, participant companies that register and submit the required application materials receive a credit in the amount C$0.16 per liter of black liquor (a by-product of pulp-making) produced during the period January 1, 2009, through December 31, 2009, up to a C$1 billion cap for the total program.[69] Following the credit application process, companies receive a confirmation of the value of the credits generated, and the total credit value. Companies can then submit project proposals for funding consideration.[70] Eligible projects must be capital investments in a Canadian pulp and paper mill that are directly related to the mill's industrial process and result in demonstrable improvements in environmental performance. Additionally, the project must be located at a pulp and paper mill in Canada.[71] This program ended on March 31, 2012; project expenses incurred by participating companies after that date are not funded by the program.[72]

Consistent with our finding in the countervailing duty investigation of *SC paper from Canada*,[73] we preliminarily determine that grants from the GOC under the FPPGTP constitute a financial contribution in the form of a direct transfer of funds from the government, and bestow a benefit in the amount of the grant within the meaning of sections 771(5)(D)(i) and 771(5)(E) of the Act and 19 CFR 351.504(a). We also preliminarily determine that this program is specific under section 771(5A)(D)(i) of the Act, because the grants provided under the program are limited to the pulp and paper industry.

The Department's regulations at section 351.525(b)(5)(i) state that generally, "(i)f a subsidy is tied to the production or sale of a particular product, the Secretary will attribute the subsidy only to that product." In making this determination, the Department analyzes the purpose of the subsidy based on information available at the time of bestowal.[74] A subsidy is tied only when the intended use is known to the subsidy provider (in this case, the GOC) and so acknowledged prior to, or concurrent with, the bestowal of the subsidy.[75] For example, in determining whether a loan is tied to a particular product, the Department examines the loan approval documents; to determine whether a grant is tied to a particular product, the Department examines the grant approval documents. In the case of the grant program at issue, the grant applicant's guide clearly states that the intent of the program was to improve the environmental performance of Canada's pulp and paper industry, and credits were only to be granted to Canadian pulp and paper companies. Additionally, in order to be eligible for the program, "projects must be capital investments at a Canadian pulp and paper mill that are directly related to the mill's industrial process and result in demonstrable improvements in environmental performance."[76] Further, costs associated with other types of projects (specifically, costs associated with the production or export of softwood lumber products) are ineligible for the program.[77] Therefore, based on the

[69] *Id.* at GOC-1 and GOC-12.
[70] *Id.* at GOC-8.
[71] *Id.* at GOC-12.
[72] *Id.* at GOC-3 and GOC-4.
[73] *See Supercalendered Paper from Canada: Final Affirmative Countervailing Duty Determination*, 80 FR 63535 (October 20, 2015) (*Investigation Final*), and accompanying Issues and Decision Memorandum at 26-27.
[74] *See CVD Preamble*, 63 FR at 65403.
[75] *Id.*
[76] *See* GOC IQR, Volume V at Exhibit GOC-PPGTP-1, at 4.
[77] *Id.* at Exhibit GOC-PPGTP-1, at 7.

record evidence, the purpose of this grant program was known and available prior to the approval and bestowal of the benefit, and we preliminarily determine that these grants are tied to the production of only pulp and paper products. Therefore, as required by 19 CFR 351.525(b)(5), we are attributing the benefits from these grants to the sales of the specific products that benefit from the grant (*i.e.*, pulp and paper products), rather than to Catalyst's or Irving's total sales.

Because neither Catalyst nor Irving received these benefits on an on-going basis, we are treating this subsidy as a non-recurring grant. For Catalyst, both the GOC and Catalyst reported the amount of funds Catalyst received from the GOC.[78] Therefore, we conducted the "0.5 percent test" pursuant to 19 CFR 351.524(b)(2) on the amount of credit approved by the GOC based on Catalyst's black liquor production in 2009. We found that the amount of credits is greater than 0.5 percent of Catalyst's sales of pulp and paper in the year of approval. Thus, we allocated the disbursements received during the AUL using the discount rate discussed above in the section "Loan Interest Rate Benchmarks and Discount Rates," to determine the amount attributable to the POR. We then added these benefits allocated to the POR and divided this total by Catalyst's sales of pulp and paper during the POR. On this basis, we preliminarily determine Catalyst's countervailable subsidy for the FPPGTP to be 0.18 percent *ad valorem*.[79]

Irving reported that Irving, IPP, and JDIL received benefits under this program.[80] However, because Irving states that the benefits all three companies received stemmed from an initial application made by IPP and approved for IPP,[81] we performed the "0.5 percent test" by taking the total amount approved for IPP and dividing that total by the combined sales of Irving and IPP in the corresponding year. We found that the amount of approved credit was greater than 0.5 percent of Irving and IPP's sales of pulp and paper in the year of approval. Therefore, for each year in which Irving, IPP, or JDIL received benefits, we allocated the total benefit over the AUL using the discount rate discussed above in "Loan Interest Rate Benchmarks and Discount Rates," to determine the amount attributable to the POR. We then divided the POR benefits by the appropriate pulp and paper sales denominator during the POR for each company, thereby attributing benefits received by JDIL and IPP to Irving, consistent with 19 CFR 351.525(b)(6)(iv). We added together the rates calculated for the companies to preliminarily determine a countervailable subsidy rate for Irving of 0.58 percent *ad valorem*.[82]

3. Grants from the Total Development Fund to J.D. Irving

In our initial questionnaire, we requested information about the "Government of New Brunswick (GNB) Funds for J.D. Irving" program.[83] In its response, Irving reported that, during the POR, IPP received a grant from the New Brunswick Regional Development Corporation (RDC), a Crown corporation. Irving referred to this as the "NB Regional Development Corporation-Sussex Lab Grant."[84]

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[78] *Id.* at GOC-4; *see also* Catalyst IQR at Appendix II.A.3, at 7.
[79] *See* Catalyst Preliminary Calculation Memorandum.
[80] *See* Irving IQR at Exhibits IPL-07, IPP-06 and JDIL LU-01.
[81] *See, e.g.*, Irving IQR at Exhibit IPL-07.
[82] *See* Irving Preliminary Calculation Memorandum.
[83] *See* Initial Questionnaire.
[84] *See* Irving IQR at Exhibit IPP-07.

In its questionnaire response, the GNB stated that IPP received certain grants from the RDC and identified three separate programs the RDC administers: (1) the Innovation Program, (2) the Northern New Brunswick and Miramichi Regional Economic Development and Innovation Funds, and (3) the Total Development Fund (TDF).[85] When accounting for all grants from the RDC, the GNB reported the grants in the same amounts that Irving had reported, including the grant that Irving had identified as the "Sussex Tree Improvement Lab – Grant."[86] Both Irving and the GNB reported that this funding supports the construction of a research laboratory in Sussex.[87]

At verification, GNB officials explained that this grant was provided from the TDF,[88] although the GNB's initial questionnaire response had indicated that funding from the TDF is available only to provincial government departments, Crown corporations, and not-for-profit corporations.[89] The GNB provided details on the application process for this specific grant in its initial questionnaire response. The GNB noted that the application process for IPP began with correspondence between the company and the Deputy Minister, after which the RDC sent Irving a letter of intent to fund activities associated with the Sussex research laboratory. After Irving submitted additional required information, the RDC provided formal funding authorization.[90]

Because IPP received TDF funding outside of the normal eligibility requirements that limit the funding to provincial government departments, Crown corporations, and not-for-profit corporations, we preliminarily determine that IPP's receipt of benefits under this program is *de facto* specific to IPP, in accordance with section 771(5A)(D)(iii)(IV) of the Act. We also preliminarily determine that the grant provided by the RDC to IPP under this program constitutes a financial contribution in the form of a direct transfer of funds from the government bestowing a benefit in the amount of the grant within the meaning of sections 771(5)(D)(i) and 771(5)(E) of the Act, and under 19 CFR 351.504(a).

Because IPP did not receive these benefits on an on-going basis and the assistance was provided in one lump sum, we are treating this subsidy as a non-recurring grant. Therefore, we performed the "0.5 percent test," as described in 19 CFR 351.524(b)(2). Because the benefit was less than 0.5 percent of the combined sales of Irving and IPP in the year the grant was approved, we allocated the benefit to the year of receipt, in this instance the POR. Pursuant 19 CFR 351.525(b)(6)(iv), we divided the benefit by Irving's and IPP's combined sales, less intercompany sales, to preliminarily determine a countervailable subsidy rate for Irving of 0.10 percent *ad valorem*.[91]

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[85] *See* GNB IQR at Exhibit NB-RDC-1 at 1.
[86] *Id.* at 3.
[87] *See* Irving IQR at Exhibit IPP-07; *see also* GNB SQR at Exhibit NB-RDC 1 at 3.
[88] *See* GNB Verification Report at 7.
[89] *See* GNB IQR at Exhibit NB-RDC-1 at 7.
[90] *Id.* at 5.
[91] *See* Irving Preliminary Calculation Memorandum.

4. Northern New Brunswick Economic Development and Innovation Fund

Irving identified the Northern New Brunswick Economic Development and Innovation Fund (NNBEDIF) as an additional program under which it received assistance during the POR. The NNBEDIF is one of the three programs administered by the RDC as reported by the GNB.[92] The purpose of the NNBEDIF is to provide assistance to eligible companies with the goal of diversifying and growing the Northern New Brunswick economy.[93] Under the NNBEDIF program, assistance may be provided in the form of loans, loan guarantees, or non-repayable contributions.[94] Irving reported that JDIL received assistance under this program in the form of non-repayable contributions (*i.e.*, grants) for two separate projects.[95] The grants received by JDIL provided assistance for the training of forestry workers and were used towards a capital investment project.[96] Funding under the NNBEDIF is limited by geographic region; only companies with projects in the northern New Brunswick counties of Victoria Madawaska, Restigouche, Gloucester, Northcumberland, and parts of Kent qualify.[97]

We preliminarily determine that this program is regionally specific, in accordance with section 771(5A)(D)(iv) of the Act, because this program is limited to companies or projects within a designated geographical region within the jurisdiction of the authority providing the subsidy. We also preliminarily determine that the grants provided to JDIL constitute a financial contribution in the form of a direct transfer of funds from the government bestowing a benefit in the amount of the grants within the meaning of sections 771(5)(D)(i) and 771(5)(E) of the Act, and under 19 CFR 351.504(a).

Because JDIL did not receive these benefits on an on-going basis, we are treating this subsidy as a non-recurring grant. Therefore, we conducted the "0.5 percent test" pursuant to 19 CFR 351.524(b) on the amount of the grant approved by the GNB over the combined sales of JDIL, IPP, and Irving. For every year in which grants were approved, the approved amount did not pass the "0.5 percent test." Therefore, we allocated the grants received to the year of receipt. As such, and in accordance with 19 CFR 351.525(b)(6)(iv), we divided the benefits received by JDIL during the POR by the combined sales of JDIL, IPP, and Irving, less intercompany sales,

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[92] *See* discussion *supra* VI.A.3.
[93] *See* GNB IQR at Exhibit NB-RDC-2 "Northern New Brunswick Economic Development and Innovation Fund and Miramichi Regional Economic Development and Innovation Fund Guidelines."
[94] *Id.*
[95] Irving reported assistance to JDIL-Sawmills Division under what it titled the "Northern New Brunswick Economic Development and Innovation Fund" and assistance to the JDIL-Woodlands Division under the "Northern New Brunswick Economic Development and Innovation Fund-Forest Workforce Training." The GNB called the Sawmills grant "Regional Development Corporation – Grant" and reported the funds going to the Woodlands Division, and called the Woodlands grant "Forest Workforce Training Grants" and reported the funds going to the Sawmills division. Funding for both grants, apart from a small amount that went to JDIL, was actually paid by the GNB to IPP. Irving states that the payments were mistakenly made to IPP, and that IPP later forwarded these amounts to the proper JDIL division. At verification, the GNB confirmed that both grants were provided under the NNBEDIF program despite the different grant names. *See* GNB Verification Report for a more detailed description of this program and the many grants that fall under it; *see also* Irving IQR at Exhibits JDIL S-04 and JDIL W-04; Irving SQR at 26; *see also* GNB IQR at Exhibit NB-RDC-1 at 2-3.
[96] *See* Irving IQR at Exhibits JDIL S-04 and W-04.
[97] *See* GNB IQR at Exhibit NB-RDC-1 at 6; *see also* GNB Verification Exhibits at Exhibit -34 for a map.

during the POR. Thus, the preliminary countervailable subsidy for Irving is 0.04 percent *ad valorem*.[98] Catalyst did not use this program.[99]

5. Workforce Expansion – One Job Pledge

Irving reported that IPP and JDIL received wage subsidies through this program.[100] The GNB reported that this program is administered under the Employment and Continuous Learning Services Branch of the GNB's Department of Post-Secondary Education, Training and Labour (PETL). Introduced in January 2013, the program provides financial assistance to eligible New Brunswick businesses[101] in the form of wage subsidy rebates for new hires that are recent post-secondary graduates.[102] The employer must create a new position for the new hire and must demonstrate that such a position would be sustainable after one year.[103]

The language of the implementing provisions for this program does not limit eligibility to a specific enterprise or industry or group thereof, in accordance with section 771(5A)(D)(i) of the Act. However, although the GNB reported that assistance under this program is available to all businesses in New Brunswick, the Government of Canada reported that there were nearly 33,000 corporations in New Brunswick that filed a corporate tax return in 2014.[104] Furthermore, information provided by the GNB demonstrates that, considering the number of corporate tax filers in NB, a limited number of companies have been approved for assistance under this program since its inception in 2013.[105] We, therefore, preliminarily determine that this program is *de facto* specific under section 771(5A)(D)(iii)(I) of the Act, as the actual recipients are limited in number.

Furthermore, we preliminary determine that the Workforce Expansion – One Job Pledge program constitutes a financial contribution in the form of a direct transfer of funds from the GNB, under section 771(5)(D)(i) of the Act. We also preliminarily determine that a benefit exists in the amount of the grant provided to IPP and JDIL in accordance with section 771(5)(E) of the Act and 19 CFR 351.504(a).

To calculate the benefit, and in accordance with 19 CFR 351.525(b)(6)(iv), we divided the rebate amount IPP received by its total sales and Irving's total sales during the POR, less intercompany sales. Likewise, in accordance with 19 CFR 351.525(b)(6)(iv), we divided the rebate amount JDIL received by JDIL's, IPP's and Irving's total sales during the POR, less intercompany sales. We added the two resulting rates to preliminarily determine that Irving received a

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[98] *See* Irving Preliminary Calculation Memorandum.
[99] *See* Catalyst Verification Report at 19-20.
[100] *See* Irving IQR at Exhibits IPP-12, JDIL G-01, JDIL IT-01, JDIL KH-02, JDIL LU-06, JDIL S-01, and JDIL W-05.
[101] *See* GNB IQR at Exhibit NB-OJP-1 at 8.
[102] *Id.* at 1, 11.
[103] *Id.* at 11.
[104] *See* GOC Verification Exhibits at Exhibit GOC-11.
[105] *See* GNB IQR at Exhibit NB-OJP-1 at 7 and 10.

countervailable subsidy rate of 0.03 percent *ad valorem* under this program.[106] Catalyst did not use this program.

6. BC Hydro Power Smart Program

Catalyst reported that it received funds under the BC Hydro Power Smart Program.[107] BC Hydro is a provincial Crown corporation that generates, purchases, distributes, and sells the vast majority of British Columbia's electricity. In 1989, BC Hydro started the Power Smart program. Power Smart funds are disbursed among programs for each of its three categories of customers: residential, commercial, and industrial. Within the industrial category are the subcategories Power Smart Partners-Transmission (PSP-Transmission), for customers that are connected to the BC Hydro system at above 60 kilovolts (kV), and Power Smart Partners-Distribution (PSP-Distribution), for customers that are connected to the BC Hydro system at 60kV and below. PSP-Transmission provides funding for energy studies and projects encouraging energy efficiency.[108] BC Hydro's industrial customers can apply for and undertake these PSP-Transmission projects either individually or as part of larger programs, such as the Thermo-mechanical Pulp (TMP) program.

a. TMP Program

BC Hydro created this subprogram in July 2014.[109] It targets customers who own TMP facilities and is designed to facilitate energy efficiency and load displacement.[110] The TMP program was open to British Columbia customers that owned and operated TMP mills within BC Hydro's service area.[111] There were seven such facilities during the POR, three of which were operated by Catalyst.[112] BC Hydro granted project funding to applicants with a TMP mill.[113] Catalyst applied for funding under this program to install its G13 steam turbine generator at Powell River in 2014.[114] BC Hydro accepted its application, which resulted in a TMP Load Displacement Agreement on December 22, 2014,[115]and funding provided to Catalyst during the POR.[116]

We preliminarily determine that the funds Catalyst received under the BC Hydro Power Smart Program's TMP subprogram from the GBC constitute a financial contribution in the form of a direct transfer of funds from the government, pursuant to section 771(5)(D)(i) of the Act, and that this subprogram bestows a benefit in the amount of the grants, pursuant to section 771(5)(D)(i) of the Act and 19 CFR 351.504(a). We preliminarily determine that this

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[106] *See* Irving Preliminary Calculation Memorandum.
[107] *See* Catalyst SQR at Exhibit 120.
[108] *See* GBC IQR at BC I-4.
[109] *Id.* at BC I-6.
[110] *Id.*
[111] *Id.* at BC I-17.
[112] *Id.* at BC I-6.
[113] *See* Catalyst IQR at Exhibit 65.
[114] *Id.* at Appendix II.B.1, at 5.
[115] *Id.*
[116] *See* GBC IQR at BC I-23.

subprogram is specific under section 771(5A)(D)(i) of the Act, because the program limits eligibility to operators of TMP mills.

In accordance with 19 CFR 351.524(b), we find that the grant provided under the TMP subprogram provides a non-recurring benefit. Therefore, we conducted the "0.5 percent test" pursuant to 19 CFR 351.524(b) on the amount of the grant approved by BC Hydro over the Catalyst's total sales. Because the approved amount did not pass the "0.5 percent test," we allocated the grant to the year of receipt. Therefore, we calculated the countervailable subsidy rate by dividing the amount of the grant received under this program during the POR by Catalyst's total sales during the POR, as described above in the "Subsidies Valuation Information – Attribution of Subsidies" section. On this basis, we preliminarily determine that Catalyst received a net countervailable subsidy of 0.05 percent *ad valorem* under this program.[117]

b. Industrial Energy Managers Program

Under the Industrial Energy Manager program, BC Hydro provides funding in the form of wage subsidies to PSP-Transmission customers to fund an employee dedicated to the position of Energy Manager who works to identify energy conservation opportunities. Catalyst received wage subsidies for energy managers employed at its Powell River, Port Alberni and Crofton mills.[118] The funding under this program is available to BC Hydro's industrial customers who used more than 10 gigawatt hours (Gwh) per year.[119] According to BC Hydro officials, it provides funding for 43 energy managers out of 164 eligible sites.[120]

We preliminarily determine that the funds Catalyst received under the BC Hydro Power Smart Program's industrial energy managers subprogram from the GBC constitute a financial contribution in the form of a direct transfer of funds from the government, pursuant to section 771(5)(D)(i) of the Act, and that this subprogram bestows a benefit in the amount of the grants, pursuant to section 771(5)(D)(i) of the Act and 19 CFR 351.504(a). Because this assistance is available only to industrial customers who use more than 10 Gwh annually, it is available to a limited number of users and, thus, we preliminarily find this program to be *de jure* specific, in accordance with section 771(5A)(D)(i) of the Act.

In accordance with 19 CFR 351.524(a), we find that the grant provided under the Energy Managers subprogram provides a recurring benefit. Therefore, we calculated the countervailable subsidy rate by dividing the amount of the grant received under this program during the POR by Catalyst's total sales during the POR, as described above in the "Subsidies Valuation Information – Attribution of Subsidies" section. On this basis, we preliminarily determine that Catalyst received a net countervailable subsidy of 0.02 percent *ad valorem* under this program.[121]

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[117] *See* Catalyst Preliminary Calculation Memorandum.
[118] *Id.* at BC I-28; *see also* Catalyst IQR at Appendix II.B.1 at 11.
[119] *See* GBC SQR at Exhibit BC-BCH-28.
[120] *See* GBC Verification Report at 17.
[121] *See* Catalyst Preliminary Calculation Memorandum.

7. Atlantic Investment Tax Credit

Irving identified the Atlantic Investment Tax Credit (AITC) as an additional program under which it received assistance during the POR.[122] This program is administered by the Canada Revenue Agency (CRA) and was implemented in 1977.[123] It is a credit against federal income tax owed and its purpose is to encourage investment in the Atlantic Region of Canada.[124] It is available to businesses in the Atlantic Region of Canada, which encompasses the provinces of Newfoundland and Labrador, New Brunswick, Nova Scotia, Prince Edward Island, and Québec's Gaspé Peninsula.[125]

This tax credit is provided for in Section 127 of the Income Tax Act, and section 4600 of the Income Tax Regulations.[126] The Income Tax Act and Regulations provide the definitions that identify the property and the locations that qualify for this tax credit.[127]

Taxpaying companies in the Atlantic Region can earn investment tax credits (ITCs) equal to 10 percent of the value of investments that the company has made in qualified property located in the Atlantic Region that is to be used in certain sectors.[128] Qualified property is machinery and equipment used for manufacturing, and for farming, logging, and fishing.[129] The ITCs can be earned in the year that the qualifying property is first put into use, regardless of the acquisition date.[130] The ITCs are available to be applied against federal taxes payable three years back and 20 years forward.[131] The taxpaying company has the discretion to decide whether and when to use the credit. Qualifying small businesses can receive a portion of the credit as a refund, regardless of their tax position. Companies that do not qualify as small businesses may only use the credit to offset taxes owed.[132]

Irving reported that Irving, IPP, and JDIL earned the tax credit in 2013 and utilized it during the POR.[133] Therefore, we preliminarily determine that the tax credit provided to Irving, IPP, and JDIL constitutes a financial contribution in the form revenue foregone, within the meaning of section 771(5)(D)(ii) of the Act.

This federal tax credit is limited by geographic region to companies with projects in the Atlantic Region of Canada.[134] Because this program is available only to companies or projects within a designated geographical region within the jurisdiction of the authority providing the subsidy, we

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[122] *See* Irving IQR at IPL-13.
[123] *See* GOC IQR at GOC-22.
[124] *See* Irving IQR at Exhibit IPL-13.
[125] *Id.; see also* GOC IQR at GOC-28.
[126] *See* GOC IQR at Exhibits GOC-AITC-2.
[127] *Id.* at Exhibits GOC-AITC-1 and GOC-AITC-2.
[128] *See* Irving IQR at Exhibit IPL-13.
[129] *Id.*
[130] *Id.*
[131] *Id.*
[132] *See* GOC Verification Report at 8.
[133] *See* Irving IQR at Exhibits IPL-13, IPP-13, and JDIL-05.
[134] *See* GOC IQR at GOC-22.

preliminarily determine that this program is regionally specific, in accordance with section 771(5A)(D)(iv) of the Act.

We also preliminarily determine that a benefit is conferred to Irving, IPP, and JDIL in the amount of the tax credit used to reduce taxes payable under 19 CFR 351.509(a)(1). In accordance with 19 CFR 351.524(c)(1), we are treating this subsidy as a recurring subsidy, and measuring the POR benefit as the tax credits applied to the payment of income tax during the POR. In order to calculate the countervailable subsidy rate for Irving, in accordance with 19 CFR 351.525(b)(6)(iv), we divided the benefits to JDIL by the combined sales of JDIL, IPP, and Irving, less intercompany sales; we divided the benefits to IPP by the combined sales of IPP and Irving, less intercompany sales; and we divided the benefits to Irving by Irving's sales. We added together the resulting subsidy rates, to determine a countervailable subsidy rate for Irving of 2.00 percent *ad valorem*.[135] Catalyst reported that it did not use this program.[136]

8. New Brunswick Large Industrial Renewable Energy Purchase Program

The New Brunswick Department of Energy and Resource Development (DERD) and New Brunswick Power (NB Power), a Crown corporation, administers the Large Industrial Renewable Energy Purchase Program (LIREPP) pursuant to the Electricity from Renewable Resources Regulation and with authority under the Electricity Act.[137] According to the GNB, the program has two main objectives: (1) reach NB Power's mandate to supply 40 percent of its electricity from renewable sources by 2020[138] by buying energy from large industrial customers; and (2) bring large industrial enterprises' net electricity costs in line with the average cost of electricity in other provinces.

The LIREPP program is available to any large industrial company that produces renewable energy and owns and operates a facility that has an electrical energy requirement of not less than 50 GWh per year, that obtains all or a portion of its electricity on a firm basis (vs. interruptible basis) from NB Power, and that exports at least 50 percent of its primary products produced to another province or territory within Canada or outside the country.[139] There is no formal application process. Despite LIREPP participation being available to all large industrial users, the GNB has reported that there are a small number of users of the program and that all companies participating in LIREPP operate within the pulp and paper industry.[140]

Under the LIREPP program, NB Power first determines the credit it wants to give the large industrial customer, such as Irving; NB Power then works backwards to build up to that credit through a series of renewable energy power purchases and sales and additional credits.[141] This overall credit is known as "Net LIREPP" or the "Net LIREPP adjustment," and it appears on the

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[135] *See* Irving Preliminary Calculation Memorandum.
[136] *See* Catalyst Verification Report at 19-20.
[137] *See* GNB NSA at Exhibit NB-LIREPP-1 at 1-2.
[138] *Id.* at NB-LIREPP-2 and 3 for the Electricity Act and Electricity from Renewable Resources Regulation.
[139] *Id.* at Exhibits NB-LIREPP-1 at 9 and Exhibit NB-LIREPP-3.
[140] *Id.* at Exhibit NB-LIREPP-1 at 12.
[141] The details of the LIREPP program and Irving's participation are proprietary. For a more through discussion *see* the GNB Verification Report at 19-22; *see also* Irving Preliminary Calculation Memorandum.

participating customers' electricity bill as a credit applicable to their total electricity charges. Irving reported that it participated in the LIREPP program and received a Net LIREPP credit on each of its monthly electricity bills. Irving's receipt of the LIREPP credit is recorded in its accounting system as a rebate.[142]

According to the GNB, DERD performs a calculation to determine the Canadian average firm energy rate (in $/MWh) for the relevant industries, and then calculates the difference between that rate and the average firm energy rate in New Brunswick.[143] This differential is annually calculated as a percentage. This percentage, known as the Target Reduction Percent, is the amount by which NB Power reduces the total electricity costs for LIREPP participants.[144] When the Target Reduction Percent is multiplied by the LIREPP participant's firm energy usage it yields the Target Discount. The Target Discount is the amount by which NB Power reduces the electricity bill of the LIREPP participant.[145]

We preliminarily determine that the LIREPP program provides a financial contribution in the form of revenue foregone, as described under section 771(5)(D)(ii) of the Act. We further preliminarily determine that the Net LIREPP credits provided under the program confer a benefit within the meaning of section 771(5)(E) of the Act because Irving received a credit from the GNB to offset its electricity costs. We also preliminary determine that this program is *de facto* specific under section 775(5A)(D)(iii)(I) because the actual recipients of the subsidy are limited in number.

Because this program provides benefits on a recurring basis, to calculate the benefit from the electricity credits that Irving received under the LIREPP program, we summed the total amount of energy subsidies reported by Irving during the POR. We divided this total by the appropriate sales denominator.[146] On this basis we preliminarily determine the countervailable subsidy for Irving to be 1.58 percent *ad valorem*.[147]

9. New Brunswick Provision of Stumpage to Irving for Less than Adequate Remuneration

In the province of New Brunswick, there are four ways to acquire logs from Crown land: (1) as a licensee; (2) as a sub-licensee; (3) under a permit; or (4) sales.[148] JDIL harvests logs as a licensee and as a sub-licensee. Regardless of how these logs are accessed, all logs harvested on Crown land are subject to Crown stumpage fees.

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[142] *See* Irving NSA at Exhibit LIREPP-01 at 7
[143] *See* GNB NSA at Exhibit NB-LIREPP-1 at 2.
[144] *See* GNB LIREPP Supplemental at 5.
[145] For further details on the LIREPP program and how the Net LIREPP credit is calculated please *see* Irving's Preliminary Calculation Memorandum and Irving's Verification Report.
[146] For a detailed description of the calculation, which contains business proprietary information please *see* Irving's Preliminary Calculation Memorandum.
[147] *See* Irving Preliminary Calculation Memorandum.
[148] *See* GNB Verification Report at 12. The last of these two, GNB officials explained at Verification, are generally smaller individuals/groups who are either harvesting logs to clear the land for other uses, or are acquiring wood for personal use (*i.e.*, firewood).

Licensees may harvest directly from Crown land as provided in their license agreements with the GNB, and sub-licensees may receive permission to harvest from Crown land under license to another party. The New Brunswick Department of Natural Resources (NBDNR) sets the allowable harvest allocations for each licensee and sub-licensee on each of the licenses every year. Licensees enter into a 25-year forest management agreement (FMA) with the NBDNR, under which the licensees are responsible for managing the land and ensuring that the FMA is followed. Further, they are responsible for performing certain license management duties, including silviculture, for which they are reimbursed by the GNB.[149] The GNB does not impose any obligations on sub-licensees; the performance of land management activities by a sub-licensee on Crown land is governed by private agreement between the licensee and the sub-licensee.[150]

The Crown Lands and Forest Act requires that Crown stumpage rates in New Brunswick are established at "fair market value" (FMV).[151] In order to establish the stumpage rates in effect during 2014, the GNB relied on the results of private market surveys that provide product- and species-specific stumpage rates for the relevant time period. Because these surveys are conducted every three to four years, the GNB applies an index to the stumpage rates each year and publishes the new rates in Schedule A of the regulations for the relevant fiscal year. These published rates are the basis for stumpage rates charged for the harvest through the GNB's e-scale system.[152] The rates established for the first three months of the POR covering the GNB's 2013-2014 fiscal year were based on the survey conducted in 2009 and 2010, while the rates for the remaining months of the POR were based on the results of the 2011 and 2012 survey. At verification, GNB officials explained that, while the GNB normally relies on province-specific surveys, both the 2009/2010 and 2011/2012 surveys included private stumpage prices from New Brunswick, Nova Scotia, and Prince Edward Island (collectively, the Maritime provinces).[153]

Stumpage rates can be adjusted by the GNB through e-scale adjustments and post-payment adjustments, which are based on both operating conditions and the GNB's year-end reconciliation process. For instance, an e-scale adjustment may be made by the NBDNR if the timber to be harvested is on a severe slope or if it has been affected by pests or fire damage.[154] Irving reported all of these adjustments in their stumpage purchase data.

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[149] Licensees receive reimbursement from the GNB for the silviculture activities that they perform on their licenses and for a license management fee for other license and land management obligations required as part of its FMA. Please see sections 10 and 11 under "Programs Preliminarily Determined to be Countervailable" below for further discussion of the silviculture reimbursements and license management fees.
[150] *See e.g.*, GNB NSA2 at NB-12.
[151] *See e.g.*, GNB NSA2 at NB-STUMP-2 at 59(1) ("The royalty for each class shall be based on the fair market value of standing timber of that class.")
[152] All timber harvested on Crown land must be entered into the GNB's e-scale system by the licensee of a License. The Licensee is responsible for submitting e-scale data to the GNB for its own harvest, and also the harvested volume of all sub-licensees on it license. *See* GNB NSA2 at NB-14.
[153] *See* GNB Verification Report at 14.
[154] *See* Irving NSA2 Exhibit STUMP-24; *see also* Irving VE-19, VE-20 and GNB Verification Report at 17.

We preliminarily determine that the provision of stumpage from Crown land by the GNB to JDIL constitutes a financial contribution as a provision of a good within the meaning of 771(5)(D)(iii) of the Act. We find that the provision of stumpage is *de facto* specific because it is limited to the forest products industry and, therefore, limited to an enterprise or industry or group thereof, consistent with section 771(5A)(D)(iii)(I) of the Act.

The provision of stumpage provides a benefit within section 771(5)(E)(iv) of the Act, to the extent that the GNB received less than adequate remuneration when measured against an appropriate benchmark for stumpage. The Department's regulations at section 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. In addition, as provided in 19 CFR 351.511(a)(2)(i), we have considered product similarity; quantity sold, imported or auctioned; and other factors affecting comparability .

The most direct means of determining whether the government received adequate remuneration is a comparison with private transactions for a comparable good or service in the country, *i.e.*, using a Tier 1 benchmark. We base this on 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). Our preference for Tier 1 is based on the expectation that such prices would generally reflect most closely the commercial environment of the purchaser under investigation or review.[155]

During the POR, JDIL made purchases of stumpage from private land in New Brunswick and in Nova Scotia.[156] Thus, we have considered whether these prices satisfy the criteria to be used as Tier 1 benchmarks. In accordance with the first preference in the hierarchy, to determine the existence and extent of the benefit, we analyzed the stumpage market in New Brunswick during the POR.

According to data provided by the GNB, timber harvested on Crown land in New Brunswick during the POR represented over 50 percent of the total timber harvest in New Brunswick during the POR.[157] Further, as explained above, the prices for stumpage rights on these Crown lands during the POR were administratively and uniformly set using a proprietary formula based on a

[155] *See CVD Preamble*, 63 FR at 65377.
[156] *See* Irving NSA2 at Exhibit STUMP-2.c.
[157] *See* GNB Verification Exhibits at Exhibit 13. This is a calculation of timber harvested in New Brunswick during the POR; this calculation does not include the volumes reported in the "other" category, which "includes biomass, bark/hogfuel, sawmill and pulpmill chips, and other residues." We have also removed imports as shown in the data provided in the Exhibit 13, to estimate the harvest in New Brunswick. The figures used to calculate this percentage are business proprietary, for further details regarding this calculation please *see* Irving's Preliminary Calculation Memorandum.

survey of private stumpage prices in the Maritime provinces (including New Brunswick).[158] The GNB also restricts eligibility for purchasing Crown stumpage rights or timber licenses to those companies that own or operate a wood processing facility in New Brunswick.[159]

The record also establishes that thousands of private woodlot owners accounted for less than one-fourth of harvested timber in New Brunswick,[160] and that, according to the private Woodlot Owners Association, its members cannot compete with the low prices set on Crown land.[161] In addition, according to the *Report of the Auditor General - 2008*, it is the leverage of private mills as dominant consumers that suppresses prices from private woodlots, and that it is those suppressed private prices that lead to an artificially low "market-based" price for Crown stumpage.[162] This market situation does not appear to have changed since the release of that report, as a 2015 report by the GNB confirms that the New Brunswick market "combines aspects of a bilateral monopoly (a single dominant seller, the Crown; and a single dominant buyer, J.D. Irving, Ltd.) and an oligopsony (many small sellers, the private woodlot owners; and a few buyers, the mills, which purchase from both private woodlot owners and the Crown)."[163]

The *Preamble* states that government involvement in the market "will normally be minimal unless the government provider constitutes a majority or, in certain circumstances, a substantial portion of the market."[164] However, Commerce does not apply a *per se* rule that a government's majority market share equates to government distortion.[165] Rather, Commerce will consider all relevant factors or measures that may distort a market.[166] The record evidence in this review establishes that the GNB holds a majority share of the market for stumpage in New Brunswick, and that it restricts eligibility for Crown stumpage rights to companies that operate pulp and paper or lumber mills. Moreover, the evidence establishes that private woodlot owners account for a much smaller share of the New Brunswick stumpage market than the government. The record further indicates that the private mills' status as the dominant consumers of stumpage creates an oligopsony effect such that both private woodlot owners and the Crown are responsive

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[158] *See* GNB Verification Report at 14; *see also* Amended NSA Allegation at 9.
[159] *See* GNB NSA2 at 7.
[160] The remaining share of timber harvested in New Brunswick came from Crown land and industrial freehold land. *See* GNB Verification Exhibits at Exhibit 13. The figures used to calculate this percentage are business proprietary, for further details regarding this calculation please *see* Irving's Preliminary Calculation Memorandum.
[161] *See* Amended NSA Allegation at Exhibits 4 and 5.
[162] *See* Amended NSA Response at Exhibit 2 at 150.
[163] *Id*. at Exhibit 9, at 24-25.
[164] *See Preamble*, 63 FR at 65377.
[165] *See, e.g., Countervailing Duty Investigation of Certain Cold-Rolled Steel Flat Products From the Russian Federation: Final Affirmative Countervailing Duty Determination and Final Negative Critical Circumstances Determination*, 81 FR 49935 (July 29, 2016) and accompanying IDM at 52-56; *see also 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) (*Softwood Lumber IV AR 1*) and accompanying IDM at 94-96; *see also Borusan Mannesmann Boru Sanayi Ve Ticaret A.S. v. United States*, 61 F. Supp. 3d 1306, 1331 (CIT 2015) (remanding for further explanation a finding of government distortion where Commerce relied on the government's market share without explaining why a substantial share of the market was necessarily substantively distortive).
[166] *See, e.g., Aluminum Extrusions from the People's Republic of China: Final Results of the Countervailing Duty Administrative Review; 2010 and 2011*, 79 FR 106 (January 2, 2014), and accompanying Issues and Decision Memorandum at 27.

to price-setting behavior by the private mills. Based on these facts, we preliminarily determine that private New Brunswick stumpage purchases are not "market-determined" and therefore do not qualify as Tier 1 benchmark prices.[167]

Accordingly, it is not appropriate to rely on New Brunswick observed market prices for stumpage as the Tier 1 benchmark. JDIL itself purchased stumpage in significant volume from private parties in Nova Scotia during the POR. In the investigation of this proceeding, we determined that the market in Nova Scotia was not distorted; no information has been presented in this review that warrants reconsideration of that finding.[168] Therefore, we preliminarily determine that these prices constitute observed market prices that satisfy the requirements of 19 CFR 351.511(a)(2)(i), and we are relying on them as the benchmark for determining the adequacy of remuneration.

To calculate the benefit received under this program, we compared the stumpage prices paid by JDIL for its purchases of stumpage on Crown land[169] to the prices JDIL paid under private stumpage agreements in Nova Scotia during the POR. JDIL reported stumpage-only prices for its stumpage purchases on Crown land and its stumpage purchases on private land in Nova Scotia. We did not include in the Crown stumpage fees paid by JDIL any fees required under private agreements JDIL reached with the licensees for licenses on which JDIL was the sub-licensee. We summed these benefits to derive a total for benefit for stumpage provided at LTAR. We divided the total stumpage benefit by the combined sales of JDIL, IPP, and Irving, less intercompany sales, to calculate a countervailable subsidy rate of 0.23 percent *ad valorem* for Irving for this program.[170]

10. New Brunswick Provision of Silviculture Grants

Irving reported that JDIL received payments in the form of reimbursements from the GNB for certain silviculture activities required as part of its FMA for License 7.[171] The *Crown Lands and Forest Act* specifies silviculture activities that qualify for reimbursement under a license's applicable FMA, which, in JDIL's FMA, includes site preparation, pre-commercial thinning, planting and plantation cleaning.[172] The GNB establishes the rate at which it reimburses JDIL, and JDIL reported the amount of silviculture reimbursements it received during the POR.[173] When JDIL has completed eligible silviculture activities, it submits invoices to the GNB for reimbursement.[174] Irving reported that the GNB's reimbursements for silviculture activities do not fully cover the costs that JDIL incurs in performing them.[175] The silviculture activities required under the FMA are activities that JDIL would also undertake on its private freehold land, in the regular course of business, and for which it would not be reimbursed by the GNB.

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[167] 19 CFR 351.211(a)(2).
[168] *See Investigation Final* and accompanying IDM at 51.
[169] *See* Irving NSA2 at Exhibit STUMP-2.a.
[170] *See* Irving Preliminary Calculation Memo.
[171] *See* Irving NSA QR2 at Exhibit STUMP-16.
[172] *Id.* at Exhibit STUMP-1.
[173] *See* GNB Verification at VE-16; *see also* Irving NSA at 7 and Exhibit SILV-5.
[174] *See* Irving NSA at Exhibit SILV-1, at 7 and Exhibit SILV-5.
[175] *See* Irving NSA2 at 7.

We preliminarily determine that the silviculture grants that JDIL received from the GNB constitute a financial contribution in the form of a direct transfer of funds from the government bestowing a benefit in the amount of the grants, within the meaning of sections 771(5)(D)(i) and 771(5)(E) of the Act. We also determine that a benefit exists under 19 CFR 351.504(a), equal to the amount of the grant. Finally, we determine that the program is specific, in accordance with section 771(5A)(D)(i) of the Act, because the funding is provided to a specific enterprise or industry, or group thereof: companies that manage licenses under a FMA.

In accordance with 19 CFR 351.524(c)(2), we find that the funds provided under this program constitute recurring benefits. To attribute the benefit received by JDIL to Irving, under 19 CFR 351.525(b)(6)(iv), we divided this benefit amount by the combined sales of JDIL, IPP, and Irving, less intercompany sales, during the POR. On this basis, we determine that Irving received a net countervailable subsidy of 0.35 percent *ad valorem* under this program.[176]

11. License Management Fee

Irving reported that JDIL received payments in the form of License Management Fees (LMFs) from the GNB for non-silviculture activities required as part of its FMA for its Crown license. Under the terms of its FMA, JDIL is obligated to perform certain management activities, and it is reimbursed for the costs associated with these activities. The reimbursements are provided on a flat fee basis for each cubic meter of harvest on its licensed Crown lands.[177] Irving describes these payments as reimbursement for the responsibilities that JDIL undertakes as the license holder. These responsibilities are outlined in the FMA, and they include road maintenance and construction costs, as well as the costs of administering all forestry-related activities, including submitting scale information (reporting the volume harvested) to the GNB and conducting all invoicing of the sub-licensees on behalf of the GNB. The GNB establishes the rate at which it reimburses JDIL, and Irving reported the amount of assistance that was provided to JDIL in the form of LMFs during the POR.[178] Irving reported that the GNB's reimbursements LMF-related activities do not fully cover the costs that JDIL incurs in performing them.[179] The license management activities required under the FMA are activities that JDIL would also undertake on its private freehold land, in the regular course of business, and for which it would not reimbursed by the GNB.

We preliminarily determine that the LMFs that JDIL received from the GNB constitute a financial contribution in the form of a direct transfer of funds from the government bestowing a benefit in the amount of the grants, within the meaning of sections 771(5)(D)(i) and 771(5)(E) of the Act. We also determine that a benefit exists under 19 CFR 351.504(a), equal to the amount of the grant. Finally, we determine that the program is specific, in accordance with section 771(5A)(D)(i) of the Act, because the funding is provided to a specific enterprise or industry, or group thereof: those who manage sublicenses under FMAs.

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[176] *See* Irving Preliminary Calculation Memorandum.
[177] *See* GNB NSA2 at NB-11-12.
[178] *See* GNB Verification at VE-16; *see* Irving NSA at 12.
[179] *See* Irving NSA2 at 12.

In accordance with 19 CFR 351.524(c)(2), we find that the funds provided under this program constitute recurring benefits. However, we recognize that a portion of the reimbursements that JDIL is receiving is for the administrative costs associated with managing the sub-licensees, *i.e.*, services that JDIL is performing for the sub-licensees on behalf of the GNB (managing the harvest volume and scaling information and invoicing the sub-licensees for their stumpage fees, collecting payment and conveying it to the GNB). Therefore, we have removed from the total LMF reimbursements that JDIL received an estimated amount for the portion of the reimbursement that covers the provision of administrative services, using information provided by Irving to calculate a ratio of administrative costs to total costs.[180] The resulting amount is the benefit. To attribute the benefit received by JDIL to Irving, under 19 CFR 351.525(b)(6)(iv), we divided this benefit amount by the combined sales of JDIL, IPP, and Irving, less intercompany sales, during the POR. On this basis, we determine that Irving received a net countervailable subsidy of 0.40 percent *ad valorem* under this program.[181]

12. British Columbia Ban on Exports of Logs and Wood Residue

The petitioner contends that the GBC and the GOC maintain a ban on exports of logs and the GBC maintains a ban on the export of wood residue from British Columbia and that these prohibitions on exports provide a countervailable subsidy. Catalyst reported purchases of logs and wood residue in British Columbia during the POR from unaffiliated third parties.

Logs harvested in British Columbia (BC) fall under either provincial or Federal jurisdiction. Under both jurisdictions, there are laws and regulations requiring an exporter to obtain an exemption and an export permit in order to export logs outside of British Columbia. Additionally, exporters of wood residue[182] (wood chips, slabs, edgings, shavings, sawdust, and hog fuel) must obtain an export exemption from the GBC (all residue in British Columbia is under provincial jurisdiction) before export.[183]

Exports of logs and wood residue under provincial jurisdiction are regulated under the British Columbia Forest Act.[184] The Forest Act states that timber and wood residue harvested from land under provincial jurisdiction "must be (a) used in British Columbia, or (b) manufactured in British Columbia into wood products to the extent of manufacture specified by the regulation."[185] As stipulated in Part 10 of the Forest Act, there are three criteria for exporting logs or wood residue from provincial jurisdiction; however, the only criterion applied during the POR was that the logs or wood residue are surplus to domestic manufacturers.[186] At verification,

[180] *See* Irving Verification Exhibits at VE-46 at 182.
[181] *See* Irving Preliminary Calculation Memorandum.
[182] *See* Petitioners New Subsidy Allegations at 24 and Exhibit 23. The Forest Act of British Columba (Forest Act) defines wood residue as "wood chips, slabs, edgings, shavings, sawdust, and hog fuel."
[183] *See* GBC NSA at BCI-7.
[184] *See* GBC NSA at Exhibits BC-EX-4 (effective after April 2014) and BC-EX-5 (effective before April 2014).
[185] *Id.* at Section 127.
[186] *See* GBC NSA at BCI -8 and BCI-9. The other two criteria are: (1) the logs or wood residue cannot be processed or transported economically in British Columbia; and (2) exporting the logs or wood residue would improve the utilization of the wood harvested. These criteria were not used during the POR.

GBC officials explained that only the "surplus test" was used during the POR, because it is the simplest method for exporting logs and wood residue from the province.[187] The purpose of this test is to ensure that there is an adequate domestic supply of logs or wood residue to satisfy the needs of domestic lumber and paper mills before an export exemption is granted.[188]

Exemptions can be obtained to export under the surplus criterion through either a Ministerial Order or an Order in Council (OIC).[189] Under a Ministerial Order, a company submits an application to the GBC and the logs or wood residue covered by the application are listed in a bi-weekly advertising list published by the GBC to publicize to British Columbia mill operators the availability of the logs or wood residue. Mill operators can place bids on the listings. If no bid is received for a particular listing, then the listing is considered to be surplus to the needs of domestic manufacturers and a Ministerial Order is automatically granted.[190]

If a bid is received on a listing, the bid is evaluated by the Timber Export Advisory Committee (TEAC) or the Chip Export Advisory Committee (CEAC)[191] to determine whether the submitted offer is fair. The TEAC/CEAC makes a recommendation to the GBC regarding whether the committee feels that the price offered is fair or if the listing that has received an offer is surplus to the needs of domestic manufacturers. On the basis of this recommendation, the GBC makes a determination regarding whether to grant a Ministerial Order for export or to deny the application.[192] The process can take from six to ten weeks from application to granting an exemption when a bid has been received that requires evaluation by the TEAC/CEAC.[193]

Exporters of logs and wood residue can also apply for an exemption through a blanket or company-specific OIC. Under a blanket OIC, the GBC permits a certain volume of logs or wood residue from a given area to be exported without the application of the surplus test. While the approval process for a blanket OIC takes longer than for a Ministerial Order, a blanket OIC is usually valid for a period of five years.[194] At verification, GBC officials explained that blanket OICs have been approved in areas where there are no log processing operations and applications for exemptions under Ministerial Orders from that area had always been granted.[195] Additionally, when asked why, under a particular blanket OIC, the GBC lowered the percentage of harvest allowed for export without the application of the surplus test, GBC officials speculated that it may have been because new timber processing facilities opened in the area.[196] Company-specific OICs allow companies to apply for an export exemption for standing timber in the BC interior, but are used very infrequently.[197]

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[187] *See* GBC Verification Report at 5-6.
[188] *Id.* at 7.
[189] *See* GBC NSA at BCI-9.
[190] *Id.* at BCI-15-BCI-16.
[191] The TEAC and CEAC are comprised of "log market experts," including representatives of both purchasers and sellers. *See* GBC SQR at 27.
[192] *See* GBC NSA at BCI-16.
[193] *See* GBC Verification Exhibits at BC-VER-7.
[194] *See* GBC Verification Report at 8.
[195] *Id.* at 7-8.
[196] *Id.* at 8.
[197] *Id.* at 7.

Exports of logs under provincial jurisdiction in British Columbia are subject to in-lieu of manufacturing fees. These fees range from a set fee of C$1 per cubic meter to approximately 15 percent of the value of that log on the Vancouver Log Market. Exports of logs from certain coastal areas are subject to an additional multiplication factor of 1.3 or 1.4 of the fee.[198] The fees vary based on the location, species and grade of the log. GBC officials explained that the province began applying the multiplication factor in 2013 for exports from certain regions of the BC coast in reaction to higher demand for BC logs from China. Further, the most recent export policy change lowered the fee-in-lieu of manufacturing to C$1/$m^3$ for all logs harvested from the North Coast OIC and certain logs harvested from the Mid Coast OIC, to try to incentivize harvesting in those regions.[199]

All exports of logs in Canada require an export permit under the federal Export and Import Permits Act (EIPA).[200] Exports of logs under federal jurisdiction in British Columbia are subject to an almost identical process to the Ministerial Order surplus test described above for logs under provincial jurisdiction,[201] as detailed in Global Affairs Canada's Notice to Exporters No. 102.[202] British Columbia is the only province in Canada in which exports of federal jurisdiction logs are subject to a surplus test. Companies submit an application to the Export Controls Division of the Department of Foreign Affairs and International Trade (DFAIT), which then has the GBC list these logs on the same bi-weekly advertising list discussed above. If an offer from a domestic operator is received, the offer is reviewed by the Federal Timber Export Advisory Committee (FTEAC). The FTEAC makes a recommendation to DFAIT regarding whether the logs are considered to be surplus and should be granted an export permit.[203] If no bid is received for the logs, they are considered to be surplus and are granted an export permit. There is no fee-in-lieu of manufacture on logs harvested on lands under federal jurisdiction.

We preliminarily determine that the record evidence with respect to the BC log and wood residue bans demonstrates that there is a financial contribution by means of entrustment or direction, pursuant to section 771(5)(B)(iii) of the Act, because that evidence establishes that the nature of the governments' actions is to require that harvesters of BC timber supply that timber to BC consumers. The Forest Act explicitly states that logs cannot be exported unless the logs or wood residue are determined to be surplus to the requirements of timber processing facilities in British Columbia. Although the EIPA does not reference the required finding of surplus for logs harvested on Crown lands under federal jurisdiction, for most such logs, the process for seeking export is identical in that it requires a determination that the logs are surplus to the requirements of BC mill operators using the same listing required for provincial-jurisdiction logs to obtain an

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[198] *Id.* at 9.
[199] *Id.*
[200] *See* GOC NSA at Exhibit GOC-LEP-1. Even logs under provincial jurisdiction in British Columbia that receive a provincial exemption to export under a Ministerial Order or an Order in Council must also obtain an export permit under the EIPA.
[201] Logs under federal jurisdiction that are harvested from Indian Reserves, Treaty Settlement Lands, and Self-Government Lands do not have to meet the surplus test. *See* GOC Verification Report at 5.
[202] *See* GOC NSA at Exhibit GOC-LEP-4.
[203] The FTEAC is comprised of the same membership as the provincial TEAC with the addition of a Federal Official.

export permit. Therefore, under the BC and federal export permit processes, logs and wood residue must first be offered to consumers in British Columbia, and may only be exported if there are no customers in British Columbia that want to purchase the logs. Thus, the nature of the actions undertaken by the GBC and the GOC require harvesters of BC timber to sell to, and satisfy the demands of, BC consumers, with only surplus logs available for export. These requirements establish entrustment or direction of private log and wood residue suppliers by both the GBC and the GOC within the meaning of section 771(5)(B)(iii) of the Act, and the provision of a financial contribution in the form of the provision of logs and wood residue, in accordance with section 771(5)(D)(iii) of the Act.

We preliminarily find that the provincial log and wood residue bans are *de jure* specific because, under the BC Forest Act, they are limited to an enterprise or industry or group thereof, consistent with section 771(5A)(D)(i) of the Act. We preliminarily find that the federal log export ban is *de facto* specific because, through the permitting and listing process described above, it is limited to an enterprise or industry or group thereof, consistent with section 771(5A)(D)(iii)(I) of the Act. Moreover, the provincial and Federal export bans provide a benefit in accordance with section 771(5)(E)(iv) of the Act, to extent that the prices paid by Catalyst to unaffiliated forestry/harvesting companies for Catalyst's purchases of logs are for less than adequate remuneration.

The Department's regulations at section 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. In addition, as provided in 19 CFR 351.511(a)(2)(i), we have considered product similarity; quantity sold, imported or auctioned; and other factors affecting comparability.

The most direct means of determining whether the logs provided to Catalyst conferred a benefit is a comparison with private transactions for a comparable good or service in the country, *i.e.*, using a Tier 1 benchmark. We base this on 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 (with the latter transaction in the form of an import). Our preference for Tier 1 is based on the expectation that such prices would generally reflect most closely the commercial environment of the purchaser under investigation.[204]

Catalyst made purchases of four different products in British Columbia during the POR for which we must measure the adequacy of remuneration: logs, chips, sawdust and hog fuel.[205] All purchases of logs and wood residue in BC are subject to the GBC's and the GOC's log export ban as described above; therefore, prices of BC-sourced logs and wood residue do not satisfy the

[204] *See CVD Preamble*, 63 FR at 65377.
[205] *See* Catalyst SQR2 at Exhibit 106.

criteria for use as a Tier 1 benchmark because the provincial and federal governments have distorted the BC market for logs and wood residue by restricting the export of those products.[206]

Catalyst made purchases of four different products in British Columbia during the POR for which we must measure the adequacy of remuneration: logs, chips, sawdust and hog fuel.[207] All purchases of logs and wood residue in British Columbia are subject to the GBC's and the GOC's log export ban as described above. Because the provincial and federal governments have distorted the BC market for logs and wood residue by restricting the export of those products, we cannot use Tier 1 prices as a benchmark to measure the adequacy of remuneration.[208] Prices of BC-sourced logs and wood residue, as well as the imported prices of wood chips and sawdust provided by Catalyst, cannot be used to measure the adequacy of remuneration because these prices would constitute a Tier 1 benchmark. Because we cannot use prices within British Columbia, including import prices, as a benchmark, we have resorted to the next alternative in the hierarchy under 19 CFR 351.511(a)(2), which is a Tier 2 world market price.[209]

To construct benchmarks that match the species and grades of logs purchased by Catalyst in British Columbia, we are using data provided by the petitioner for monthly delivered prices of logs in Washington and Oregon.[210] The construction of a log benchmark consisting of data from the U.S. Pacific Northwest (PNW) is consistent with the Department's prior findings that the lumber species in the PNW are sufficiently similar those in British Columbia.[211] We converted the unit measures for volume and currency to ensure that the Washington and Oregon prices are on the same basis as Catalyst's purchases of logs. Catalyst's BC log purchases are reported on an ex-works basis; to adjust these purchases to include delivery costs, we are using Catalyst's reported delivery costs for logs in British Columbia.[212] We made these adjustments to ensure that both the BC purchases and the benchmark prices are on a "delivered" basis, as required by 19 CFR 351.511(a)(2)(iv).

For a benchmark for measuring the adequacy of remuneration for wood chips, we are using U.S. export data from the U.S. Bureau of the Census for wood chips exported from the PNW to countries other than Canada[213] as the starting point, converted from U.S. dollars to Canadian dollars. We excluded Canada because, as explained above, we have preliminarily determined not to use Tier 1 benchmark prices, *i.e.*, imports into Canada, because the market for such imports is distorted. To adjust this price data to include delivery costs, we are using the delivery costs that Catalyst reported for its own Washington State imports of wood chips.[214] To adjust Catalyst's purchases of wood chips, which were reported on an ex-works basis, to a delivered price, we are using delivery costs that Catalyst provided to the Department at verification.[215]

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[206] *See CVD Preamble*, 63 FR at 65377.
[207] *See* Catalyst SQR2 at Exhibit 106.
[208] *See CVD Preamble*, 63 FR at 65377.
[209] *Id.*
[210] *See* Petitioner Benchmark Submission at Exhibit 12 and Exhibit 16.
[211] *Id.* at Exhibit 18.
[212] *See* Catalyst SQR2 at Exhibit 129.
[213] *See* Catalyst Benchmark Submission at Exhibit 138.
[214] *See* Catalyst SQR2 at Exhibit 132.
[215] *See* Catalyst Verification Exhibits at Exhibit 12 at 10.

No party provided usable benchmark data for hog fuel or sawdust; therefore, we have developed benchmarks for hog fuel and sawdust by calculating a ratio of Catalyst prices for the purchase of hog fuel to Catalyst prices for the purchase of wood chips, and applying that ratio to the benchmark for wood chips.

Full details of the benchmark calculations for each product can be found in the Catalyst Preliminary Calculation Memorandum.[216] To calculate the benefit, we compared the price paid by Catalyst for its BC purchases of logs, chips, sawdust, and hog fuel to the relevant benchmark price. We summed all of the positive differences between the benchmark price and the price that Catalyst paid. We then divided this total benefit by the total sales of Catalyst Paper Corporation to calculate a net countervailable subsidy rate of 0.41 percent *ad valorem* for this program.

13. Powell River City Revitalization Tax Exemption Program

On October 29, 2010, the City of Powell River passed a bylaw establishing "a revitalization tax exemption program."[217] This bylaw specified that this program applied exclusively to Class 4 Major Industrial Property located within the revitalization area. The GBC specified in its questionnaire response that this revitalization area contained only Catalyst properties.[218] On April 8, 2010, and April 27, 2012, Catalyst and the City of Powell River signed agreements in principal specifying that Catalyst's Class 4 Major Industrial property within the revitalization area would receive a property tax ceiling of C$2,250,000 for the 2010-2014 taxation years.[219] In addition, under the agreements in principal, Catalyst would transfer to the City of Powell River certain of its properties, transfer its limited partnership interest in the PRSC Limited Partnership, and discharge the mortgage owed to Catalyst by the partnership.[220] Catalyst also agreed to transfer various property rights including rights of way, covenants, and easements.[221]

Under section 771(5)(D)(ii) of the Act, the financial contribution from a tax program is the amount of foregone revenue that is otherwise due. Under the 2010 and 2012 agreements in principal, by capping Catalyst's property tax at a specified ceiling amount for the years 2010 through 2014, the tax that Catalyst paid on its Class 4 Major Industrial Property from 2010 to 2014 was substantially lower than the tax Catalyst paid prior to the creation of the revitalization area. As a result, we preliminarily find that there is revenue foregone under section 771(5)(D)(ii) of the Act during the POR. Because this action was taken solely with regard to Catalyst, we find

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[216] *See* Catalyst Preliminary Calculation Memorandum.
[217] *See* Catalyst IQR at Exhibit 89.
[218] *See* GBC SQR at Volume II, at 9.
[219] *See* Catalyst IQR at Exhibit 82; Section 1(b) of the 2010 Agreement in Principle directed the City of Powell River and Catalyst to negotiate a tax revitalization agreement with the necessary Tax Revitalization Bylaw. Bylaw 2276 was then passed on October 29, 2010; s*ee also* Catalyst SQR at Exhibit 123.
[220] In 2006, CPC, the City of Powell River, and the Sliammon First Nation formed a partnership to development certain Catalyst lands. Catalyst transferred these lands to the partnership in exchange for a mortgage of C$4.5 million. Under the 2012 agreement in principal, Catalyst accepted C$3 million from the City of Powell River and the Sliammon First Nation to discharge the mortgage and to transfer its ownership interest to them. *See* Catalyst IQR at Exhibit 82; *see also* Catalyst SQR at 27 and Exhibit 128.
[221] *See* Catalyst SQR at Exhibits 123 and 128.

it to be specific to Catalyst under section 771(5A)(D)(i) of the Act. In measuring the benefit, we recognize that the land and the discharged mortgage that Catalyst provided to the City of Powell River in exchange for property tax certainty reduce the benefit of the tax savings provided, for each of the five years over which the agreement was in effect. Thus, we have subtracted from Catalyst's tax savings during the POR one-fifth of the value of the land and the mortgage discharge. We divided the remaining benefit by CPC's sales. On this basis, we preliminarily determine the net countervailable subsidy to be 0.13 percent *ad valorem* during the POR.[222]

14. Accelerated Capital Cost Allowance for Class 29 Assets

Class 29 assets are machinery used in manufacturing and processing operations. Any taxpayer that acquired these assets after March 18, 2007, and before 2016, can claim tax credit under the Accelerated Capital Cost Allowance.[223] Under this allowance, class 29 assets can be fully depreciated at an accelerated rate, over three years, and the amount of depreciation can be claimed as a credit to reduce the taxpayer's taxable income. The credit can be applied, partially or fully, to the prior three years' tax returns, and for the following 20 years. The GOC reported that approximately 22,000 companies claimed the capital cost allowance in 2014,[224] out of more than two million corporate tax filers in the same year.[225] Irving reported that Irving, JDIL, and IPP claimed tax credits from the accelerated capital cost allowance on their tax returns filed during the POR. We preliminarily determine that the tax credit arising from the Accelerated Capital Cost Allowance constitutes a financial contribution in the form revenue foregone, within the meaning of section 771(5)(D)(ii) of the Act. The tax credit provides a benefit in the amount of the difference between the tax the company paid and the tax the company would have paid absent the tax credit, as provided in 19 CFR 351.509(a). The GOC reported that approximately 22,000 companies used this tax credit during the POR,[226] out of just over two million corporate tax filers in the same year.[227] This benefit is *de facto* specific, in accordance section 771(5A)(D)(iii)(I), because the actual recipients are limited in number. In order to calculate the countervailable subsidy rate for Irving, in accordance with 19 CFR 351.525(b)(6)(iv), we divided the benefits to JDIL by the combined sales of JDIL, IPP, and Irving, less intercompany sales; we divided the benefits to IPP by the combined sales of IPP and Irving, less intercompany sales; and we divided the benefits to Irving by Irving's sales. We then added together the three rates. On this basis, we preliminarily determine the countervailable subsidy rate for Irving to be 2.52 percent *ad valorem* for Irving.[228] Catalyst did not use this program during the POR.

15. New Brunswick Research and Development Tax Credit (NB R&D Tax Credit)

The NB R&D Tax Credit provides a credit against NB provincial taxes equal to 15 percent of eligible expenditures to carry out experimental development, applied research and basic research work, to any corporate or individual business taxpayers in NB.[229] The credit is fully refundable;

[222] *See* Catalyst Preliminary Calculation Memorandum.
[223] *See* GOC SQR at Exhibit GOC-SUPP1-ACCA-1.
[224] *Id.* at GOC-II-51.
[225] *See* GOC Verification Exhibits at GOC-11.
[226] *See* GOC SQR at GOC-II-51.
[227] *See* GOC Verification Exhibit at GOC-11.
[228] *See* Irving Preliminary Calculation Memorandum.
[229] *See* GOC SQR at GOC-II-15.

therefore, if the corporation did not owe provincial taxes, it can receive the credit in the form of a refund. The GOC reported that approximately 240 companies used this tax credit during the POR,[230] out of just nearly 33,000 corporate tax filers in the same year.[231] Irving reported that Irving and JDIL used this tax credit during the POR.[232]

We preliminarily determine that this tax credit constitutes a financial contribution in the form revenue foregone, within the meaning of section 771(5)(D)(ii) of the Act. The tax credit provides a benefit in the amount of the difference between the tax the company paid and the tax the company would have paid absent the tax credit, as provided in 19 CFR 351.509(a). Furthermore, this program is *de facto* specific, in accordance section 771(5A)(D)(iii)(I), because the actual recipients are limited in number. In order to calculate the countervailable subsidy rate for Irving, in accordance with 19 CFR 351.525(b)(6)(iv), we divided the benefits to Irving by Irving's total sales and we divided the benefits to JDIL by the combined sales of JDIL, IPP, and Irving, less intercompany sales. We then added together the two subsidy rates. On this basis, we preliminarily determine the countervailable subsidy rate for Irving to be 0.09 percent *ad valorem*.[233] Catalyst did not use this program during the POR.

B. <u>Programs Preliminarily Determined to Confer Non-measureable Benefits During the POR</u>

1. ACOA – Atlantic Innovation Fund

Irving reported that JDIL used this program.[234] To calculate the benefit, we compared the amount of interest JDIL paid on these loans during the POR to the amount it would have paid under the benchmark interest rate described *supra* section IV.D. The calculated benefit resulted in a subsidy rate that is less than 0.005 percent.[235] In light of this, we have not considered whether the assistance under this program provides a financial contribution or is specific. Consistent with our past practice, this program does not have an impact on Irving's overall subsidy rate and we did not include this program in our calculation of the countervailable subsidy rate for Irving.[236] Catalyst did not use this program.

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[230] *See* GOC SQR at GOC-II-26.
[231] *See* GOC Verification Exhibit at GOC-11.
[232] *See* Irving SQR at Exhibit SUPP-32.
[233] *See* Irving Preliminary Calculation Memorandum.
[234] *See* Irving IQR at Exhibit JDIL W-01.
[235] *See* Irving Preliminary Calculation Memorandum.
[236] *See, e.g., Large Residential Washers From the Republic of Korea: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Determination With Final Antidumping Determination*, 77 FR 33181 (June 5, 2012) (*Large Residential Washers from Korea*), and accompanying IDM at 10, unchanged in final (*Large Residential Washers From the Republic of Korea: Final Affirmative Countervailing Duty Determination*, 77 FR 75975 (December 26, 2012)).

2. ACOA – Business Development Program

Irving reported that JDIL used this program.[237] To calculate the benefit, we compared the amount of interest JDIL paid on these loans during the POR to the amount it would have paid under the benchmark interest rate described *supra* section IV.D. The calculated benefit resulted in a subsidy rate that is less than 0.005 percent.[238] In light of this, we have not considered whether the assistance under this program provides a financial contribution or is specific. Consistent with our past practice, this program does not have an impact on Irving's overall subsidy rate and we did not include this program in our calculation of the countervailable subsidy rate for Irving.[239] Catalyst did not use this program.

3. GOC NSERC Industrial Undergraduate Student Research Awards (IUSRA)

Irving reported that JDIL received a grant under this program during the POR.[240] Grants under this program are recurring. We divided the amount of the assistance received by JDIL during the POR by the combined sales of JDIL, IPP, and Irving, less intercompany sales. The result is a subsidy rate that is less than 0.005 percent.[241] In light of this, we have not considered whether the assistance under this program provides a financial contribution or is specific. Consistent with our past practice, we did not include this program in our net subsidy rate calculations for Irving.[242] Catalyst did not use this program.

4. SERG International

Irving reported that JDIL was approved for assistance under this program prior to the POR, during the AUL period,[243] and received disbursements pursuant to this approval prior to, and during, the POR. Because such assistance is non-recurring, to calculate the benefit under this program, we first applied the "0.5 percent expense test," as described in the "Allocation Period" section above. The total approved amount did not exceed the 0.5 percent threshold and, thus, disbursements provided pursuant to the initial approval are allocated to the year of receipt. Thus, disbursements provided prior to the POR provide no benefit to Irving during the POR. In addition, JDIL received a disbursement during the POR pursuant to the initial approval. For the disbursement provided during the POR, we divided the amount received by the combined sales of JDIL, IPP, and Irving, less intercompany sales. The resulting countervailable subsidy rate is less than 0.005 percent.[244] Thus, there is no measurable benefit to Irving during the POR, and we have not considered whether the assistance under this program provides a financial contribution or is specific. Consistent with our practice, we did not include this program in our calculation of the countervailable subsidy rate for Irving.[245] Catalyst did not use this program.

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[237] *See* Irving IQR at Exhibit JDIL S-03.
[238] *See* Irving Preliminary Calculation Memorandum.
[239] *See, e.g., Large Residential Washers from Korea*, and accompanying IDM at 10, unchanged in final.
[240] *See* Irving IQR at Exhibit JDIL KH-05.
[241] *See* Irving Preliminary Calculation Memorandum.
[242] *See, e.g., Large Residential Washers from Korea*, and accompanying IDM at 10, unchanged in final.
[243] *See* Irving IQR at Exhibit JDIL W-07; *see also* Irving Verification Exhibit VE-77.
[244] *See* Irving Preliminary Calculation Memorandum.
[245] *See, e.g., Large Residential Washers from Korea*, and accompanying IDM at 10, unchanged in final.

5. Canada Summer Jobs Program

Irving reported that JDIL received assistance under this program during the POR.[246] To calculate the benefit for this recurring program, we divided the amount of the assistance received by JDIL during the POR by the combined sales of JDIL, IPP, and Irving , less intercompany sales. The calculation of the benefit resulted in a subsidy rate that is less than 0.005 percent.[247] Thus, there is no measurable benefit to Irving during the POR, and we have not considered whether the assistance provides a financial contribution or is specific. Consistent with our practice, we did not include this program in our calculation of the countervailable subsidy rate for Irving.[248] Catalyst did not use this program.

6. Apprenticeship Job Creation Tax Credit

Irving reported that JDIL received assistance under this program during the POR.[249] To calculate the benefit for this recurring program, we divided the amount of the assistance received by JDIL during the POR by the combined sales of JDIL, IPP, and Irving , less intercompany sales. The calculation of the benefit resulted in a subsidy rate that is less than 0.005 percent.[250] Thus, there is no measurable benefit to Irving during the POR, and we have not considered whether the assistance provides a financial contribution or is specific. Consistent with our practice, we did not include this program in our calculation of the countervailable subsidy rate for Irving.[251] Catalyst did not use this program.[252]

7. Grants to JDIL

Irving reported that JDIL received numerous small grants from the GOC, GNB and GNS,[253] of which only one was reported as being received during the POR. We treated the amounts received prior to the POR as non-recurring benefits and applied the "0.5 percent expense test" as described in the "Allocation Period" section above. The approved amount did not exceed the 0.5 percent threshold and, thus, the benefits are allocated to the year of receipt and provide no benefit to Irving during the POR. For the grant provided during the POR, the calculation of the benefit resulted in a subsidy rate that is less than 0.005 percent.[254] Thus, there is no measurable benefit to Irving during the POR. We have not considered whether these reported grants provide

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[246] *See* Irving IQR at Exhibit JDIL G-02.
[247] *See* Irving Preliminary Calculation Memorandum.
[248] *See, e.g., Large Residential Washers from Korea*, and accompanying IDM at 10, unchanged in final.
[249] *See* Irving SQR at Exhibit SUPP-33.
[250] *See* Irving Preliminary Calculation Memorandum.
[251] *See, e.g., Large Residential Washers from Korea*, and accompanying IDM at 10, unchanged in final.
[252] Catalyst reported that it did not owe federal taxes in 2014, and therefore did not utilize the credit earned. *See* Catalyst IQR at 6, footnote 9.
[253] *See* Irving's "Submission of Factual Information under 19 CFR 351.102(b)(21)(v) and 351.301(c)(5)," dated September 7, 2016.
[254] *See* Irving Preliminary Calculation Memorandum.

a financial contribution or are specific. Consistent with our practice, we did not include this program in our calculation of the countervailable subsidy rate for Irving.[255]

8. British Columbia Municipality Payments to Catalyst

In its initial questionnaire response, Catalyst reported four payments received from municipalities in British Columbia in 2014, *i.e.*, the POR.[256] The first payment from the District of North Cowichan was for water that Catalyst provided from its water treatment facilities to the Village of Crofton. The second payment was a rebate of the property taxes that Catalyst had pre-paid on lands that have been incorporated into a community trail.[257] The third payment was a refund from Port Alberni for the overpayment of property taxes on property Catalyst transferred to Port Alberni.[258] The fourth payment was from the City of Powell River to Catalyst for 50 percent of a study that Catalyst conducted to investigate a proposal for the co-treatment of mill and community effluent using the effluent treatment system of Catalyst's Powell River mill.[259] For each of these payments, we divided the amount of the assistance received by Catalyst by its total sales. These calculations resulted in a subsidy rate that is less than 0.005 percent.[260] Thus, there is no measurable benefit to Catalyst during the POR. We have not considered whether these reported grants provide a financial contribution or are specific. Consistent with our practice, we did not include this program in our calculation of the countervailable subsidy rate for Catalyst.[261] Irving did not use this program.

9. EcoEnergy Efficiency for Industry

Catalyst reported receiving funds under this program during the POR.[262] We divided the amount of the assistance received by Catalyst by its total sales. The calculation resulted in a subsidy rate that is less than 0.005 percent.[263] Thus, there is no measurable benefit to Catalyst during the POR. We have not considered whether these reported grants provide a financial contribution or are specific. Consistent with our practice, we did not include this program in our calculation of the countervailable subsidy rate for Catalyst.[264] Irving did not use this program.

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[255] *See, e.g., Large Residential Washers from Korea*, and accompanying IDM at 10, unchanged in final.
[256] *Id.* at 34.
[257] *Id.*
[258] *Id.*
[259] *Id.*
[260] *See* Catalyst Preliminary Calculation Memorandum.
[261] *See, e.g., Large Residential Washers from Korea*, and accompanying IDM at 10, unchanged in final.
[262] *See* Catalyst IQR at 33.
[263] *See* Catalyst Preliminary Calculation Memorandum.
[264] *See, e.g., Large Residential Washers from Korea*, and accompanying IDM at 10, unchanged in final.

C. Programs Preliminarily Determined to be Not Used during the POR

1. GOC National Research Council NRC Industrial Research Assistance Program

Irving reported that JDIL was approved to receive grants under this program during 2004.[265] To calculate the benefit under this program, we first applied the "0.5 percent expense test" to the amount approved during the AUL period as described in the "Allocation Period" section above. The amounts did not exceed the 0.5 percent threshold and, thus, the benefits are allocated to the year of receipt.[266] Thus, there is no benefit to Irving during the POR, and we have not considered whether the assistance under this program provides a financial contribution or is specific. Catalyst did not use this program.

2. GOC Natural Sciences and Engineering Research Council (NSERC) Industrial R&D Fellowship

Irving reported that JDIL was approved to receive grants under this program in 2010.[267] Because these grants are non-recurring grants, to calculate the benefit under this program, we first applied the "0.5 percent expense test" as described in the "Allocation Period" section above. The amounts did not exceed the 0.5 percent threshold and, thus, the benefits are allocated to year of receipt.[268] Thus, there is no benefit to Irving during the POR, and we have not considered whether the assistance under this program provides a financial contribution or is specific. Catalyst did not use this program.

3. Investment in Forest Industry Transformation Program (IFIT)

Irving reported that IPP received assistance under this program in 2013.[269] Because such assistance is non-recurring, to calculate the benefit under this program, we first applied the "0.5 percent expense test" as described in the "Allocation Period" section above. The grant amounts did not exceed the 0.5 percent threshold and thus the benefits are allocated to the year of receipt.[270] Thus, there is no benefit to Irving during the POR, and we have not considered whether the assistance under this program provides a financial contribution or is specific. Catalyst reported that it did not receive any benefits under this program.[271]

4. Forest Workforce Training Grants

Irving reported that JDIL received grants under this program in 2012.[272] Because such assistance is non-recurring, to calculate the benefit under this program, we first applied the "0.5

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[265] *See* Irving IQR at Exhibit JDIL W-02.
[266] *See* Irving Preliminary Calculation Memorandum.
[267] *See* Irving IQR at Exhibit JDIL W-06.
[268] *See* Irving Preliminary Calculation Memorandum.
[269] *See* Irving IQR at Exhibit IPP-05.
[270] *See* Irving Preliminary Calculation Memorandum.
[271] Catalyst reported that its 2010 application for funding under this program was denied, and it withdrew its 2014 application for funding without receiving any funding. *See* Catalyst IQR at Exhibit 26 and 115.
[272] *See* Irving IQR at Exhibit JDIL W-03.

percent expense test" as described in the "Allocation Period" section above. The grant amounts did not exceed the 0.5 percent threshold and, thus, the benefits are allocated to the year of receipt.[273] Thus, there is no benefit to Irving during the POR, and we have not considered whether the assistance under this program provides a financial contribution or is specific. Catalyst did not use this program.

5. New Brunswick Climate Action Fund Grants

Irving reported that JDIL received grants under this program prior to the POR, during the AUL period.[274] Because such assistance is non-recurring, to calculate the benefit under this program, we first applied the "0.5 percent expense test" as described in the "Allocation Period" section above. The grant amounts did not exceed the 0.5 percent threshold and, thus, the benefits are allocated to the year of receipt.[275] Thus, there is no benefit to Irving during the POR, and we have not considered whether the assistance under this program provides a financial contribution or is specific. Catalyst did not use this program.

6. Industrial Energy Efficiency Project Implementation Stimulus Program (IEEPIS)

Irving, IPP and JDIL reported receiving assistance under this program prior to the POR.[276] Because such assistance is non-recurring, to calculate the benefit under this program, we first applied the "0.5 percent expense test" as described in the "Allocation Period" section above. The grant amounts did not exceed the 0.5 percent threshold and, thus, the benefits are allocated to the year of receipt.[277] Thus, there is no benefit to Irving during the POR, and we have not considered whether the assistance under this program provides a financial contribution or is specific. Catalyst did not use this program.

7. Efficiency New Brunswick Industrial Program

Irving, IPP and JDIL reported receiving benefits under this program prior to the POR, during the AUL period.[278] Because such assistance is non-recurring, to calculate the benefit under this program, we first applied the "0.5 percent expense test" as described in the "Allocation Period" section above. The grant amounts did not exceed the 0.5 percent threshold and, thus, the benefits are allocated to the year of receipt.[279] Thus, there is no benefit to Irving during the POR, and we have not considered whether the assistance under this program provides a financial contribution or is specific. Catalyst did not use this program.

8. Efficiency New Brunswick Commercial Energy Smart Program

Irving reported that JDIL received benefits under this program prior to the POR, during the AUL period.[280] Because such assistance is non-recurring, to calculate the benefit under this program, we first applied the "0.5 percent expense test" as described in the "Allocation Period" section

[273] *See* Irving Preliminary Calculation Memorandum.
[274] *See* Irving IQR at Exhibit JDIL KH-01.
[275] *See* Irving Preliminary Calculation Memorandum.
[276] *See* Irving IQR at Exhibits IPL-08, IPP-08 and JDIL LU-08.
[277] *See* Irving Preliminary Calculation Memorandum.

above. The grant amounts did not exceed the 0.5 percent threshold and, thus, they are allocated to the year of receipt.[281] Thus, there is no benefit to Irving during the POR, and we have not considered whether the assistance under this program provides a financial contribution or is specific. Catalyst did not use this program.

9. Nova Scotia Manufacturing and Processing Investment Credit

Irving reported that JDIL received benefits under this program prior to the POR, during the AUL period.[282] Because such assistance is non-recurring, to calculate the benefit under this program, we first applied the "0.5 percent expense test" as described in the "Allocation Period" section above. The amounts did not exceed the 0.5 percent threshold and, thus, they are allocated to the year of receipt. Thus, there is no benefit to Irving during the POR, and we have not considered whether the assistance under this program provides a financial contribution or is specific. Catalyst did not use this program.

10. Province of Nova Scotia: Efficiency Nova Scotia

Irving reported that JDIL received assistance under this program prior to the POR, during the AUL period.[283] Because such assistance is non-recurring, to calculate the benefit under this program, we first applied the "0.5 percent expense test" as described in the "Allocation Period" section above. The amounts did not exceed the 0.5 percent threshold and, thus, the benefits are allocated to the year of receipt.[284] Thus, there is no benefit to Irving during the POR, and we have not considered whether the assistance under this program provides a financial contribution or is specific. Catalyst did not use this program.

11. BC Hydro Power Smart Program – Commercial Lighting Improvement

In 2010, Catalyst received funding approval for lighting improvements at a leased distribution center under BC Hydro's Power Smart program. BC Hydro reimbursed the building's owner for those improvements in 2010 and 2011. The owner then transferred most of the funding to Catalyst.[285] In accordance with 19 CFR 351.524(b), we find that the grant provided for commercial lighting improvement provides a non-recurring benefit. We performed the "0.5 percent test" and determined that the amount was less than 0.5 percent of Catalyst's total sales in the year of approval.[286] Thus, there is no benefit to Catalyst during the POR, and we have not considered whether the assistance under this program provides a financial contribution or is specific. Irving did not use this program.

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[278] *See* Irving IQR at Exhibits IPP-10, JDIL LU-04; *see also* Irving SQR at Exhibits SUPP-05, SUPP-06, SUPP-12, SUPP-14, and SUPP-15.
[279] *See* Irving Preliminary Calculation Memorandum.
[280] *See* Irving IQR at Exhibit JDIL KBS-01; *see also* Irving SQR at Exhibits SUPP-05, SUPP-29.
[281] *See* Irving Preliminary Calculation Memorandum.
[282] *See* Irving IQR at Exhibit JDIL S-06.
[283] *See* Irving IQR at Exhibit JDIL KBS-02; *see also* Irving SQR at Exhibits SUPP-05 and SUPP-30.
[284] *See* Irving Preliminary Calculation Memorandum.
[285] *See* Catalyst IQR at Appendix II.B.1, at 13, footnote 19.
[286] *See* Catalyst Preliminary Calculation Memorandum.

12. Environmental Testing at Crofton Mill

Catalyst reported receiving two payments from the British Columbia Conservation Foundation in 2006 that pertained to environmental testing at its Crofton mill.[287] We treated the amounts received prior to the POR as non-recurring benefits and applied the "0.5 percent expense test" as described in the "Allocation Period" section above. The approved amount did not exceed the 0.5 percent threshold and, thus, the benefits are allocated to the year of receipt.[288] Thus, there is no benefit to Catalyst during the POR, and we have not considered whether the assistance under this program provides a financial contribution or is specific. Irving did not use this program.

13. Port Alberni Property and Road Agreement

Catalyst reported receiving payments in 2008-2009 pertaining to rent payments related to a building lease.[289] These recurring benefits provided prior to the POR do not provide any benefits during the POR and we have not considered whether this program constitutes a financial contribution or is specific. Irving did not use this program.

14. Transport Canada Marine Security Contribution Program

Transport Canada announced this program in May 2004 to assist ports in strengthening "their security systems and programs."[290] Catalyst obtained funding for its ports located at its Crofton and Elk Falls mills between September 2007 and August 2008.[291] We treated the amounts received prior to the POR as non-recurring benefits and applied the "0.5 percent expense test" as described in the "Allocation Period" section above. The approved amount did not exceed the 0.5 percent threshold and, thus, the benefits are allocated to the year of receipt and provide no benefit to Catalyst during the POR.[292] We have not considered whether these reported grants provide a financial contribution or are specific. Irving did not use this program.

15. BC Hydro Power Smart Program – E-Points

From 2001-2008, Catalyst received funding under BC Hydro's e-Points program. These amounts were recurring and were granted before the POR.[293] Thus, there is no benefit to Catalyst during the POR and we have not considered whether this program constitutes a financial contribution or is specific. Irving did not use this program.

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[287] *See* Catalyst IQR at 31 and Exhibits 28 and 29.
[288] *See* Catalyst Preliminary Calculation Memorandum.
[289] *See* Catalyst IQR at 32.
[290] *Id.* at Exhibit 31.
[291] *Id.* at 31.
[292] *See* Catalyst Preliminary Calculation Memorandum.
[293] *See* Catalyst IQR at Appendix II.B.1, at 14.

16. BC Hydro Power Smart Program – Payments for Studies and Projects

BC Hydro provided funds to Catalyst for energy-related studies and projects in years prior to the POR, during the AUL period.[294] The funding provided for these studies and projects was recurring and was provided to Catalyst prior to the POR.[295] Thus, there is no benefit to Catalyst during the POR and we have not considered whether this program constitutes a financial contribution or is specific. Irving did not use this program.

17. BC Hydro Power Smart Program – Load Curtailment

Catalyst reported receiving payments from BC Hydro under the Load Curtailment Program.[296] This program was in place during the AUL prior to the POR. Under this program, BC Hydro made payments to some customers who agreed to be on call to lower their electricity usage for a period of time.[297] Catalyst agreed to curtail usage and it received payments during the AUL period. These payments were recurring and were made prior to the POR. Thus, this program did not provide benefits to Catalyst during the POR and we have not considered whether this program constitutes a financial contribution or is specific. Irving did not use this program.

The respondent companies reported that they did not use the following programs during the POR or over the AUL period:

18. British Columbia Provision of Stumpage for LTAR
19. British Columbia Provision of Wood Products for LTAR
20. Scientific Research and Experimental Development Tax Credit (SR&ED)
21. NB Energy Rebate Fund/ NB High Energy Use Property Tax Rebate
22. Province of New Brunswick Forestry Industry Remission Program
23. New Brunswick Research and Development Subsidies
24. The Federal Transformative Technologies Pilot Scale Demonstrative Program
25. Retention of Accumulated Tax Loss to Carry Forward
26. BC Ministry of Forests, Mines and Land Program
27. BC Bioenergy Network Grants
28. British Columbia Training Tax Credits
29. GNS Grants from the Hot Idle and Forestry Infrastructure Fund
30. GNS Grants for the Promotion of Forest Management and Sustainable Harvesting
31. GNS Provision of Funds for Worker Training
32. GNS Loan for Working Capital
33. GNS Loan to Improve Productivity and Efficiency
34. Richmond County (NS) Promissory Note for Property Taxes
35. Pacific West Commercial Corporation (PWCC) Indemnity Loan
36. GNS Preferential Electricity Rate
37. GNS Subsidized Biomass Plant Supplying Steam

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[294] *Id.* at Exhibit 79.
[295] *Id.*
[296] *See* Catalyst SQR at 14-15 and Exhibit 120.
[297] *See* Catalyst IQR at Appendix II.B.1, footnote 1.

38. GNS Provision of Stumpage and Biomass Material for LTAR
39. GNS Provision of Land for MTAR
40. Richmond County (NS) Property Tax Reduction
41. Ontario Forest Sector Prosperity Fund
42. Ontario Northern Industrial Electricity Rate Program
43. Government of Ontario Loan Guarantee Program
44. Government of Quebec Support for the Forest Industry Program

D. Program Preliminarily Determined to be Not Countervailable

Foreign Business Income Tax Credit

Irving reported that Irving, JDIL, and IPP applied a credit against their Canadian income taxes owed in the amount of foreign taxes paid on foreign earnings. We preliminarily find that this mechanism ensures that Canadian corporations pay Canadian corporate income tax on all income that is otherwise untaxed in other jurisdictions.[298] Therefore, the corporate tax payer receives no overall tax advantage, and is not made better off.

E. Program for Which the Decision is Being Deferred

Gasoline and Fuel Tax Exemptions and Refunds

In its September 8 Submission of Factual Information, Irving reported that JDIL received exemptions and refunds of gasoline and fuel tax from both the GNB and the GNS.[299] Under 19 CFR 351.311(c), "{i}f the Secretary concludes that insufficient time remains before the scheduled date for the . . . final results of review to examine {a practice that appears to provide a countervailable subsidy with respect to the subject merchandise}, the Secretary will…defer consideration of the newly discovered practice, subsidy, or subsidy program until a subsequent administrative review, if any." Soliciting information from both the GNB and GNS about the tax exemptions and refunds requires time and resources not available to the Department at this stage of this expedited review. Thus, under 19 CFR 351.311(c)(2), we are deferring consideration of these exemptions and refunds until a subsequent administrative review, if any. Catalyst did not use this program.

VI. DISCLOSURE AND PUBLIC COMMENT

The Department intends to disclose to interested parties the calculations performed in connection with the preliminary results of review within five days of its public announcement.[300] Unless the parties are otherwise notified, in accordance with 19 CFR 351.309(b)(ii), case briefs may be submitted to Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS) no later than 30 days after the date on which the notice of the preliminary results of this expedited review is published in the *Federal Register*. In

[298] *See* GOC Verification Report at 9 and 10.
[299] *See* Irving Factual Submission at 7.
[300] *See* 19 CFR 351.224(b).

accordance with 19 CFR 351.310(d)(1), rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than five days after the deadline date for case briefs.

Parties submitting 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.[301] 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 these preliminary results in the *Federal Register*.[302] 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, 1401 Constitution Avenue, NW, Washington, DC 20230, at a date, time and location to be determined. Parties will be notified of the date, time and location of any hearing.

Parties must file their case and rebuttal briefs, and any requests for a hearing, electronically using ACCESS.[303] Electronically filed documents must be received successfully in their entirety by 5:00 p.m. Eastern Time,[304] on the due dates established above.

VII. CONCLUSION

We recommend that you approve the preliminary findings described above.

☒ ☐

Agree Disagree

X

Gary Taverman
Associate Deputy Assistant Secretary for Antidu...

November 18, 2016

(Date)

[301] *See* 19 CFR 351.309(c)(2) and (d)(2).
[302] *See* 19 CFR 351.310(c).
[303] *See* 19 CFR 351.303(b)(2)(i).
[304] *See* 19 CFR 351.303(b)(1).