SOFTWOOD LUMBER SUBSIDIES REPORT TO THE CONGRESS

U.S. Department of Commerce

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TABLE OF CONTENTS

I. Background and Reporting Methodology

On June 18, 2008, Section 809(b) of Title VIII of the Tariff Act of 1930 (the Softwood Lumber Act of 2008) was enacted into law. Under this provision, the Secretary of Commerce is mandated to submit to the appropriate congressional committees a report every 180 days on any subsidies provided by countries exporting softwood lumber or softwood lumber products to the United States, including stumpage subsidies. This report is issued pursuant to this requirement.

As an initial matter, given the large number of countries that export softwood lumber and softwood lumber products to the United States, we concluded that it was untenable to find subsidy information for every country that exports softwood lumber or softwood lumber products to the United States.[1] Instead, in order to provide a report that reflects subsidies which have a significant impact on the U.S. softwood lumber industry, we analyzed U.S. imports of softwood lumber and softwood lumber products to determine which countries were the largest exporters of such products to the United States. As a result, based on data published by the United States International Trade Commission Tariff and Trade DataWeb, we include in this report subsidies provided by Canada, Germany, Brazil, and Sweden, the only countries with exports accounting for at least one percent of total U.S. imports of softwood lumber by quantity, as classified under Harmonized Tariff Schedule code 4407.1001, during the period January 1, 2018, through June 30, 2018.[2]

As in past reports, for this, the 21st Softwood Lumber Subsidies Report to Congress, we are relying on a six-month period to identify the countries subject to review. We will rely on U.S. imports of softwood lumber and softwood lumber products during the period July 1, 2018 through December 31, 2018, to select the countries subject to the next report.

Under U.S. countervailing duty (CVD) law, a subsidy will be found if a government authority: (i) provides a financial contribution, (ii) provides any form of income or price support within the meaning of Article XVI of the GATT 1994, or (iii) makes a payment to a funding mechanism to provide a financial contribution to a person, or entrusts or directs a private entity to make a financial contribution, if providing the contribution would normally be vested in the government and the practice does not differ in substance from practices normally followed by governments, and a benefit is thereby conferred. *See* section 771(5)(B) of the Tariff Act of 1930, as amended (the Act). Because the statute does not impose a limitation on the subsidies subject to the reporting requirement, this report, like previous reports, includes subsidy programs, some of which may have expired. S*ee* section 809(b) of the Act.

II. Identification of Subsidies

The U.S. Government investigates and monitors the provision of subsidies by other countries through various means, including the enforcement of U.S. trade laws, participation at the World

[1] For the period January 1, 2018, through June 30, 2018, 23 countries had exports of softwood lumber to the United States.
[2] Imports classified under Harmonized Tariff Schedule code 4407.1001 account for the vast majority of imports of softwood lumber and softwood lumber products. During the period, Canada accounted for 91.03 percent, Germany 2.54 percent, Brazil 1.33 percent, and Sweden 1.21 percent of total U.S. imports.

Trade Organization (WTO), the implementation of bilateral trade agreements, as well as public comment. Therefore, we examined subsidies identified in those areas, specifically: A) CVD investigations and reviews; B) WTO reporting by member countries and WTO monitoring; C) subsidies identified in the course of enforcing bilateral agreements regarding softwood lumber and softwood lumber products; and D) comments from the public.

A. Countervailing Duty Proceedings

To identify subsidies on softwood lumber or softwood lumber products provided by Canada, we analyzed the most recently completed CVD proceedings involving exports to the United States of softwood lumber or softwood lumber products from Canada and have included in this report any subsidies identified in relevant proceedings.[3]

On November 2, 2017, the Department of Commerce (Commerce) issued its final determination in the CVD investigation involving certain softwood lumber products from Canada (*Lumber V*).[4] We have included in this report the subsidies identified in *Lumber V*.

Prior to *Lumber V*, in 2002, Commerce issued an order on certain softwood lumber products from Canada (*Lumber IV*).[5] Because there are some subsidies that were identified in that proceeding (including the last administrative review of the *Lumber IV* order) that were not investigated in *Lumber V*, we have also listed certain subsidies in this report that were found in the administrative review covering the period April 2003 through March 2004.[6] In 2006, the United States and Canada signed the Softwood Lumber Agreement (SLA), a bilateral accord between the United States and Canada, which resulted in the U.S. government terminating the *Lumber IV* order on imports of Canadian softwood lumber. On October 12, 2015, the SLA expired.

This report makes note of another CVD proceeding, *Supercalendered Paper from Canada: Countervailing Duty Order*, 80 FR 76668 (December 10, 2015). In the final determination, Commerce identified one program administered by the Province of Ontario that appears to be applicable to softwood lumber production, which is included in this report. This report also includes subsidies that appear to be applicable to softwood lumber production that were found to exist in *Supercalendered Paper from Canada: Final Results of Countervailing Duty Expedited Review*, 82 FR 18896 (April 24, 2017) (*Supercalendered Paper Expedited Final*).[7]

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[3] As stated above, this report presents public information on subsidies in place during the period January 1, 2018 through June 30, 2018, as identified in the following areas, specifically: A) U.S. CVD proceedings; B) WTO reporting by member countries and WTO monitoring; C) subsidies identified in the course of enforcing bilateral agreements regarding softwood lumber and softwood lumber products; and D) comments from the public.

[4] *See Certain Softwood Lumber Products from Canada: Final Affirmative Countervailing Duty Determination*, 82 FR 51814 (November 8, 2017), and accompanying Issues and Decision Memorandum (IDM) (*Lumber V*).

[5] *See Notice of Amended Final Affirmative Countervailing Duty Determination and Notice of Countervailing Duty Order: Certain Softwood Lumber Products from Canada*, 67 FR 36070 (May 22, 2002) (*Lumber IV*).

[6] *See Notice of Final Results of the Countervailing Duty Administrative Review: Certain Softwood Lumber Products from Canada* 70 FR 73488 (December 12, 2005) (*Lumber IV 2nd Review*).

[7] Subsidies identified are unchanged in *Supercalendered Paper from Canada: Amended Final Results of the Countervailing Duty Expedited Review,* 82 FR 25244 (June 1, 2017).

In addition, this report also includes subsidies that appear to be applicable to softwood lumber production that were found to exist in another CVD proceeding, *Certain Uncoated Groundwood Paper from Canada: Final Affirmative Countervailing Duty Determination*, 83 FR 39414 (August 9, 2018) (*Uncoated Groundwood Paper Final Determination*).

B. WTO Notifications and Monitoring

We identified two sources of information from the WTO – Subsidies Notifications and Trade Policy Reviews (TPRs). The Subsidies Notification is the primary source of information under the WTO framework for each member country's subsidy programs. WTO member countries are required to notify the WTO of specific subsidies, in accordance with Article 25 of the Agreement on Subsidies and Countervailing Measures (SCM Agreement). This portion of the SCM Agreement requires that members notify all specific subsidies, at all levels of government and covering all goods sectors, to the SCM Committee. New and full notifications are due every two years; members may also submit updated notifications at any time, but those particular notifications have been de-emphasized by the SCM Committee. These documents are available from the WTO Secretariat and may be accessed through the WTO's website.[8] There have been no new notifications from Canada, Germany or Sweden during the period. Brazil submitted a new notification, which did not contain any information relevant to this report.[9]

Pursuant to the WTO's TPR Mechanism, each WTO member country's national trade policies are subject to periodic review by the WTO Secretariat, which then publishes a report. Information on subsidy programs is also found in the TPR report of each member country. The frequency of each country's TPR varies according to its share of world trade. Germany and Sweden (as parts of the European Union (EU)) are subject to review every two years, Canada and Brazil every four years. The TPR reports for each country are available from the WTO Secretariat and may be accessed through the WTO's website.[10] There have been no new TPR reports for Brazil, Canada, Germany or Sweden during the period.

C. Monitoring and Enforcement Related to Bilateral Trade Agreements

We have also included in this report subsidies identified in the course of administering and enforcing the SLA.[11]

D. Public Comment

On October 19, 2018, Commerce published a notice in the *Federal Register* soliciting public comment on subsidies provided by Brazil, Canada, Germany, and Sweden on softwood lumber or softwood lumber products for inclusion in this report.[12] Interested parties submitted comments. *See* the Appendix to this report for the comments received.

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[8] http://www.wto.org/english/tratop_e/scm_e/scm_e.htm.
[9] *See New and Full Notification*, G/SCM/N/315/BRA (May 30, 2018).
[10] http://www.wto.org/english/tratop_e/tpr_e/tp_rep_e.htm#bycountry.
[11] The SLA was particular to Canada. The United States does not have currently, or had in the past, a similar agreement involving softwood lumber or softwood lumber products from any other country.
[12] *See Subsidy Programs Provided by Countries Exporting Softwood Lumber and Softwood Lumber Products to the United States; Request for Comment*, 83 FR 53032 (October 19, 2018).

III. Subsidies Provided

In the 1st Report, we listed all known subsidies, identified using the methodology described above, provided by Brazil, Canada, Chile, and Germany on softwood lumber or softwood lumber products exported to the United States. In the 2nd and 19th Reports, we listed all known subsidies, identified using the methodology described above, provided by Canada, Chile, and Germany. In the 3rd Report, we listed all known subsidies, identified using the methodology described above, provided by Brazil, Canada, Chile, Germany, and Sweden. In the 4th, 5th, 6th, 7th, 12th, 14th, 15th, and 16th Reports, we listed all known subsidies, identified using the methodology described above, provided by Canada and Chile. In the 17th Report, we listed all known subsidies, identified using the methodology described above, provided by Canada, Chile, and France. In the 8th, 9th, 10th, 11th, 13th, and 18th Reports, we listed all known subsidies, identified using the methodology described above, provided by Canada. In the 20th Report, we listed all known subsidies identified using the methodology described above, provided by Brazil, Canada, Germany, and Sweden.[13]

For the period January 1, 2018, through June 30, 2018, in this 21st Report we have applied the methodology described above with regard to Brazil, Canada, Germany, and Sweden. New subsidies or new information on old subsidies were identified for Canada; no new subsidies were found with respect to Germany, Brazil, and Sweden. The subsidies identified for Canada are as follows.

Canada

Below, we identify subsidies provided by Canada on softwood lumber and softwood lumber products through examinations of the most recently completed CVD proceedings, WTO notifications, and the implementation and enforcement of the SLA.

Subsidies Identified in CVD Proceedings

Commerce determined that the following programs benefited Canadian softwood lumber producers in the *Lumber V Final Determination*, the 2nd administrative review of the *Lumber IV* order, which investigated Canadian subsidy programs in effect between April 2003 and March 2004,[14] the *Supercalendered Paper* proceedings, and *Uncoated Groundwood Paper Final Determination*.

A. Provincial Stumpage Programs (provision of standing timber for less than adequate remuneration (LTAR))[15]

1. Alberta

[13] Our previous reports are posted on our website at www.trade.gov/Enforcement under the "Trade Agreements" link. *See* http://enforcement.trade.gov/sla2008/sla-index.html.

[14] During the conduct of the *Lumber IV* investigation and three subsequent administrative reviews, Commerce investigated a large number of programs, not all of which were in use, or evaluated, during the second administrative review. Because the second administrative review was the most recently completed administrative review of the *Lumber IV* order, we have used it as the most current and accurate measure of our findings in *Lumber IV*.

[15] *See* section 771(5)(E)(iv) of the Act.

2. British Columbia
3. Manitoba
4. New Brunswick
5. Ontario
6. Québec
7. Saskatchewan

In Canada, the vast majority of standing timber used by softwood lumber producers originates from lands owned by the Crown. In the *Lumber V Final Determination* and the prior *Lumber IV* proceeding, Commerce found that the provincial governments provided a countervailable subsidy to softwood lumber producers by selling the key input for softwood lumber production, timber, to the Canadian producers in each of the provinces listed above for LTAR. Each of the Canadian provinces investigated in *Lumber V* and/or reviewed in the 2003-2004 administrative review of the *Lumber IV* order, *i.e.*, Alberta, British Columbia, Manitoba, New Brunswick, Ontario, Québec, and Saskatchewan, has established programs through which it charges certain license holders "stumpage" fees for standing timber harvested from Crown lands.

B. <u>Non-Stumpage Programs Determined To Confer Subsidies</u>

Programs Administered by the Government of Canada (GOC)

1. Canada—New Brunswick Job Grant Program

This program is part of a joint effort between the GOC and its provinces and territories, under six-year agreements, in which the GOC provides federal funding to provincial or territorial governments for the purposes of increasing labor market participation of groups that are underrepresented in Canada's labor force and enhancing the employability and skills of Canada's labor force. The New Brunswick aspect of the program was launched in January 2015 pursuant to the Canada-New Brunswick Job Fund Agreement, and is administered by the Department of Post-Secondary Education, Training and Labour (PETL). The Government of New Brunswick (GNB) designed the program, and the GOC contributes two-thirds of the eligible training costs, up to a maximum amount of $10,000 per participant, per fiscal year.[16]

2. Accelerated Capital Cost Allowance (ACCA) for Class 29 Assets

Class 29 assets are machinery used in manufacturing and processing operations. Under the ACCA program, Class 29 assets can be fully depreciated at an accelerated rate, over three years, and the amount of depreciation can be claimed as a deduction to reduce the taxpayer's taxable income. Canada's Income Tax Act (ITA) provides for deductions from taxable income for the capital cost of property. Canada's Income Tax Regulations (ITR) further specify that tax deductions for depreciation of Class 29 assets are permissible deductions under the ITA; however, the ITR's definition of manufacturing and processing explicitly excludes certain industries from benefitting from this deduction.[17]

[16] *See Lumber V Final Determination* and accompanying IDM at 11.
[17] *Id.* and accompanying IDM at 13-14.

3. Apprenticeship Job Creation Tax Credit (AJCTC)

The AJCTC allows employers to claim a tax credit of 10 percent of wages for qualifying apprentices in the first two years of employment, up to a maximum of C$2,000 per apprentice per year. A qualifying apprentice is someone working in a prescribed trade in the first two years of their apprenticeship contract. This contract must be registered with the federal government or a provincial or territorial government under an apprenticeship program designed to certify or license individuals in the trade. To qualify for a tax credit under the program, the apprentice must be working in one of the 56 "Red Seal Trades."[18]

4. Atlantic Investment Tax Credit (ITC)

This program is administered by the Canada Revenue Agency (CRA) and was implemented in 1977. It provides a credit against federal income tax owed, and its purpose is to encourage investment in the Atlantic Region of Canada. 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.

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

Taxpaying companies in the Atlantic Region can earn 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. Qualified property includes machinery and equipment used for manufacturing, and for farming, logging, and fishing. The ITCs can be earned in the year that the qualifying property is first put into use, regardless of the acquisition date. The ITCs are available to be applied against federal taxes payable three years back and 20 years forward.[19]

5. Scientific Research and Experimental Development (SR&ED) Tax Credit

The GOC provides a tax credit on companies' eligible research and development expenditures, such as salary and wages, materials, overhead, and contracts. During 2015, the tax credit was available at a standard rate of 15 percent of the cost of these expenditures. An enhanced rate of 35 percent was offered to small Canadian businesses. There is no application to receive this tax credit; rather it is claimed on Form T661 of the tax payer's federal tax return.[20]

6. Atlantic Canada Opportunities Agency (ACOA) Loans – Atlantic Innovation Fund (AIF)

The ACOA was established by the GOC in 1985 "to support and promote opportunity for economic development of the Atlantic Region of Canada, with particular emphasis on small and medium-sized enterprises," pursuant to the Atlantic Canada Opportunities Agency Act. The AIF

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[18] *Id.* at 14.
[19] *Id.*
[20] *Id.*

program is administered by ACOA and was established by the GOC in 2000 with the following objectives: (1) to increase activity in and to build capacity for innovation, research and development (R&D) which leads to technologies, products, processes, or services which contribute to economic growth in Atlantic Canada; (2) to increase the capacity for commercialization of R&D outputs; (3) to strengthen the region's innovation capacity by supporting research, development and commercialization partnerships and alliances among private sector firms, universities, research institutions, and other organizations in the Atlantic System of Innovation, and to increase their critical mass; and (4) to maximize benefits from the national R&D programs. Under the AIF, recipient companies operating in the Atlantic Region of Canada can receive transfer payments that are conditionally repayable, repayable, or non-repayable.[21]

7. Western Economic Diversification Program (WDP): Grants and Conditionally Repayable Contributions

Introduced in 1987, the Western Economic Diversification Program (WDP) is administered by the GOC's Department of Western Economic Diversification headquartered in Edmonton, Alberta, whose jurisdiction encompasses the four western provinces of Alberta, British Columbia, Manitoba, and Saskatchewan. The program supports commercial and non-commercial projects that promote economic development and diversification in the region.

During the 2003-2004 period covered by the most recently completed administrative review of the *Lumber IV* order, the WDP provided grants to softwood lumber producers or associations with two "sub-programs," *i.e.*, the International Trade Personnel Program (ITPP) and "Other WDP Projects." Under the ITPP and "Other WDP Projects," companies were reimbursed for certain salary expenses in Alberta, British Columbia, Manitoba, and Saskatchewan.[22]

8. Natural Resources Canada (NRCan) Softwood Marketing Subsidies

In 2002, the GOC approved a total of C$75 million in grants to target new and existing export markets for wood products and to provide increased research and development to supplement innovation in the forest products sector. This total was allocated to three sub-programs: Canada Wood Export Program (Canada Wood), Value to Wood Program (VWP), and the National Research Institutes Initiative (NRII). The programs were placed under the administration of NRCan, a part of the Canadian Forest Service.

The VWP is a five-year research and technology transfer initiative supporting the value-added wood sector through partnerships with academic and private non-profit entities. In particular, during the 2003-2004 period of review of the *Lumber IV* order, NRCan entered into research contribution agreements with Forintek Canada Corp. (Forintek) to do research on efficient resource use, manufacturing process improvements, product development, and product access improvement. The VWP is still available. See below under "Subsidies Identified from Canada's WTO Notification" for additional information.

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[21] *Id.* and accompanying IDM at 18.
[22] *See Lumber IV 2nd Review* and accompanying IDM at 16-17.

The NRII is a two-year program that provides salary support to three national research institutes: the Forest Engineering Research Institute of Canada (FERIC), Forintek, and the Pulp & Paper Research Institute of Canada. In the 2003-2004 administrative review of the *Lumber IV* order, Commerce found that research undertaken by FERIC constitutes a government financial contribution to commercial users of Canada's forests. Further, Commerce found that FERIC's research covers harvesting, processing, and transportation of forest products, silviculture operations, and small-scale operations and, thus, Commerce determined that government-funded R&D by FERIC benefits, *inter alia*, producers of softwood lumber. Similarly, Commerce found that Forintek's operations, done in collaboration with the GOC under NRII, which pertain to resource utilization, tree and wood quality, and wood physics,[23] also constitute a government financial contribution. Commerce also reconfirmed its earlier determination that because grants offered under the NRII are limited to Forintek and FERIC, institutions that conducted research related to the forestry and logging industry, the wood products manufacturing industry, and the paper manufacturing industry, the program is specific to that industry. The NRII is periodically reinstituted and is currently in effect.[24]

Programs Administered by the Government of Alberta (GOA)

1. Bioenergy Producer Credit Program (BPCP)

The BPCP encourages investment in bioenergy production capacity in Alberta to reduce reliance on fossil fuels, support Alberta's Renewable Fuels Standard, and create value-added opportunities with economic benefits. The program provides funding for production of various types of biofuels for electricity and heat, produced from biomass, such as hog fuel. The 2011-2016 BPCP commenced on April 1, 2011, and was terminated on March 31, 2016, and a similar short-term replacement program, BPP, was established on October 25, 2016. The BPP builds upon the previous BPCP and provides transitional support to the bioenergy sector.

Provided the applicant applied during an open call for applications and met the program eligibility criteria, an applicant would be approved under BPCP 2011-2016. The payments under the BPCP were made on a quarterly basis and if a company initially met the guidelines to receive BPCP payments and continued to meet the guidelines going forward, then the company could continue to expect to receive payments under BPCP until the program ended in 2016.[25]

2. Alberta Tax-Exempt Fuel Program for Marked Fuel

The Marked Fuel Tax Exemption program, which is part of the GOA's larger Tax-Exempt Fuel Use (TEFU) program, provides a tax exemption of nine cents per liter to eligible companies and municipalities when fuel is used in unlicensed vehicles, machinery, and equipment for qualifying off-road activities. Eligibility for this program is limited in Alberta's *Fuel Tax Regulation* to those entities that have a valid fuel tax exemption certificate. Only consumers that intend to

[23] The area of wood science is concerned with the physical and mechanical properties of wood and the factors which affect them.
[24] *See Lumber IV 2nd Review* and accompanying IDM at 17-18.
[25] *See Lumber V Final Determination* and accompanying IDM at 11.

purchase marked fuel for specific purposes or uses set forth in section 8(3) of the *Fuel Tax Regulation* are eligible for a fuel tax exemption certificate to purchase marked fuel.[26]

3. SR&ED Tax Credit – GOA

The SR&ED tax credit for expenditures on R&D was enacted by the GOA to encourage Alberta companies to conduct more R&D and to make Alberta a more attractive location for knowledge-intensive companies.

The GOA reports that the SR&ED-GOA credit applies to eligible R&D expenditures. The credit is available for all expenditures incurred by corporations in Alberta after December 31, 2008, that are also eligible for the SR&ED-GOC credit, which is a program addressed separately above. The SR&ED-GOA tax credit is calculated according to sections 26.6 through 26.91 of the Alberta Corporate Tax Act, equal to 10 percent of a company's eligible expenditures up to C$4 million, for a maximum credit of C$400,000 per tax year. Once corporations show that their expenditures were incurred in Alberta and are eligible for the federal SR&ED tax credit, such corporations can claim the provincial tax credit.[27]

Programs Administered by the Government of British Columbia (GBC)

1. BC Hydro Power Smart: Energy Manager

BC Hydro, a government-operated electricity company which services a large portion of British Columbia's population, operates the BC Hydro Power Smart program to comply with British Columbia's Clean Energy Act. Power Smart funds are disbursed among programs for each of its three categories of customers: residential, commercial, and industrial. Within the industrial category, there are subprograms under which industrial customers may qualify for a variety of grants as incentives for companies to lower their electricity usage. Under the Energy Manager subprogram, BC Hydro provides funding in the form of wage subsidies to industrial customers to fund an employee dedicated to identifying energy conservation opportunities for a two-year term.[28]

2. BC Hydro Power Smart: Load Curtailment

BC Hydro operates the BC Hydro Power Smart program to comply with British Columbia's Clean Energy Act. This program includes subprograms under which industrial customers may qualify for a variety of grants as incentives for companies to lower their electricity usage. From November 2015 to March 2016, BC Hydro undertook a pilot program to determine whether large industrial customers could curtail their load during times when the demand on BC Hydro's electricity system was at its peak. Under the Load Curtailment Pilot subprogram, BC Hydro paid customers on a monthly basis based on the number of megawatts (MW) bid into the program at a fixed dollar per MW price.[29]

[26] *Id.* at 14-15.
[27] *Id.* at 15.
[28] *Id.* at 11-12.
[29] *Id.* at 12

3. BC Hydro Power Smart: Incentives

BC Hydro operates the BC Hydro Power Smart program to comply with British Columbia's Clean Energy Act. This program includes subprograms under which industrial customers may qualify for a variety of grants as incentives for companies to lower their electricity usage. Under the Incentives subprogram, BC Hydro provides funding to support capital projects that achieve greater energy efficiency or displace the electrical load purchased from BC Hydro.[30]

4. Lower Tax Rates for Coloured Fuel/BC Coloured Fuel Certification

The *Motor Fuel Act* of British Columbia permits the GBC to charge different tax rates for clear and colored fuel. Colored fuel is taxed at a lower rate than clear fuel; however, certain conditions must be met in order to purchase colored fuel. In particular, purchasers must complete a Coloured Fuel Certification (FIN-430) certifying that they are eligible to purchase colored fuel and selecting on the form the reasons why, as colored fuel may only be used for certain authorized purposes. The authorized uses for colored fuel are primarily limited to off-highway applications under BC's *Motor Fuel Tax Act*. The form FIN-430 must be provided to any suppliers of colored fuel before making a purchase. Companies may then purchase colored fuel at the reduced motor fuel tax rate.[31]

5. SR&ED—GBC

The SR&ED tax credit is administered by the CRA on behalf of the GBC. The program is designed to encourage R&D that will lead to new, improved, or technologically advanced products or processes. Corporations with permanent establishments in British Columbia that conduct qualifying SR&ED activities in British Columbia during a particular tax year may claim a BC tax credit on their qualifying expenditures.[32]

6. Revitalization Property Tax Exemption – Quesnel

The city of Quesnel, in the province of British Columbia, passed a bylaw in September 2005 to establish the Revitalization Tax Exemption program. The bylaw established a revitalization area within the municipality providing tax exemptions for land, improvements, or both land and improvements. To be eligible under the bylaw, the land owner must own property classified as Class 4 "Major Industrial" or certain qualifying Class "Business and other" property or alter an existing Class 4 or Class 6 improvement. The construction or alteration must result in an increase in assessed value of the property of at least C$16 million.[33]

7. BC Hydro Electricity Purchase Agreements (EPAs)

BC Hydro, is a vertically integrated electric utility that owns and operates more than 30 generating facilities, 78,000 kilometers of transmission and distribution lines, and approximately

[30] *Id.*
[31] *Id.* at 15.
[32] *Id.*
[33] *Id.* at 15-16.

300 substations to provide electricity service to approximately 1.9 million customers representing about 4 million people. BC Hydro, a provincial Crown corporation, purchases energy from independent power producers (IPPs) pursuant to long-term EPAs. Through its EPAs with IPPs, BC Hydro secures long-term supply with long-term price certainty, avoids market price volatility, and avoids project development risks.[34]

8. British Columbia Log Export Restraints

The Forest Act explicitly states that all timber harvested in British Columbia is required to be used in British Columbia or manufactured in British Columbia into wood products. These logs cannot be exported unless they meet certain criteria, the most common of which is that they are surplus to the needs of the timber processing industry in British Columbia. Therefore, the GBC requires private log suppliers to offer logs to mill operators in British Columbia, and may export the logs only if there are no customers in British Columbia that want to purchase the logs. Thus, the nature of the actions undertaken by the GBC require private suppliers of BC logs to sell to, and satisfy the demands of, BC consumers, including mill operators. The lengthy and burdensome export exemption process discourages log suppliers from considering the opportunities that may exist in the export market by significantly encumbering their ability to export, especially where there may be uncertainty as to whether their logs may be found to be surplus to the requirements of mills in British Columbia. Moreover, this process restricts the ability of log suppliers to enter into long-term supply contracts with foreign purchasers.[35]

9. Forestry Innovation Investment Program (FIIP)

The FIIP came into effect on April 1, 2002. On March 31, 2003, FIIP was incorporated as Forestry Innovation Investment Ltd. (FII). FII funds are used to support the activities of universities, research and educational organizations, and industry associations producing a wide range of wood products. FII's strategic objectives are implemented through three sub-programs addressing: research, product development and international marketing.

Commerce reconfirmed its earlier finding that the FII grants are provided to support product development and international marketing for Canadian softwood lumber producers.[36]

10. British Columbia Private Forest Property Tax Program

British Columbia's property tax system has two classes of private forest land – Class 3, "unmanaged forest land," and Class 7, "managed forest land" -- that incurred different tax rates from the 1990s through the 2003-2004 period of review. In the second administrative review, Commerce reaffirmed its earlier finding that property tax rates for Class 7 were generally lower than for Class 3 land at all levels of tax authority for most, though not all, taxes. Commerce further reaffirmed its finding that the various municipal and district (*a.k.a.*, regional) level authorities imposed generally lower rates for Class 7 than for Class 3 land. The tax program is

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[34] *Id.* at 18.
[35] A similar subsidy is found relating to Wood Residue Export Restriction in *Uncoated Groundwood Paper Final Determination*, *see* "Wood Residue Export Restraint," below.
[36] *See Lumber IV 2nd Review* and accompanying IDM at 18.

codified in several laws, of which the most salient is the 1996 Assessment Act (and subsequent amendments). Section 24(1) of the Assessment Act contains forest land classification language expressly requiring that, *inter alia*, Class 7 land be "used for the production and harvesting of timber." Additionally, Section 24(3) or 24(4) of the Assessment Act, depending on the edition of the statute, requires the assessor to declassify all or part of Class 7 land if "the assessor is not satisfied. . . that the land meets all requirements" for managed forest land classification. Amendments to the provision, enacted from 1996 through 2003, retained the same language stating these two conditions. Thus, the law as published during the 2003-2004 period of review required that for private forest land to be classified, and remain classified, as managed forest land, it had to be "used for the production and harvesting of timber."

Commerce also found that because the British Columbia tax authorities impose two different tax rates on private forest land, the governments are foregoing revenue when they collect taxes at the lower rate, and the program thus provides a government financial contribution to the British Columbia lumber industry. Further, Commerce determined that because the Assessment Act expressly requires that Class 7 land be "used for the production and harvesting of timber," and additionally requires the assessor to declassify any Class 7 land not meeting all of the Class 7 conditions (of which timber use was one), the British Columbia private forest land tax program is specific to the industry as a matter of law. Commerce considered the sum of the tax savings enjoyed by Class 7 sawmill landowners at the provincial, regional, and sub-provincial (or local) levels of tax authority in British Columbia to represent the value of this subsidy.[37]

11. Powell River City Tax Exemption Program

In 2014, the City of Powell River passed Bylaw 2394 establishing "a revitalization tax exemption program" for a term of three years (*i.e.*, for calendar years 2015 through 2017). This bylaw specified that this program applied exclusively to Class 4 major industrial property located within the revitalization area. The 2014 bylaw provided tax certainty for eligible companies by maintaining, through 2017, the property tax amount payable at roughly $2.75 million per year.[38]

Programs Administered by the Government of Manitoba (GOM)

1. SR&ED – GOM

SR&ED-GOM, also known as the Research and Development Tax Credit (RDTC) is administered by the CRA. The GOM provides a tax credit of 20 percent of all eligible research and development expenditures to corporations with a permanent establishment in Manitoba. The Manitoba *Income Tax Act* defines eligible expenditures and provides the authority for the tax credit. Credits may be carried forward for 20 years and carried back for three years. Additionally, if the credit cannot be applied against taxes payable, 50 percent of the credit is refundable, with the remainder being eligible to be carried forward.[39]

[37] *Id.* at 18-19.
[38] *See Supercalendered Paper Expedited Final* and accompanying IDM at Comment 5.
[39] *See Lumber V Final Determination* and accompanying IDM at 16.

2. Manufacturing and Processing Tax Credit

Manitoba's Manufacturing Investment Tax Credit (MITC) provides corporations with a 10 percent tax credit on purchases of qualified property to be used for manufacturing or processing that can be applied against corporate income tax payable in the year earned. Unused credits are eligible to be carried forward for 10 years and carried back three years. Furthermore, since 2013 this credit is 80 percent refundable. The MITC is administered by the CRA on behalf of the GOM. The Manitoba *Income Tax Act* provides for the MITC and defines qualifying property as property that is to be used by the corporation in Manitoba primarily for the manufacturing or processing goods for sale or lease.[40]

Programs Administered by the GNB

1. New Brunswick Provision of Silviculture Grants

The *Crown Lands and Forest Act* specifies silviculture activities that qualify for reimbursement under a licensee's applicable Forest Management Agreement (FMA), including site preparation, pre-commercial thinning, planting, and plantation cleaning. The GNB reimburses licensees at pre-established rates for the activities.[41]

2. New Brunswick License Management Fees (LMF)

Companies can receive payments in the form of LMFs from the GNB for non-silviculture activities required as part of their FMA for their license to harvest Crown-origin standing timber. Under the terms of its FMA, a company is obligated to perform certain management activities and reimbursed for the costs associated with these activities. The reimbursements are provided on a flat fee basis per cubic meter of standing timber harvested from the Crown land for which the company is a licensed tenure-holder. These payments are described as reimbursement for the responsibilities that companies undertake 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 (*i.e.*, 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 the company.[42]

3. Financial Assistance to Industry Program (FAIP) – Payroll Rebate Grant

The FAIP provides funding from the GNB for viable capital expenditures, working capital, and workforce expansion to enable the establishment, expansion, or maintenance of companies in eligible industries. Assistance may be provided in the form of a loan guarantee, direct loan, payroll rebate, or non-repayable contribution. The payroll rebate program provides rebates on a percentage of salaries. The FAIP was previously administered by New Brunswick's Department of Economic Development. In April 2015, the former Invest NB and the Department of Economic Development were merged into Opportunities New Brunswick, a Crown corporation,

[40] *Id.*
[41] *Id.* at 12.
[42] *Id.*

pursuant to the Opportunities New Brunswick Act. Eligible industries include six priority sectors, although other industries may also receive assistance under the program. The priority sectors include value-added food, value-added wood, industrial fabrication, aerospace and defense, information & communications technology, and biosciences.[43]

4. New Brunswick Workforce Expansion Program – One Job Pledge

The GNB reported that this program is administered under the Employment and Continuous Learning Services Branch of the GNB's Department of PETL. The One Job Pledge aspect of the New Brunswick Workforce Expansion Program provides financial assistance to eligible New Brunswick businesses in the form of wage subsidy rebates for new hires that are recent post-secondary graduates. The employer must create a new position for the new hire and must demonstrate that such a position would be sustainable after one year.[44]

5. New Brunswick Workforce Expansion Program – Youth Employment Fund

The Youth Employment Fund was launched in April 2015 pursuant to the Employment Development Act and provides an entry point to long term employment for unemployed individuals between 18-29 years of age, who are then matched with eligible employers for a 26-week work experience. Under the program, which is administered by the Department of PETL, 100 percent of the employee's minimum wage for 30 hours a week will be paid to employers participating in the program.[45]

6. New Brunswick Large Industrial Renewable Energy Purchase Program (LIREPP)

The New Brunswick DERD and NB Power, a Crown corporation, administers the LIREPP pursuant to the Electricity from Renewable Resources Regulation and with authority under the Electricity Act. According to the GNB, the program has two main objectives: to (1) reach NB Power's mandate to supply 40 percent of its electricity from renewable sources by 2020 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 Gigawatt hours (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 to another province or territory within Canada or outside the country. There is no formal application process.

Under the LIREPP program, NB Power first determines the credit it wants to give the large industrial customer; NB Power then works backward to build up to that credit through a series of renewable energy power purchases and sales and additional credits. This overall credit is known

[43] *Id*. at 13.
[44] *Id*.
[45] *Id*.

as "Net LIREPP" or the "Net LIREPP adjustment," and it appears on the participating customers' electricity bill as a credit applicable to their total electricity charges.

According to the GNB, DERD performs a calculation to determine the Canadian average firm energy rate (in C$/MWh) for the relevant industries, and then calculates the difference between that rate and the average firm energy rate in New Brunswick. This differential is calculated annually 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. 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.[46]

7. NB R&D Tax Credit

This program provides a credit against GNB 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 New Brunswick. The objective of the program is designed to mirror the operation of the federal Scientific Research and Experimental Development Tax Incentive Program, and both programs are administered by the CRA. The provision of the credit is authorized under section 59 of the New Brunswick Income Tax Act. The credit is fully refundable; therefore, if the corporation did not owe provincial taxes, it can receive the credit in the form of a refund. Furthermore, because the credit is fully refundable, the eligible company receives the credit regardless of whether it has a tax obligation to which it can apply the credit (*i.e.*, regardless whether the company owes the GNB provincial tax).[47]

8. GNB Gasoline & Fuel Tax Exemptions and Refund Program

Administered by the Revenue Administration Division of New Brunswick's Department of Finance pursuant to the Gasoline and Motive Fuel Tax Act, this program provides users with the option of receiving point-of-sale tax exemptions or applying for refunds of taxes paid for gasoline and motive fuel for consumers operating vehicles and equipment on non-public highways. Use of the program is limited to certain categories of consumers, including aquaculturists, farmers, silviculturists, producers of electricity for sale, persons consuming fuel in the preparation of food, lighting and heating of premises or heating of domestic hot water, wood producers, forest workers, manufacturers, mining or quarrying operators, and registered vessels operators.[48]

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[46] *Id.* at 16.
[47] *Id.* at 16-17.
[48] *Id.* at 17.

Programs Administered by the Government of Québec (GOQ)

1. Financial Aid for the Development of Private Woodlots[49]

The program provides grants and technical assistance to certified forest producers to carry out logging activities in privately owned forests, with a view to protecting and enhancing registered forest land. Canada reported in recent WTO notifications that this program was created in 1995 under the authority of the *Ministère des Forêts, de la Faune et des Parcs*, and that it remains an ongoing program.[50] The maximum amount of financial assistance and the type of eligible work can change, depending on the cooperating regional agencies. Canada reported that the assistance is generally limited to 80 percent of the costs of eligible initiatives, but certain targeted work gets 100 percent funding, *i.e.*, first and second plantations, first commercial thinning of a plantation and first thinning of a natural stand. No aggregate value of assistance and identity of beneficiaries are provided in the notifications.[51]

2. Purchase of Electricity for More Than Adequate Remuneration (MTAR) under Purchase Power Program (PAE) 2011-01

Hydro-Québec is engaged in the generation of power from hydroelectric sources and the transmission, distribution, and sale of such power to wholesale and retail customers in Québec. Hydro-Québec has two separate, independent divisions: Hydro-Québec Production, which generates electricity to supply to the market and buys and sells electricity for its own account; and Hydro-Québec Distribution, which is responsible for the supply of electricity to customers in Québec. Under the PAE 2011-01, Hydro-Québec Distribution purchases electricity generated from biomass at a set contractual price.[52]

3. Tax Incentives for Private Forest Producers – Property Tax Refund for Forest Producers on Private Woodlands in Québec

Introduced in 1998, under the authority of the *Ministère des Forêts, de la Faune et des Parcs*, and administered by Revenu Québec, this program provides private forest producers with a refundable property tax credit (equal to 85 percent of the amount of property taxes paid) to the extent that the development expenses incurred for investment in forest management are greater than or equal to the amount of property taxes paid.[53]

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[49] While this program was included in the *Lumber V Final Determination*, it was found not to provide a benefit to the companies investigated. This program has also been notified to the WTO by Canada, most recently in *New & Full Notification Pursuant to Article XVI:1 of the GATT 1994 and Article 25 of the Agreement on Subsidies and Countervailing Measures*, G/SCM/N/315/CAN (July 12, 2017) (*Canada N315*), at 47.
[50] *See Canada N315*, at 47.
[51] *See Canada N253* at page 48, *Canada N284* at page 50, and *Canada N315* at page 47.
[52] *See Lumber V Final Determination* and accompanying IDM at 18.
[53] While this program was identified in the preliminary determination of this case (*Certain Softwood Lumber Products from Canada: Preliminary Affirmative Countervailing Duty Determination)*, 82 FR 19657 (April 28, 2017), it was found to either not confer a benefit or to not be used by the mandatory respondents in the final determination. *See Lumber V Final Determination* at Appendix II.

4. Credits for the Construction and Major Repair of Public Access Roads and Bridges in Forest Areas

Revenu Québec permits corporations that incurred expenses for the construction or major repair of eligible access roads or bridges in public forest areas to claim a refundable tax credit for a portion of the expenses on their income tax returns.[54]

5. Québec SR&ED Tax Credit

Established in 1983, the SR&ED tax credit is designed to stimulate R&D by providing tax credits for salaries and wages for R&D work. If a taxpayer carries on a business in Canada and carries out R&D, or has R&D carried out on its behalf, in Québec, the taxpayer can claim a tax credit for the salaries and wages, or for the consideration paid in Québec. The rate for these tax credits is 30 percent for small and medium businesses (SMBs) and 14 percent for large corporations. SMBs and large corporations can claim R&D tax credits for eligible expenditures over C$50,000 and C$225,000, respectively.[55]

6. Partial Cut Investment Program (PCIP)

Introduced in 2013, the PCIP reimburses harvesters for up to 90 percent of the increased costs associated with the Ministry of Forests, Wildlife and Parks (MFFP) mandate that certain areas be harvested applying a partial cut (*i.e.*, removing less than 50 percent of the volume of a stand). As indicated in the framework, the PCIP is intended for the forestry sector. Eligibility for the program is limited to Timber Supply Guarantee (TSG) holders; buyers on the open market; local forest delegates; forestry companies; and holders of forestry permits stipulated in section 73 of the Sustainable Forest Development Act (SFDA).[56]

Programs Administered by the Government of Saskatchewan (GOS)

1. M&P Tax Credit ITC

Saskatchewan's M&P ITC provides corporations in Saskatchewan with a five percent tax credit on purchases of qualified capital assets, including manufacturing and processing equipment that can be applied against corporate income tax payable in the year earned. It also states that the credit is fully refundable when based on purchases of qualified property after April 2006. The M&P ITC is administered by the CRA on behalf of the GOS.[57]

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[54] *See Lumber V Final Determination* and accompanying IDM at 17.
[55] *Id.*
[56] *Id.* at 13; *see also Canada N315* at 50.
[57] *See Lumber V Final Determination* and accompanying IDM at 17.

<u>Subsidies Identified in the CVD Investigation of Supercalendered Paper and the Expedited Review</u>

Program Administered by the Government of Ontario (GOO)

1. Ontario Northern Industrial Electricity Rate Program

The GOO established the Ontario Northern Industrial Electricity Rate (NIER) program on April 1, 2013. The program's purpose is to assist Northern Ontario's largest qualifying industrial electricity consumers that commit to developing and implementing an energy management plan to manage their energy usage and improve energy efficiency and sustainability. Specifically, participants receive a rebate of two cents per kilowatt-hour, capped at 2011-12 consumption levels or C$20 million, whichever is lower. The program is administered by the GOO Ministry of Northern Development & Mines. Companies eligible for assistance are industrial facilities located in Northern Ontario. The program has been extended indefinitely. Accepted companies can expect to receive rebates based on the amount of eligible electricity consumed.[58]

Programs Administered by the GNB

1. Financial Assistance to Industry Program (FAIP): Loans

The FAIP provides funding from the GNB to eligible companies with the goal of helping companies establish or maintain their presence within the province. According to the Economic Development Act, the legislation that enacted the FAIP, eligible companies may receive various forms of assistance, including in the form of loans. The Economic Development Act designates certain industrial, commercial, and business activities that are not eligible for financial 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.[59]

2. Northern New Brunswick Economic Development and Innovation Fund (NNBEDIF)

The NNBEDIF is one of the three programs administered by the New Brunswick Regional Development Corporation as reported by the GNB. The purpose of the NNBEDIF is to provide assistance to eligible companies with the goal of diversifying and growing the Northern New Brunswick economy. Under the NNBEDIF program, assistance may be provided in the form of loans, loan guarantees, or non-repayable contributions. 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.[60]

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[58] *See Supercalendered Paper from Canada: Final Affirmative Countervailing Duty Determination*, 80 FR 63535 (October 25, 2015) (*Supercalendered Paper Investigation*) and accompanying IDM at 27.
[59] *See Supercalendered Paper Expedited Final* and accompanying IDM at 6.
[60] *Id.*

Programs Administered by the GBC

1. BC Hydro Power Smart Program: TMP Program

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. 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. BC Hydro created this subprogram in July 2014. It targets customers who own TMP facilities and is designed to facilitate energy efficiency and load displacement. The TMP program is open to British Columbia customers that own and operate TMP mills within BC Hydro's service area.[61]

2. BC Hydro Power Smart Program: 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. The funding under this program is available to BC Hydro's industrial customers who use more than 10 GWh per year. According to BC Hydro officials, it provides funding for 43 energy managers out of 164 eligible sites.[62]

Subsidies Identified in the CVD Investigation of Certain Uncoated Groundwood Paper

Programs Administered by the GBC

1. School Tax Credit for Class 4 Major Industrial Properties

The GBC establishes school tax rates applicable to taxable property value in each of the eight non-residential property classes within the province. For calendar year 2016, the school tax rates were set by Order-in-Council No. 267; each non-residential property class has one applicable school tax rate. Also, for 2016, the GBC subsequently adjusted the school tax rate of $5.40 per $1,000 of taxable value, as indicated in the Order-in-Council, to $2.16 per $1,000 of taxable value for all Class 4 Major Industry properties, pursuant to the Provincial Industrial Property Tax Credit.[63]

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[61] *Id.* at 7.
[62] *Id.*
[63] *See Uncoated Groundwood Paper Final Determination* and accompanying IDM at 9.

2. Canada—BC Job Grant Program

This program is part of a joint effort between the GOC and its provinces and territories, in which the GOC provides federal funding to provincial or territorial governments for the purposes of increasing labor market participation of groups that are under-represented in Canada's labor force and enhancing the employability and skills of Canada's labor force. The BC aspect of the program was launched in October 2014, pursuant to the Canada-BC Job Fund Agreement, and it is administered by the Ministry of Advanced Education, Skills, and Training. The GBC designed the program, and the GOC contributes two-thirds of the eligible training costs, up to a maximum amount of $10,000 per participant, per fiscal year, and up to $15,000 if the participant is unemployed.[64]

Programs Administered by the Government of Newfoundland and Labrador (GNL)

1. Newfoundland and Labrador SR&ED Tax Credit

The GNL provides a tax credit on companies' eligible R&D expenditures. The tax credit was available at a standard rate of 15 percent of the cost of these expenditures. The tax credit is claimed on Form T661 of the tax payer's federal tax return.[65]

2. Waiver of Managed Forest Land Tax

The Managed Land Tax is a requirement under the Forestry Act and the Forest Land Management and Taxation Regulations when a parcel of land, or part of a parcel, is declared "managed." The rate is calculated on an annual basis and was $1.42 per hectare in 2016. The GNL has entered into agreements dating back to 2009, to waive the payment of the annual managed land tax payable on tenure.[66]

3. Labour Market Partnership (LMP)

The GNL provides a grant to eligible companies and organizations to develop and implement labor market strategies and activities to assist companies with labor adjustments such as downsizing, upsizing, new development, relocation, impact of new technologies, labor shortages, shortage of year-round job opportunities, and lack of community and organizational capacity for human resource planning. The GNL contributes 50 percent or less of the eligible training costs and over 50 percent if the employer is unable to avoid lay-offs but willing to invest in training for affected employees.[67]

4. Forest Insect Control and Survey Assistance

Under the Forestry Act, the GNL Minister responsible for forestry has the authority to undertake

[64] *Id*. at 12.
[65] *Id*. at 10.
[66] *Id*.
[67] *Id*. at 12.

all reasonable measures to provide for effective protection of the forests, whether on Crown land, public land, or privately-owned land. The Minister has entered into annual and multi-year forest insect and disease control agreements with forest companies with land tenure in the province. The GNL may waive cost share payments for all insect and disease control and monitoring costs on a land tenure.[68]

5. Productive Forest Lands Inventory Program

The GNL instituted the Forest Inventory Program in 1974, to provide a continuous, management level forest inventory in the province. This program provided timber volumes and other statistics for management planning; maintained up-to-date maps of forests; enabled planning and development of provincial resources; initiated special studies on growth, cull, decay, etc.; and benchmarked existing forest characteristics to examine change over time. In 1996, the Newfoundland and Labrador Forest Service's forest inventory program was given savings and revenue targets under the GNL Program Review initiative. As part of this initiative, companies entered into agreements to share the cost of the Forest Inventory Program and were given access to GNL's forest industry inventory data. The GNL has waived payments under such agreements.[69]

6. Canada—NL Job Grant

The Canada-NL Job Grant program is a cost-sharing program implemented as a part of the Canada-Newfoundland and Labrador Job Fund Agreement. The GNL provides up to C$15,000 per person for training costs, which includes up to C$10,000 in grant contributions. Funds provided under this program by the GOC are limited to the province of Newfoundland and Labrador, pursuant to the terms of the Canada-Newfoundland and Labrador Job Fund Agreement.[70]

7. Capacity Assistance Agreement with NL Hydro

NL Hydro is a Crown-owned electrical utility company operating in the Newfoundland and Labrador province. NL Hydro's strategic plan involves addressing the energy sector strategic directions of the Ministry of Natural Resources. NL Hydro's mission is to carry out the energy policy of the GNL. The GNL maintains capacity assistance agreements with industrial customers, whereby capacity assistance is provided to NL Hydro. Industrial customers agree to provide electrical capacity to NL Hydro though generation facilities or by curtailing their demand and reducing the load on the electrical system.[71]

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[68] *Id*.
[69] *Id*.
[70] *Id*. at 13.
[71] *Id*.

8. Silviculture Assistance Program

The GNL reimburses companies for certain silviculture activities performed and provides seedlings for planting at no cost. Companies are legally obligated to ensure all that harvested sites are adequately regenerated as set forth in the Certificate of Managed Land issued annually by the GNL, in accordance with section 43 of the Forestry Act. The GNL reimburses companies for performing eligible treatments pursuant to a multi-year agreement (Silviculture Agreement). The eligible treatments include tree planting, mechanical site preparation for planting, precommercial thinning, plantation maintenance, and vegetation management.[72]

Program Administered by the GOO

1. Independent Electricity System Operator (IESO) Demand Response

IESO is a government-designated independent system operator that operates Ontario's electricity grid, administers the region's wholesale electricity markets, and provides reliability planning for the region's bulk electricity system. IESO, an agency of the Ontario Ministry of Energy, was created and its activities are governed by the Electricity Act of 1998. IESO administers the Demand Response (DR) program, whereby firms alter their electricity consumption patterns in exchange for availability payments. The purpose of the procurement of DR capacity is to ensure the reliability planning for the region's bulk electricity system by reducing the overall regional demand for electricity in response to IESO's reliability mandate.[73]

2. GOO's Provision of IESO Industrial Electricity Incentives

IESO provides rebates to companies for meeting various contractual obligations to conserve energy, including energy operating, management, and metering plans. Recipients are limited to large industrial customers, including those classified under North America Industry Classification System code 321110 Sawmills and Wood Preservation.[74]

3. GOO Purchase of Electricity for MTAR

Electricity providers that can produce renewable energy, such as biomass producers sold biomass-cogenerated electricity to the Ontario power grid through an open bid procurement process, conducted by the Ontario Power Authority, now the IESO for more than adequate remuneration. IESO is an independent not-for-profit statutory corporation established and authorized under Ontario law to administer the Ontario electricity market.[75]

[72] *Id*.
[73] *Id*. at 14.
[74] *Id*.
[75] *Id*. at 18.

4. Ontario Forest Roads Funding Program

As part of forest management operations, companies have agreements with the GOO to maintain certain eligible roads identified in the Forest Management Plan (FMP) on behalf of the Crown under the Ontario Forest Roads Funding Program (OFRF). Specifically, harvesters of Crown timber incur obligatory road costs in order to meet a wide variety of provincial road construction and maintenance obligations. As part of the agreement, grant payments are made under the OFRF as partial reimbursement for constructing and maintaining certain eligible roads. Recipients of the grants are limited to companies which have approved FMPs.[76]

Programs Administered by the GOQ

1. Tax Credit for the Acquisition of Manufacturing and Processing Equipment in Québec

The GOQ provides a tax credit for investment in manufacturing or processing equipment. This credit was implemented in order to stimulate investments in such equipment and to support certain regions with struggling economies. To qualify for the tax credit, property must, among other things, be manufacturing or processing equipment, be hardware used primarily for manufacturing or processing, or have been acquired after March 20, 2012, for purposes of smelting, refining, or hydrometallurgy activities related to ore extracted from a mineral resource located in Canada. Where the qualified property was acquired after December 2, 2014, the tax credit for investment is calculated on the portion of eligible expenses that exceeds $12,500. The basic rate of the tax credit for investment is four percent. The rate is increased where the property is acquired to be used primarily in a resource region and based on the size of the business that acquires it.[77]

2. Hydro-Québec Interruptible Electricity Option (IEO)

The Hydro-Québec is a state-owned utility, whose sole shareholder is the GOQ. Hydro-Québec is mandated to supply power and to pursue energy conversion and conservation; as part of this mandate, it operates the Hydro-Québec IEO, which is designed to help Hydro-Québec meet increased power requirements during the winter period (*i.e.*, December 1 to March 31). All participants in this program must be able to curtail power on demand, or risk penalties assessed by Hydro- Québec. According to the GOQ, power curtailment allows Hydro-Québec to "free{ } the connections with nearby networks, reducing the need for short-term markets and making it possible to act within two hours to ensure reliable management of the power capacity balance." As payment for complying with Hydro-Québec interruption notices, the participants receive certain fixed and variable credits for the winter period.[78]

3. Investment Program in Public Forests Affected by Natural or Anthropogenic Disturbance – Incentives for Harvesting Areas Infested by Spruce Budworm

The North Shore areas of Québec are experiencing an outbreak of the spruce budworm.

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[76] *Id*. at 14.
[77] *Id*. at 11.
[78] *Id*. at 15.

Beginning in 2015, the GOQ implemented certain incentives for forest producers to diminish wood loss associated with this outbreak by accelerating the cutting of wood in forests infected by this budworm. Harvesting and processing wood from these infected forests result in increased costs to forestry companies because the poor-quality fiber can jam machinery; wood must be bleached to remove stains from the budworm; and increased quantities of infected wood are needed to make newsprint. The GOQ offsets certain of these costs incurred by eligible forest producers, including 1) holders of a supply guarantee; 2) buyers on the open market (auctions); 3) delegates of a local forest; 4) forestry businesses (*e.g.*, co-ops and harvesting companies); 5) holders of a forestry permit as described in Section 73 of the SDFA; and 6) holders of management delegation agreements.[79]

4. Paix des Braves

In 2002, the GOQ and the Cree Nation of Quèbec established an agreement (*i.e.*, the Agreement Respecting a New Relationship Between the Cree Nation and the GOQ (the Agreement)) requiring forestry companies to conduct certain additional harvesting activities on "Paix des Braves" territories covered by the Agreement. Specifically, when harvesting on the territories covered by this agreement, forestry companies are required to perform the following additional activities: 1) build additional roads; 2) cut in a patchwork of smaller blocks (*i.e.*, mosaic cutting); and 3) perform certain other activities as defined by Chapter 3 of the SFDA. In order for forestry companies to maintain their activities on these lands in spite of the increased costs, the GOQ initiated a program in 2015 which provides partial compensation to offset these costs (*i.e.*, costs not already covered by Section 120 of the SFDA) incurred when complying with the Agreement.[80]

5. Emploi-Québec Grants

Emploi-Québec is a department within the GOQ's Ministry of Work, Employment and Social Solidarity and is responsible for administering worker training grants under the Workforce Skills Development and Recognition Fund (FDRCMO) and the Manpower Training Measure (MFOR). FDRCMO funds projects related to skills development, primarily through French language courses. MFOR supports skill development for workers at risk of losing their jobs and to support low-skilled workers who want to improve basic training.[81]

[79] *Id*.
[80] *Id*. at 16.
[81] *Id*. at 18.
[81] *Id*. at 16.

6. PAREGES Program

PAREGES is administered by the GOQ's Ministry of Transport, Sustainable Mobility, and Transport Electrification and the Ministry of Sustainable Development, Environment, and the Fight against Climate Change. The PAREGES program provides grants to support infrastructure projects and enterprises that use rail or maritime transport solutions to foster better intermodal options and allow for reduction of greenhouse gas emissions.[82]

7. Hydro-Québec's Industrial Systems Program/Energy Efficiency Program

Hydro-Québec is a utility wholly-owned by the GOQ and is the sole entity responsible for the administration of the Industrial Systems Program. All of Hydro-Québec's electric energy efficiency programs for industrial businesses are known, collectively, as the Industrial Systems Program. Any individual or corporation that owns, operates, or occupies an industrial building in Québec associated with a goods-producing industry is eligible for the program. The two main components of this Industrial Systems Program are: (1) Retrofit; and (2) the New Plant, Expansion, or Addition of Production Lines. The purpose of the Industrial Systems Program is to reduce the average amount of electricity used per unit of production by the participants.[83]

8. EcoPerformance – MERN (TEQ)/Energy Efficiency Conversion Projects

The ÉcoPerformance program is administered by the GOQ's Ministry of Energy and Natural Resources (MERN). The ÉcoPerformance program was launched in October 2013, to provide financial assistance to businesses, institutions, and municipalities to reduce greenhouse gas emissions through the implementation of measures or projects. The applicants must satisfy the following criteria: 1) located in Québec; 2) consume fossil fuel; 3) invest more than 25 percent of project cost in the project; 4) reduce greenhouse gas emissions; 5) meet energy rate of return requirements; and 6) respect ISO14064 for quantification of greenhouse gas emission reductions.[84]

9. Hydro-Québec Special L Rate for Industrial Customers Affected by Spruce Budworm

A highly destructive outbreak of the spruce budworm defoliated spruce-fir stands covering over 7 million hectares in Québec. Companies approached the GOQ requesting financial assistance in response to the increased costs required to harvest certain forests affected by this epidemic. In response, the GOQ and industry parties established a fixed rate reduction in electricity rates (*i.e.*, modify Hydro-Québec's L-rate price structure), through Hydro-Québec, to mitigate the increased electricity costs affecting all companies operating in the region.[85]

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[82] *Id*.
[83] *Id*.
[84] *Id*.
[85] *Id*. at 17.

10. Fees and Dues Paid to a Research Consortium

Under the Federal Research Consortium, to enhance funding for non-profit private research centers, the GOQ provides a tax credit for a company's eligible R&D expenditures paid to a research consortium. If a taxpaying corporation conducts business in Canada and is a member of an eligible research consortium, it can claim a tax credit for fees and dues paid to the consortium. The rate for these tax credits is 14 percent for expenditures made with respect to a taxation year starting after December 2, 2014, which can increase to 30 percent for corporations with assets of C$50 million or less for the previous taxation year. This increased rate is only applicable to the first C$3 million of qualified expenditures. Corporations with assets of C$50-75 million and C$75 million or more in the previous taxation year can claim these tax credits for eligible expenditures over C$50,000 and C$225,000, respectively.[86]

11. Tax Credit for Private Partnership Pre-Competitive Research

The GOQ provides a tax credit based on a company's eligible expenditures in forming partnerships to carry out pre-competitive research in Québec. The tax credit rate is 30 percent for small and medium-sized enterprises (SMEs) and 14 percent for large corporations. SMEs can claim qualified expenditures over a C$50,000 exclusion threshold, while large corporations, can claim those over a C$225,000 exclusion threshold.[87]

12. Tax Credit for Training in the Manufacturing, Forestry, and Mining Sectors (MFMS)

Under the Taxation Act, the GOQ provides a tax credit for eligible training expenditures equal to the total cost of training, which can also include the salary or wages paid during the training period. For the training expenditures to qualify, the training must consist of a course related to an activity in the manufacturing, forestry, or mining sector and must be given to an enrolled eligible employee by either an accredited instructor or one at a recognized educational institution. Employees qualify as being eligible if their activities consist primarily of carrying out or supervising duties attributable to an activity in the manufacturing, forestry, or mining sectors. The tax credit is available at a rate of 24 percent of the cost of these expenditures. Companies in the manufacturing, forestry, and mining sectors can claim the credit when filing their corporation income tax return.[88]

[86] *Id*. at 11.
[87] *Id*.
[88] *Id*.

Additional Subsidies Information from Canada's WTO Notifications

The following programs were reported in *Canada N220*, *Canada N253*, *Canada N284*, and/or *Canada N315*. As noted, Canada submitted no new WTO notifications during the period.

1. Pulp and Paper Green Transformation Program

On June 17, 2009, Canada announced a C$1 billion Pulp and Paper Green Transformation Program (PAPGTP) to support its pulp and paper producers. The stated purpose of this program was to improve energy efficiency and renewable energy production technologies. Canada reported in its WTO Notification that the program provided contribution funding, capped at CAD $1 billion, to pulp and paper companies for environmental upgrades to Canadian facilities, based on a credits system. As of March 31, 2012, when the program ended, 38 pulp and paper mills across Canada, representing 24 companies, generated credits under the PAPGTP based on their 2009 production levels of black liquor.[89] The GOC confirmed on its website that the program ended on this date. *See* http://cfs.nrcan.gc.ca/pages/231.[90]

2. Value to Wood (VWP)

As explained above in the "Subsidies Identified in CVD Proceedings" section, the VWP was one of three softwood marketing subsidy programs administered by NRCan. Canada reported in its WTO Notification that the VWP funded pre-competitive research and technology transfer activities in support of secondary wood products manufacturers. Canada reported that the VWP expired in March 2011. *See Canada N220* at page 27 and *Canada N253* at page 27.

3. Investments in Forest Industry Transformation Program (IFIT)

Launched in August 2010 as part of Economic Action Plans implemented since the 2009 global recession, the IFIT provides targeted investments in the form of non-refundable contributions for projects that implement new technologies leading to non-traditional high-value forest products and renewable energies. Eligible recipients are companies that produce forest products and own at least one existing forest product manufacturing facility located in Canada. Projects were selected for funding through a competitive process. The program is funded under the *Department of Natural Resources Act* and the *Energy Efficiency Act*. *See Canada N284* at page 29. In 2014, the program was continued with new funding in the amount of C$90.4 million over the next four years. The program budget was C$7.7 million for FY 2014/2015 and $22.8 for FY 2015/2016. *See Trade Policy Review of Canada, Report by the Secretariat*, WT/TPR/S/314/Rev.1, dated September 30, 2015, Section 1, pages 15-16, para.1.7. (*Canada TPR314/R1*). *See also Canada N315* at page 23.

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[89] Source: http://www.nrcan-rncan.gc.ca/media/newcom/2009/200961a-eng.php.

[90] *See Supercalendered Paper Investigation* and accompanying IDM at 26.

4. Transformative Technology Program (TTP)

The TTP provides funding under the *Department of Natural Resources Act* and the *Forestry Act* in the form of contributions for pre-competitive, non-proprietary R&D for development and adaptation of emerging technologies such as forest biomass, forest biotechnology and nanotechnology. The program was created in April 2007 and expired on March 31, 2014.[91] Funded research focuses on the development of breakthrough technologies related to forest biomass utilization, nanotechnology, and next-generation forest products, as well as addressing on-going productivity challenges facing the industry.

5. Forest Innovation Program (FIP)

The FIP provides non-repayable contributions to support pre-competitive research, development and technology transfer in the forest sector, to help position the sector for growth and participation in areas such as bioenergy, biochemicals, nanotechnology and advanced construction materials. Funding is provided under the authority of the *Department of Natural Resources Act* and the *Forestry Act*. Program budgets were C$31 million for FY 2014/2015 and C$30 million for FY 2015/2016. The program started on April 1, 2012, and expired on March 31, 2018. *See Canada 315* at page 23.

6. Export Restrictions to Promote Further Processing in Canada

Information in *Canada TPR314/R1* indicates that under the *Export and Import Permits Act*, Canada imposes export controls on logs, pulpwood and red cedar products to promote further processing in Canada. *See Canada TPR314/R1*, Section 3.2.3, pages 72-73, paras.3.99 and 3.100, Table 3.11.

7. Québec Forestry Financing Program

Ongoing since 2004, under the Québec Ministère des Forêts, de la Faune et des Parcs, the program supports certified forestry producers in acquiring wooded lots, with assistance provided in the form of loan guarantees for loans of up to C$750,000. *See Canada N284* at page 50 and *Canada N315* at page 47.

8. Ontario Tax Credit for Manufacturing and Processing

As reported in Canada's WTO Notifications, this program began in January 1993 and provides a tax credit under the Ontario Taxation Act 2007 against Ontario taxable income for eligible Canadian profits from manufacturing and processing, farming, fishing, logging, mining, the generation of electrical energy for sale, or the production of steam for sale. Canada did not report the amount or rate of the credit. *See Canada N315* at page 43.

[91] This program is no longer reported in *Canada N284*.

9. Ontario Jobs and Prosperity Fund

Launched in January 2015, the program is administered by the Ministry of Economic Development and Growth and provides grants and loans under four distinct streams, each with its own application process. Among the four is the Forestry Growth Fund, which helps value-added and bio-product forestry projects improve productivity and innovation, enhance competitiveness, support new market access, strengthen supply chains and provide socio-economic benefits. *See Canada N315* at page 36.

<u>Subsidies Identified in Connection with the SLA which have been Reviewed by an Arbitration Panel</u>

1. Ontario Forest Sector Loan Guarantee Program

This program was announced in 2005 to make available C$350 million in loan guarantees over five years to stimulate and leverage investment in the forest industry. These loan guarantees could be for a term of two to five years and generally range from C$500,000 to a maximum of C$25 million.

2. Ontario Forest Sector Prosperity Fund (FSPF)

This FSPF program was announced in 2005 to provide grants to the forest sector that would support and leverage new capital investment programs.[92]

3. Forest Industry Support Program

This program was announced in 2006 to make available C$425 million in financing to foster investment and modernization projects to improve the productivity and competitiveness of Québec's forest products industry.

4. 15% Capital Tax Credit

This program was announced in 2006 to provide a 15% tax credit to Québec's forest products industry on investments in manufacturing and processing equipment through 2009.

5. Québec's Road Tax Credit

This program was announced in 2006 and allowed the GOQ to incur costs previously borne by the forest products industry. The program includes C$100 million for a refundable tax credit of 40% for the construction of and major repairs to access roads and bridges.

6. British Columbia Sales of Grade 4 Timber

Since 2007, British Columbia has sold increasing amounts of publicly-owned timber in its interior for salvage rates, providing a benefit to softwood lumber producers. While the mountain

[92] *See Supercalendered Paper Investigation* and accompanying IDM at 28.

pine beetle infestation has caused extensive damage to forests in British Columbia, the majority of the damaged timber is usable for softwood lumber products.

Additional Subsidies Identified in Connection with the SLA

1. Wood Promotion Program

The GOO provides C$1 million per year in funding to the forest products industry to enhance value-added manufacturing.

2. North Ontario Grow Bonds Program

The GOO provided approximately C$13 million in bonds to new and growing businesses in the North. For example, in September 2006, a C$250,000 loan to the Manitou Forest Products Limited for expansion of its sawmill was among the projects funded.

3. Forest Industry Long-Term Competitiveness Initiative

This program provides government funding for research and development that benefits the forest products industry.

4. Ontario Forest Access Road Construction and Maintenance Program

This program was announced in 2006 to make available C$75 million to reimburse forest companies for costs incurred for constructing and maintaining primary and secondary forest access roads.

5. Reductions in Operational and Silvicultural Costs

This program was announced in 2006 and allowed the GOQ to incur costs previously borne by the forest products industry. The program includes C$210 million in measures to reduce the cost of operations and silvicultural investments.

Germany

In our review of past WTO Trade Policy Review reports for Germany, as well as past EU Subsidy Notifications with regard to Germany, we found no relevant lumber industry subsidy programs.[93] As noted, there were no new WTO Trade Policy Review reports or EU Subsidy Notifications with regard to Germany during the period for this report.

Brazil

In our review of past WTO Trade Policy Review reports for Brazil, as well as Brazil's past Subsidy Notifications, we found no relevant lumber industry subsidy programs.[94] As noted,

[93] *See* WT/TPR/S/357/Rev.1 (October 13, 2017) and G/SCM/N/315/EU/Add.11 (August 30, 2017).
[94] *See* WT/TPR/S/358/Rev.1 (October 18, 2017) and G/SCM/N/315/BRA (May 30, 2018).

there was no new WTO Trade Policy Review report for Brazil during the period for this report. We reviewed Brazil's latest Subsidy Notification but found no relevant lumber industry subsidy programs during the relevant period.[95]

Sweden

In our review of past WTO Trade Policy Review reports for Sweden and past EU Subsidy Notifications with regard to Sweden, we found no relevant lumber industry subsidy programs during the relevant periods.[96] As noted, there were no new WTO Trade Policy Review reports or EU Subsidy Notifications with regard to Sweden during the period for this report.

IV. Conclusion

We note that this report is limited to all subsidies identified following the reporting methodology described above and does not constitute a finding regarding the countervailability of the listed subsidies under U.S. law or the WTO SCM Agreement. We also note that this report only includes subsidies identified pursuant to the described reporting methodology. A subsidy's presence in or absence from this report is not an indication of whether the subsidy is countervailable under U.S. law, is in accordance with the relevant WTO agreements, or is actionable under any other international agreement.

[95] *See* G/SCM/N/315/BRA (May 30, 2018).
[96] *See* WT/TPR/S/357/Rev.1 (October 13, 2017) and G/SCM/N/315/EU/Add.27 (July 25, 2017).

APPENDIX