

December 21, 2017

**MEMORANDUM TO:** Gary Taverman  
Deputy Assistant Secretary  
for Antidumping and Countervailing Duty Operations,  
performing the non-exclusive functions and duties of the  
Assistant Secretary for Enforcement and Compliance

**FROM:** James Maeder  
Senior Director  
performing the duties of Deputy Assistant Secretary  
for Antidumping and Countervailing Duty Operations

**SUBJECT:** Decision Memorandum for the Preliminary Results of  
Administrative Review of the Countervailing Duty Order on  
Supercalendered Paper from Canada; 2015

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## **I. SUMMARY**

The Department of Commerce (Commerce) is conducting an administrative review of the countervailing duty (CVD) order on supercalendered paper (SC paper) from Canada (*CVD Order*).<sup>1</sup> The period of review (POR) is August 3, 2015, through December 31, 2015. Commerce initiated an administrative review for the following companies: Catalyst Paper Corporation, Catalyst Pulp and Paper Sales Inc., and Catalyst Paper (USA) Inc. (collectively, Catalyst); Port Hawkesbury Paper LP (Port Hawkesbury); Resolute FP Canada Inc. and Resolute FP US Inc. (collectively, Resolute); and Irving Paper Limited (Irving).<sup>2</sup> Because Catalyst was excluded from the *CVD Order* based on the final results of the expedited review,<sup>3</sup> we are rescinding the administrative review of Catalyst.

If these preliminary results are adopted in the final results of review, we will instruct U.S. Customs and Border Protection (CBP) to assess countervailing duties on all appropriate entries of subject merchandise during the POR at the CVD rates found in these preliminary results, or if

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<sup>1</sup> See *Supercalendered Paper from Canada: Countervailing Duty Order*, 80 FR 76668 (December 10, 2015) (*CVD Order*).

<sup>2</sup> See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 82 FR 10457 (February 13, 2017) (*Initiation Notice*).

<sup>3</sup> See *Supercalendered Paper from Canada: Final Results of Countervailing Duty Expedited Review*, 82 FR 18896 (April 24, 2017) (*Expedited Review*) and accompanying Issues and Decision Memorandum (IDM); see also Memorandum, “Rescission of Catalyst Paper Corporation, Catalyst Pulp and Paper Sales Inc., and Catalyst Paper (USA) Inc.,” May 17, 2017 (Catalyst Rescission Memorandum).

the CVD rates are revised, at the CVD rates found in the final results. Interested parties are invited to comment on these preliminary results. Unless the deadline is extended pursuant to section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), we will issue the final results no later than 120 days after the publication of these preliminary results.

## II. BACKGROUND

### A. Initiation and Case History

On December 10, 2015, Commerce published the *CVD Order* on SC paper from Canada. On December 1, 2016, we published a notice of “Opportunity to Request Administrative Review” of the *CVD Order*.<sup>4</sup> Between December 9, 2016, and January 3, 2017, Commerce received timely requests to conduct an administrative review of the *CVD Order* from the petitioner,<sup>5</sup> Catalyst, Port Hawkesbury, Resolute, and Irving. Based upon these requests, Commerce initiated an administrative review of the *CVD Order* on SC paper from Canada on February 13, 2017, for Catalyst, Port Hawkesbury, Resolute, and Irving.<sup>6</sup> On April 24, 2017, Commerce published the *Expedited Review* final results on SC paper from Canada, in which Catalyst was excluded from the *CVD Order*.<sup>7</sup>

On June 2, 2017, Commerce issued the CVD questionnaire to the Government of Canada (GOC) and instructed the GOC to forward it to the remaining three companies for which a review was requested, hereinafter, the respondents.<sup>8</sup> This questionnaire requested information regarding subsidies that were previously investigated in this proceeding.<sup>9</sup> Port Hawkesbury, Resolute, and Irving timely submitted affiliation responses.<sup>10</sup> The GOC, the Government of New Brunswick (GNB), the Government of British Columbia (GBC), the Government of Ontario (GOO), the Government of Quebec (GOQ), the Government of Nova Scotia (GNS), Port Hawkesbury,

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<sup>4</sup> See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review*, 81 FR 86694 (December 1, 2016).

<sup>5</sup> The petitioner in this administrative review is Verso Corporation.

<sup>6</sup> See *Initiation Notice*.

<sup>7</sup> See *Expedited Review*, 82 FR at 18897, and accompanying IDM.

<sup>8</sup> See Letter to the GOC, “Countervailing Duty Administrative Review of Supercalendered Paper from Canada: Initial Questionnaire,” June 2, 2017.

<sup>9</sup> *Id.*, at II-3 and III-10.

<sup>10</sup> See Letter from Port Hawkesbury, “Supercalendered Paper from Canada: Affiliated Companies Response,” June 16, 2017 (PHP Affiliation QR); see also Letter from Resolute, “Supercalendered Paper from Canada: Countervailing Duty Administrative Review Initial,” June 16, 2017 (Resolute Affiliation QR); see also Letter from Irving, “Supercalendered Paper from Canada: Response to Section III Questions Identifying Affiliated Companies Questionnaire Response,” June 23, 2017.

Irving and Resolute timely filed their initial questionnaire responses.<sup>11</sup> The petitioner submitted comments on Port Hawkesbury's initial questionnaire response on October 20, 2017.<sup>12</sup>

On July 24, 2017, Commerce extended the deadline for the preliminary results of this administrative review from September 5, 2017, to December 21, 2017, in accordance with 19 CFR 351.214(i)(2).<sup>13</sup>

On September 5, 2017, Commerce received new subsidy allegations (NSA) from the petitioner.<sup>14</sup> The GOQ, Resolute, the GNB, and Irving commented on the petitioner's NSA on September 21, 2017.<sup>15</sup> Commerce released its analysis of the NSAs,<sup>16</sup> and having initiated investigations of 13 additional programs, sent the NSA questionnaires to the GOC, Port Hawkesbury, Resolute, and Irving on December 1, 2017.<sup>17</sup> The deadline for responding to these NSA questionnaires is currently December 22, 2017.

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<sup>11</sup> See Letter from the GOC, "Response of the Government of Canada," July 24, 2017 (GOC IQR); *see also* Letter from the GNB, "Response of the Government of New Brunswick to the Department's June 2, 2017 Initial Questionnaire," July 24, 2017 (GNB IQR); *see also* Letter from the GBC, "Response of the Government of Canada and the Government of British Columbia," July 24, 2017 (GBC IQR); *see also* Letter from the GOO, "Response of the Government of Ontario to the Department's June 2, 2017 Initial Questionnaire," July 24, 2017 (GOO IQR); *see also* Letter from the GOQ, "Response of the Government of Quebec to the Department's June 2, 2017 Initial Questionnaire," July 24, 2017 (GOQ IQR); *see also* Letter from the GNS, "Supercalendered Paper from Canada: Government of Nova Scotia Response to the Departments Initial Questionnaire Issued June 2, 2017," July 24, 2017 (GNS IQR); *see also* Letter from Port Hawkesbury, "Supercalendered Paper from Canada: Initial Questionnaire Response," July 24, 2017 (PHP IQR); *see also* Letter from Irving, "Supercalendered Paper from Canada: Response to Section III of the Questionnaire for Producers/Exporters," July 24, 2017 (Irving IQR); *see also* Letter from Resolute, "Supercalendered Paper from Canada: Countervailing Duty Administrative Review Initial Questionnaire Response," July 25, 2017 (Resolute IQR).

<sup>12</sup> See Letter from the petitioner, "First Review Of The Countervailing Duty Order On Imports Of Supercalendered Paper from Canada: Comments On The Initial Questionnaire Response of Port Hawkesbury Paper," October 20, 2017.

<sup>13</sup> See Memorandum, "Administrative Review of the Countervailing Duty Order on Supercalendered Paper from Canada: Extension of Deadline for Preliminary Results," July 24, 2017.

<sup>14</sup> See Letter from the petitioner, "First Review of The Countervailing Duty Order On Imports Of Supercalendered Paper From Canada: New Subsidy Allegations Regarding Resolute FP Canada Inc.," September 5, 2017.

<sup>15</sup> See Letter from the GOQ, "Countervailing Duty Administrative Review of Supercalendered Paper from Canada: Response of the Government of Québec to Petitioner's New Subsidy Allegations," September 21, 2017; *see also* Letter from Resolute, "Supercalendered Paper from Canada, Countervailing Duty Expedited Review, Case No. C-122-854: Response to Petitioner's New Subsidy Allegations Concerning New Brunswick," September 21, 2017; *see also* Letter from the GNB and Irving, "Supercalendered Paper from Canada: Response to New Subsidy Allegation," September 21, 2017.

<sup>16</sup> See Memorandum, "Analysis of New Subsidy Allegations," December 1, 2017 (NSA Analysis Memorandum).

<sup>17</sup> See Letter to the GOC, "Countervailing Duty Administrative Review of Supercalendered Paper from Canada: New Subsidy Allegations Questionnaire," December 1, 2017; *see also* Letter to Port Hawkesbury, "Countervailing Duty Administrative Review of Supercalendered Paper from Canada: New Subsidy Allegations Questionnaire" December 1, 2017; *see also* Letter to Resolute, "Countervailing Duty Administrative Review of Supercalendered Paper from Canada: New Subsidy Allegations Questionnaire" December 1, 2017; *see also* Letter to Irving, "Countervailing Duty Administrative Review of Supercalendered Paper from Canada: New Subsidy Allegations Questionnaire" December 1, 2017.

On November 21, 2017, the petitioner, the GNB, and Port Hawkesbury submitted factual information pertaining to benchmark data.<sup>18</sup> Port Hawkesbury and Resolute submitted pre-preliminary comments on November 21, 2017, and December 8, 2017, respectively.<sup>19</sup>

On November 21, 2017, Commerce sent supplemental questionnaires to the GOC, Port Hawkesbury, Resolute, and Irving, and to the GNS on December 1, 2017.<sup>20</sup> On December 5, 2017, the GOC, the GNS, and Irving submitted responses to the supplemental questionnaires.<sup>21</sup> Port Hawkesbury, the GNB, and Resolute submitted their responses between December 5 and December 8, 2017.<sup>22</sup> On December 1, 2017, Commerce issued a supplemental questionnaire to Port Hawkesbury and the GNS.<sup>23</sup> Port Hawkesbury and the GNS submitted their responses to the second supplemental questionnaires on December 11, 2017, and December 15, 2017, respectively.<sup>24</sup>

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<sup>18</sup> See Letter from the petitioner, “First Review Of The Countervailing Duty Order On Imports Of Supercalendered Paper From Canada: Petitioner’s Benchmark Data And Other Factual Information Submission,” November 21, 2017 (Petitioner Benchmark Submission); see also Letter from the GNB, “Supercalendered Paper from Canada. Case No. C-122-854: Factual Information Submission To Measure Adequacy of Remuneration,” November 21, 2017; see also Letter from Port Hawkesbury, “Supercalendered Paper from Canada, First Administrative Review – New Information, Information Relating to the Adequacy of Remuneration, and Pre- Preliminary Comments – Electricity,” November 21, 2017.

<sup>19</sup> See Letter from Port Hawkesbury, “Supercalendered Paper from Canada, First Administrative Review – Pre-Preliminary Comments,” November 21, 2017; see also Letter from Resolute, “Supercalendered Paper from Canada: Countervailing Duty Administrative Review. Pre-Preliminary Comments,” December 8, 2017.

<sup>20</sup> See Letter to the GOC, “Countervailing Duty Administrative Review of Supercalendered Paper from Canada: First Supplemental Questionnaire,” November 21, 2017; see also Letter to Port Hawkesbury, “Administrative Review of the Countervailing Duty Order on Supercalendered Paper from Canada: First Supplemental Questionnaire,” November 21, 2017; see also Letter to Resolute, “Countervailing Duty Administrative Review of Supercalendered Paper from Canada: First Supplemental Questionnaire,” November 21, 2017; see also Letter to Irving, “Countervailing Duty Administrative Review of Supercalendered Paper from Canada: First Supplemental Questionnaire,” November 21, 2017; see also Letter to the GNS, “Countervailing Duty Administrative Review of Supercalendered Paper from Canada: First Supplemental Questionnaire,” December 1, 2017.

<sup>21</sup> See Letter from the GOC, “Supercalendered Paper Administrative Review: Government of Canada’s Response to the Department’s First Supplemental Questionnaire,” December 5, 2017 (GOC SQR); see also Letter from the GNS, “Supercalendered Paper from Canada: Response of the Government of Nova Scotia to the Department’s November 21, 2017 Questionnaire,” December 5, 2017 (GNS SQR1); see also Letter from Irving, “Supercalendered Paper from Canada: Response to the First Supplemental Questionnaire,” December 5, 2017 (Irving SQR).

<sup>22</sup> See Letter from Port Hawkesbury, “Supercalendered Paper from Canada: First Supplemental Questionnaire Response,” December 5, 2017; see also Letter from the GNB, “Supercalendered Paper from Canada, Case No. C-122-854: Response to the “New Brunswick Provision of Stumpage to Irving for Less than Adequate Remuneration” Sub-section of the November 21, 2017 Supplemental Questionnaire,” December 7, 2017 (GNB SQR); see also Letter from Resolute, “Supercalendered Paper From Canada: Countervailing Duty Administrative Review, Resolute’s Response to First Supplemental Questionnaire,” December 8, 2017 (Resolute SQR).

<sup>23</sup> See Letter to Port Hawkesbury, “Supercalendered Paper from Canada: Countervailing Duty Administrative Review: Second Supplemental Questionnaire,” December 1, 2017; see also Letter to the GNS, “Supercalendered Paper from Canada: Countervailing Duty Administrative Review: First Supplemental Questionnaire,” December 1, 2017.

<sup>24</sup> See Letter from Port Hawkesbury, “Supercalendered Paper from Canada: Countervailing Duty Administrative Review: Second Supplemental Questionnaire Response,” December 11, 2017 (PHP SQR2); see also Letter from the GNS, “Supercalendered Paper from Canada: Response of the Government of Nova Scotia to the Department’s December 1, 2017, Questionnaire,” December 15, 2017 (GNS SQR2).

## **B. Rescission of Review**

As discussed above, pursuant to 19 CFR 351.214(k)(3)(iv) we determined in the *Expedited Review* that Catalyst is excluded from the *CVD Order*.<sup>25</sup> On May 17, 2017, Commerce issued a memorandum stating our intention to rescind this administrative review with respect to Catalyst consistent with our determination in the *Expedited Review*.<sup>26</sup> Therefore, we are rescinding the administrative review of Catalyst. Commerce's practice with respect to exclusions of companies from a CVD order is to exclude the subject merchandise both produced and exported by those companies.<sup>27</sup> Following the final results of the *Expedited Review*, we instructed CBP to discontinue the suspension of liquidation and the collection of cash deposits of estimated countervailing, and to liquidate, without regard to duties, all shipments of SC paper produced and exported by Catalyst, entered, or withdrawn from warehouse, for consumption on or after the August 3, 2015,<sup>28</sup> the date of the preliminary determination in the CVD investigation.<sup>29</sup> Merchandise which Catalyst exports but does not produce, as well as merchandise Catalyst produces but is exported by another company, remains subject to the CVD order.

## **C. Period of Review**

The POR is August 3, 2015, through December 31, 2015.

## **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.<sup>30</sup>

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.

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<sup>25</sup> See *Expedited Review*, and accompanying IDM.

<sup>26</sup> See Catalyst Rescission Memorandum.

<sup>27</sup> See *Expedited Review*, 82 FR at 18897 (citing *Certain Corrosion-Resistant Steel Products from India, Italy, Republic of Korea and the People's Republic of China: Countervailing Duty Order*, 81 FR 48387 (July 25, 2016)).

<sup>28</sup> See CBP Message Number 7122301, dated May 2, 2017.

<sup>29</sup> See *Supercalendered Paper from Canada: Preliminary Results of Countervailing Duty Expedited Review*, 81 FR 85520 (November 28, 2017) (*Expedited Review Preliminary Results*), and accompanying Preliminary Determination Memorandum (PDM).

<sup>30</sup> Supercalendering and soft nip calendering processing, in conjunction with the mineral filler contained in the base paper, are performed to enhance the surface characteristics of the paper by imparting a smooth and glossy printing surface. Supercalendering and soft nip calendering also increase the density of the base paper.

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**

Commerce 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. Commerce 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 Range System.<sup>31</sup> Commerce 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), Commerce 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 Commerce'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 Commerce's regulations further clarifies Commerce's cross-ownership standard.<sup>32</sup> According to the *CVD Preamble*, relationships captured by the cross-ownership definition include those where:

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<sup>31</sup> See U.S. Internal Revenue Service Publication 946 (2008), "How to Depreciate Property," at Table B-2: Table of Class Lives and Recovery Periods.

<sup>32</sup> See *Countervailing Duties; Final Rule*, 63 FR 65348 (November 25, 1998) (*CVD Preamble*).

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.<sup>33</sup>

Thus, Commerce’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 Commerce’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.<sup>34</sup>

#### *Port Hawkesbury*

Port Hawkesbury is both the producer and the exporter of SC paper subject to this administrative review. Port Hawkesbury identified numerous companies with which it is affiliated and which may satisfy the criteria for cross-ownership for purposes of attributing to Port Hawkesbury subsidies received by these companies.<sup>35</sup> These affiliates were either in existence and had operations during the POR or ceased to exist prior to the POR but were in existence over the AUL period. Except for the company noted below, these companies either do not meet the requirements under our attribution rules under 19 CFR 351.525 for attribution of any subsidy benefits to Port Hawkesbury (*i.e.*, not holding companies or trading companies that export subject merchandise, or producers of subject merchandise, or inputs used in the production of subject merchandise), or, if they did meet one of our attribution rules, then the companies reported they did not use any programs over the AUL. Therefore, we are not including any analysis of these companies in these preliminary results as there are no benefits that can be attributed to Port Hawkesbury.

Consistent with the *SC Paper Final Determination*, we determine that Port Hawkesbury is a producer of the subject merchandise.<sup>36</sup> In accordance with 19 CFR 351.525(b)(6)(i), we are preliminarily attributing subsidies received by Port Hawkesbury to its own sales.

Regarding Pacific West Commercial Corporation (PWCC), consistent with the *SC Paper Final Determination*, because Port Hawkesbury and PWCC have the same ultimate common ownership, we find that these companies are cross-owned within the meaning of 19 CFR

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<sup>33</sup> *Id.*, 63 FR at 65401.

<sup>34</sup> See *Fabrique de Fer de Charleroi, SA v. United States*, 166 F. Supp. 2d 593, 600-604 (CIT 2001).

<sup>35</sup> See PHP Affiliation QR.

<sup>36</sup> See *Supercalendered Paper from Canada: Final Affirmative Countervailing Duty Determination*, 80 FR 63535 (October 20, 2015) (*SC Paper Final Determination*), and accompanying IDM.

351.525(b)(6)(vi).<sup>37</sup> Further, based on PWCC's involvement in the purchase of Port Hawkesbury, we are attributing to Port Hawkesbury's sales the benefit from any subsidies that PWCC received and transferred to Port Hawkesbury, in accordance with 19 CFR 351.525(b)(6)(v).<sup>38</sup>

### *Resolute*

Resolute is both the producer and the exporter of SC paper subject to this administrative review. Resolute identified numerous companies with which it is affiliated and which may satisfy the criteria for cross-ownership for purposes of attributing to Resolute subsidies received by these companies.<sup>39</sup> These affiliates were in existence and had operations during the POR or ceased to exist prior to the POR but were in existence over the AUL period. Except for the companies noted below, because none of these companies either satisfied Commerce's cross-ownership criteria pursuant to 19 CFR 351.525(b)(6)(ii)-(v), or reported using any of the programs under review, we are not including these companies in our analysis as there is no benefit that can be attributed to Resolute.

Similar to the *SC Paper Final Determination*, because Resolute is a parent company, we are attributing the benefit from subsidies that Resolute received to Resolute's consolidated sales (net of intercompany sales), in accordance with 19 CFR 351.525(b)(6)(iii).<sup>40</sup>

Resolute identified Fibrek General Partnership (Fibrek) as a wholly owned subsidiary of Resolute.<sup>41</sup> Based on Resolute's full ownership of Fibrek over the POR,<sup>42</sup> we determine that these companies are cross-owned within the meaning of 19 CFR 351.525(b)(6)(vi). Fibrek supplies Resolute with kraft pulp that Resolute uses as an input in its production of various paper products, including SC paper.<sup>43</sup> Consistent with the *SC Paper Final Determination*, we determine that the inputs that Fibrek supplied to Resolute are primarily dedicated to production of SC paper and other downstream products.<sup>44</sup> Thus, we are attributing to Resolute subsidies received by Fibrek, pursuant to 19 CFR 351.525(b)(6)(iv).

### *Irving*

Irving is the producer of SC paper subject to this administrative 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. Except for the companies noted below, because none of these companies either satisfied Commerce's cross-ownership criteria pursuant to 19 CFR 351.525(b)(6)(ii)-(v), or reported using any of the

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<sup>37</sup> *Id.*, and accompanying IDM at 4-5; *see also* PHP Affiliation QR.

<sup>38</sup> *Id.*

<sup>39</sup> *See* Resolute Affiliation QR at Exhibit 1.

<sup>40</sup> *See SC Paper Final Determination*, and accompanying IDM at 6 and Comment 19.

<sup>41</sup> *See* Resolute Affiliation QR.

<sup>42</sup> *See* Resolute IQR at III-9.

<sup>43</sup> *See SC Paper Final Determination*, and accompanying IDM at 6.

<sup>44</sup> *Id.* at 6 and Comment 19.



programs under review, we are not including these companies in our analysis because there are no benefits that we can attribute to Irving.

Consistent with the *Expedited Review*, we have determined that Irving Pulp & Paper Limited (IPP) and J.D. Irving Limited (JDIL) are cross-owned with Irving as a result of their ownership by the same holding company that owns Irving.<sup>45</sup> JDIL harvests timber and supplies woodchips to paper companies, including Irving and IPP. IPP provides pulp to Irving. Because JDIL provides inputs to Irving and IPP, 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 pursuant to 19 CFR 351.525(b)(6)(iv). In accordance with 19 CFR 351.525(b)(6)(iv), we are attributing to Irving subsidies received by IPP by dividing them by the combined sales of Irving and IPP, less intercompany sales; we are attributing to Irving subsidies received by JDIL by dividing them by the combined sales of JDIL, IPP, and Irving, less intercompany sales.

### **C. Denominators**

In accordance with 19 CFR 351.525(b)(1)-(5), Commerce considers the basis for the respondents' receipt of benefits under each program when attributing subsidies, *e.g.*, to the respondents' export or total sales. The denominators we used to calculate the countervailable subsidy rate for the various subsidy programs described below are identified in the Preliminary Calculation Memoranda prepared for these preliminary results.<sup>46</sup>

### **D. Loan Interest Rate Benchmarks and Discount Rates**

Commerce is examining loans provided to Irving, Port Hawkesbury, and Resolute that were outstanding during the POR. The loans are denominated in Canadian dollars (C\$). We are also examining non-recurring, allocable subsidies that the respondents received.<sup>47</sup> In the section below, we discuss the derivation of the benchmarks and discount rates for the POR and the years comprising the AUL period.

#### **Long-Term Loan Interest Rate Benchmark**

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

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<sup>45</sup> See *Supercalendered Paper from Canada: Preliminary Results of Countervailing Duty Expedited Review*, 81 FR 85520 (November 28, 2017) (*Expedited Review Preliminary Results*), and accompanying Preliminary Determination Memorandum (PDM) at 9; unchanged in *Expedited Review* and accompanying IDM at 5 and Comment 34.

<sup>46</sup> See Memorandum, “Administrative Review of the Countervailing Duty Order on Supercalendered Paper from Canada: Preliminary Results Analysis for Port Hawkesbury,” (PHP Preliminary Calculation Memorandum); *see also* Memorandum, “Administrative Review of the Countervailing Duty Order on Supercalendered Paper from Canada: Preliminary Results Analysis for Resolute,” (Resolute Preliminary Calculation Memorandum); *see also* Memorandum, “Administrative Review of the Countervailing Duty Order on Supercalendered Paper from Canada: Preliminary Results Analysis for Irving Paper Limited,” (Irving Preliminary Calculation Memorandum), dated concurrently with these preliminary results.

<sup>47</sup> See 19 CFR 351.524(b)(1).

comparable commercial loan that the recipient could actually obtain on the market,” indicating that a benchmark must be a market-based rate. Normally, Commerce uses comparable commercial loans reported by the company for establishing an interest rate benchmark.<sup>48</sup> If the firm did not receive any comparable commercial loans during the relevant periods, Commerce’s regulations provide that we “may use a national average interest rate for comparable commercial loans.”<sup>49</sup> 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 information showing the interest rates, along with the underlying data, that it paid on other long-term commercial loans.<sup>50</sup> We determine that these loans meet the definition of a “comparable commercial loan” under 19 CFR 351.505(a)(2). Accordingly, we have used the interest rates on Irving’s comparable commercial loans as a benchmark to analyze the long-term government provided loans that were outstanding during the POR.

Port Hawkesbury submitted information showing the interest rates, along with the underlying data, that it paid on other long-term commercial loans.<sup>51</sup> Consistent with the *SC Paper Final Determination*, we determine that these loans meet the definition of a “comparable commercial loan” under 19 CFR 351.505(a)(2) and we have used the corresponding interest rates as our benchmark.<sup>52</sup>

Resolute has not provided any information regarding comparable commercial loans. Where such benchmark interest rates for comparable commercial loans are unavailable, 19 CFR 351.505(a)(3)(ii) provides that we may use a national average interest rate as a benchmark. As such, we are using national average interest rates, as reported by the Bank of Canada, specifically the “prime business loan rates,”<sup>53</sup> as the benchmark to measure the benefit from Resolute’s long-term loans.

### Discount Rates

Consistent with 19 CFR 351.524(d)(3)(i)(A), for Port Hawkesbury, Resolute, and Irving, we used, as our discount rate, the long-term interest rates described above for each year in which the government approved non-recurring subsidies.

## **V. ANALYSIS OF PROGRAMS**

Based upon our analysis of the record and the responses to our questionnaires, we preliminarily determine the following:

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<sup>48</sup> See 19 CFR 351.505(a)(3)(i).

<sup>49</sup> See 19 CFR 351.505(a)(3)(ii).

<sup>50</sup> See e.g., Irving IQR at Exhibit ACOA-S-03.

<sup>51</sup> See PHP IQR at Exhibit, LOAN-1, PHP SQR2 at Exhibit SD-LOANS-2.

<sup>52</sup> See Port Hawkesbury Preliminary Calculation Memo.

<sup>53</sup> See e.g., Resolute IQR at Exhibit 1.

## A. Programs Preliminarily Determined To Be Countervailable

### 1. New Brunswick Financial Assistance to Industry Program (FAIP)

In the *Expedited Review*, Commerce determined that this program conferred countervailable subsidies on subject merchandise because: 1) it is *de jure* specific, in accordance with section 771(5A)(D)(i) of the Act, because certain industries are explicitly ineligible, 2) 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, and 3) 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.<sup>54</sup> A benefit also exists for the payroll rebate under 19 CFR 351.504(a) equal to the amount of the payroll rebate. In a CVD administrative review, we do not revisit past determinations of countervailability, absent new evidence,<sup>55</sup> and none has been presented here, other than the fact that according to the GNB, “the former Invest NB and the Department of Economic Development were merged into Opportunities New Brunswick, a Crown corporation. Opportunities New Brunswick has since administered the residual benefits from the programs originally administered by FAIP.”<sup>56</sup>

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.<sup>57</sup>

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.<sup>58</sup> Therefore, we are measuring the benefit from the payroll rebates received during the POR by dividing the total disbursement for 2015 by the appropriate total sales denominator, as discussed above in the section “Attribution of Subsidies.”

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. In order to calculate the countervailable subsidy rate, we divided the total benefits received by each company by the appropriate total sales denominator for each company, in accordance with the attribution analysis described above, which we then summed with the countervailable rate determined for the payroll rebate, to arrive at a total countervailable subsidy rate.

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<sup>54</sup> See *Expedited Review Preliminary Results*, and accompanying PDM at 11; unchanged in *Expedited Review*.

<sup>55</sup> See *Magnola Metallurgy, Inc. v. United States*, 508 F.3d 1349 (Fed. Cir. 2007) (*Magnola*); see also *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, from the People’s Republic of China: Final Results of Countervailing Duty Administrative Review; 2012*, 80 FR 41003 (July 14, 2015) (*Solar Cells from the PRC 2012 AR*) and accompanying IDM at 27.

<sup>56</sup> See GNB IQR at Volume I at “Initial Questionnaire Response Narrative” at NB-5.

<sup>57</sup> See Irving IQR at Exhibits FAIP IPL-11, FAIP L-01, FAIP S-01, and Payroll-01.

<sup>58</sup> See Irving IQR at Exhibit Payroll-01.

On this basis, we preliminarily determine the countervailable subsidy rate to be 0.05 percent *ad valorem* for Irving.<sup>59</sup>

## **2. GNS Loan for Working Capital**

In the *SC Paper Final Determination*, Commerce found that the loan provided by the GNS constitutes a financial contribution in the form of a direct transfer of funds from the government, within the meaning of section 771(5)(D)(i) of the Act, bestowing a benefit equal to the difference between the interest paid by the company for the loan during 2015 and the interest the company would have paid on a comparable loan, within the meaning of section 771(5)(E)(ii) of the Act and 19 CFR 351.505(a)(1).<sup>60</sup> We determined that this program is specific under section 771(5A)(D)(i) of the Act because the GNS offered and provided the assistance only to PWCC. In a CVD administrative review, we do not revisit past determinations of countervailability, absent new evidence,<sup>61</sup> and none has been presented here. Therefore, we continue to find that this program provides a countervailable subsidy.

Port Hawkesbury reported that the loan under this program, received by PWCC and assigned to Port Hawkesbury in 2012, remained outstanding during the POR.<sup>62</sup> We calculated the benefit as the difference between the interest that Port Hawkesbury paid on the loan and the interest that Port Hawkesbury would have paid at the benchmark interest rate. To calculate the countervailable subsidy rate, we divided this interest differential by the appropriate total sales denominator for Port Hawkesbury, in accordance with the attribution analysis described above, to arrive at a total countervailable subsidy rate.

On this basis, we preliminarily determine the countervailable subsidy rate to be 0.72 percent *ad valorem* for Port Hawkesbury.<sup>63</sup>

## **3. Loan to Improve Productivity and Efficiency (Nova Scotia)**

In the *SC Paper Final Determination*, Commerce found that the loan provided by the GNS constitutes a financial contribution in the form of a direct transfer of funds from the government, within the meaning of sections 771(5)(D)(i) of the Act, bestowing a benefit equal to the difference between the amount paid by the company for the loan during 2015 and the amounts the company would have paid on a comparable loan, within the meaning of section 771(5)(E)(ii) of the Act and 19 CFR 351.505(a)(1).<sup>64</sup> We determined that this program is specific under section 771(5A)(D)(i) of the Act because the GNS offered and provided the assistance only to PWCC (which then assigned the loan to Port Hawkesbury). In a CVD administrative review, we

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<sup>59</sup> See Irving Preliminary Calculation Memorandum.

<sup>60</sup> See *Supercalendered Paper from Canada: Preliminary Affirmative Countervailing Duty Determination*, 80 FR 45951 (August 3, 2015) (*SC Paper Preliminary Determination*), and accompanying PDM at 13-14; unchanged in *SC Paper Final Determination*, and accompanying IDM at 13.

<sup>61</sup> See *Magnola*, 508 F.3d 1349; see also *Solar Cells from the PRC 2012 AR* and accompanying IDM at 27.

<sup>62</sup> See PHP IQR at 40, Exhibit LOAN-1.

<sup>63</sup> See PHP Preliminary Calculation Memorandum.

<sup>64</sup> See *SC Paper Preliminary Determination*, and accompanying PDM at 15-16; unchanged in *SC Paper Final Determination*, and accompanying IDM at 14-15.

do not revisit past determinations of countervailability, absent new evidence,<sup>65</sup> and none has been presented here. Therefore, we continue to find that this program provides a countervailable subsidy.

Port Hawkesbury reported that the loan under this program, received by PWCC and assigned to Port Hawkesbury in 2012, remained outstanding during the POR.<sup>66</sup> We calculated the benefit as the difference between the interest that Port Hawkesbury paid on the loans and the interest that Port Hawkesbury would have paid at the benchmark interest rate. To calculate the countervailable subsidy rate, we divided the sum of the benefits received by the company by the appropriate total sales denominator for Port Hawkesbury, in accordance with the attribution analysis described above, to arrive at a total countervailable subsidy rate.

On this basis, we preliminarily determine the countervailable subsidy rate to be 0.43 percent *ad valorem* for Port Hawkesbury.<sup>67</sup>

#### **4. PWCC Indemnity Loan**

Commerce found in the *SC Paper Final Determination* that the indemnity loans provided by the GNS constitute a financial contribution in the form of a direct transfer of funds from the government, within the meaning of section 771(5)(D)(i) of the Act.<sup>68</sup> The loan provided a benefit equal to the difference between the amounts paid by the company for the loan during 2015 and the amounts the company would have paid on a comparable loan, within the meaning of section 771(5)(E)(ii) of the Act and 19 CFR 351.505(a)(1). We determined that this program is specific under section 771(5A)(D)(i) of the Act because the GNS offered and provided the assistance only to PWCC, which then delegated the loan to Port Hawkesbury. In a CVD administrative review, we do not revisit past determinations of countervailability, absent new evidence,<sup>69</sup> and none has been presented here. Therefore, we continue to find that this program provides a countervailable subsidy.

Port Hawkesbury reported that the loan under this program, received by PWCC and then delegated to Port Hawkesbury in 2012, had outstanding balances during the POR.<sup>70</sup> We calculated the benefit as the difference between the interest that Port Hawkesbury paid on the loans and the interest that Port Hawkesbury would have paid at the benchmark interest rate. To calculate the countervailable subsidy rate, we divided the sum of the benefits received by the company by the appropriate total sales denominator for Port Hawkesbury, in accordance with the attribution analysis described above, to arrive at a total countervailable subsidy rate.

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<sup>65</sup> See *Magnola*, 508 F.3d 1349; see also *Solar Cells from the PRC 2012 AR* and accompanying IDM at 27.

<sup>66</sup> See PHP IQR at 40, Exhibit LOAN-1.

<sup>67</sup> See PHP Preliminary Calculation Memorandum.

<sup>68</sup> See *SC Paper Preliminary Determination*, and accompanying PDM at 16-17; unchanged in *SC Paper Final Determination*, and accompanying IDM at 15-16.

<sup>69</sup> See *Magnola*, 508 F.3d 1349; see also *Solar Cells from the PRC 2012 AR* and accompanying IDM at 27.

<sup>70</sup> See PHP IQR at 40, Exhibit LOAN-1.

On this basis, we preliminarily determine the countervailable subsidy rate to be 0.01 percent *ad valorem* for Port Hawkesbury.<sup>71</sup>

## **5. Atlantic Investment Tax Credit**

In the *Expedited Review*, Commerce determined that this program constitutes a countervailable subsidy.<sup>72</sup> This tax credit constitutes a financial contribution in the form of revenue forgone, within the meaning of section 771(5)(D)(ii) of the Act, and provides a benefit in the amount of the tax credit used to reduce taxes payable under 19 CFR 351.509(a)(1). 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 found that this program is regionally specific, in accordance with section 771(5A)(D)(iv) of the Act. In a CVD administrative review, we do not revisit past determinations of countervailability, absent new evidence,<sup>73</sup> and none has been presented here. Therefore, we continue to find that this program provides a countervailable subsidy.

Irving reported that it, IPP, and JDIL each earned tax credits under this program in 2014 and utilized it during the POR.<sup>74</sup> To calculate the benefit from this program to Irving, we treated this tax credit as a recurring benefit, consistent with 19 CFR 351.524(c)(1). To calculate the countervailable subsidy rate, in accordance with 19 CFR 351.525(b)(6)(iv), we divided the tax credit amounts received, as reported in each of the companies' tax returns, by the appropriate total sales denominator for each company, in accordance with the attribution analysis described above. We summed the resulting rates to arrive at a total countervailable subsidy rate.

On this basis, we preliminarily determine the countervailable subsidy rate to be 1.00 percent *ad valorem* for Irving.<sup>75</sup>

## **6. Accelerated Capital Cost Allowance for Class 29 Assets**

Commerce determined this program to be countervailable in the *Expedited Review*.<sup>76</sup> We found that the tax credit arising from the Accelerated Capital Cost Allowance program constitutes a financial contribution in the form of revenue forgone, 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). Commerce determined that this program is *de jure* specific, in accordance with section 771(5A)(D)(iii)(I) of the Act, because the actual recipients are limited in number.<sup>77</sup> In a CVD administrative review, we do not revisit past determinations of

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<sup>71</sup> See PHP Preliminary Calculation Memorandum.

<sup>72</sup> See *Expedited Review Preliminary Results*, and accompanying PDM at 20; unchanged in *Expedited Review*.

<sup>73</sup> See *Magnola*, 508 F.3d 1349; see also *Solar Cells from the PRC 2012 AR* and accompanying IDM at 27.

<sup>74</sup> See Irving IQR at Exhibit AITC-01.

<sup>75</sup> See Irving Preliminary Calculation Memorandum.

<sup>76</sup> See *Expedited Review Preliminary Results*, and accompanying PDM at 34; unchanged in *Expedited Review*.

<sup>77</sup> See *Expedited Review*, and accompanying IDM at Comment 32.

countervailability, absent new evidence,<sup>78</sup> and none has been presented here. Therefore, we continue to find that this program provides a countervailable subsidy.

Irving reported that it, JDIL, and IPP claimed tax credits from the accelerated capital cost allowance on their tax returns filed during the POR.<sup>79</sup> We calculated the benefit as the difference between the taxes they paid and the taxes they would have paid absent this program. We divided the resulting benefit received by each company by the appropriate total sales denominator for each company, in accordance with the attribution analysis described above, respectively, and we summed the resulting rates to arrive at a total countervailable subsidy rate.

On this basis, we preliminarily determine the countervailable subsidy rate to be 0.41 percent *ad valorem* for Irving.<sup>80</sup>

## **7. New Brunswick Research and Development Tax Credit (NB R&D Tax Credit)**

In the *Expedited Review*, we found that this tax credit constitutes a financial contribution in the form of revenue forgone, within the meaning of section 771(5)(D)(ii) of the Act.<sup>81</sup> 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 a CVD administrative review, we do not revisit past determinations of countervailability, absent new evidence,<sup>82</sup> and none has been presented here. Therefore, we continue to find that this program provides a countervailable subsidy.

Irving reported that IPP and JDIL used this tax credit during the POR.<sup>83</sup> We divided the tax credit amounts received by each company by the appropriate total sales denominator for each company, in accordance with the attribution analysis described above, respectively, which we then summed to arrive at a total countervailable subsidy rate.

On this basis, we preliminarily determine the countervailable subsidy rate to be 0.05 percent *ad valorem* for Irving.<sup>84</sup>

## **8. Gasoline and Fuel Tax Exemptions and Refunds**

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 motor fuel for consumers operating vehicles and equipment on non-public

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<sup>78</sup> See *Magnola*, 508 F.3d 1349; see also *Solar Cells from the PRC 2012 AR* and accompanying IDM at 27.

<sup>79</sup> See Irving IQR at Exhibit CCA-01.

<sup>80</sup> *Id.*

<sup>81</sup> See *Expedited Review Preliminary Results*, and accompanying PDM at 34-35; unchanged in *Expedited Review*.

<sup>82</sup> See *Magnola*, 508 F.3d 1349; see also *Solar Cells from the PRC 2012 AR* and accompanying IDM at 27.

<sup>83</sup> See Irving IQR at Exhibit NBRD-01.

<sup>84</sup> See Irving Preliminary Calculation Memorandum.

highways.<sup>85</sup> 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.<sup>86</sup> To receive the exemption, companies must either obtain the tax exemption at the point of purchase or apply for refund on an annual basis. The GNB will provide the company with a notice of approval and issue permits for point-of-purchase exemptions. Commerce previously found this program to be countervailable.<sup>87</sup>

Commerce preliminarily determines that this program constitutes a financial contribution in the form of revenue forgone, within the meaning of section 771(5)(D)(ii) of the Act. The tax credit provides a benefit equal to the amount of the tax refund and/or exemption derived from this program in accordance with section 771(5)(E) of the Act and 19 CFR 351.509(a)(1). Because this program is limited to certain categories of consumers, we preliminarily determine that this program is *de jure* specific under section 771(5A)(D)(i) of the Act.

Irving reported that under this program, IPP receives fuel tax exemptions, which it claims on an annual basis, and JDIL receives fuel tax exemptions and refunds, which it claims on a quarterly basis.<sup>88</sup> IPP qualified for this program as a manufacturer, and JDIL qualified as a manufacturer (for its Sawmill Division) and as a silviculturist, forest worker, and wood producer (for its Woodlands Division).<sup>89</sup>

Because this program provides benefits on a recurring basis, pursuant to 19 CFR 351.524(c), to calculate the benefit, we divided the total refunds and/or exemptions received by each company in 2015 by the appropriate total sales denominator for each company, in accordance with the attribution analysis described above. We summed the resulting rates to arrive at a total countervailable subsidy rate.

On this basis, we preliminarily determine the countervailable subsidy rate to be 0.08 percent *ad valorem* for Irving.<sup>90</sup>

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<sup>85</sup> See GOC IQR at Exhibit NB-GF-01.

<sup>86</sup> *Id.* at Exhibit NB-GF-03.

<sup>87</sup> See *Certain Softwood Lumber Products from Canada: Preliminary Affirmative Countervailing Duty Determination, and Alignment of Final Determination With Final Antidumping Duty Determination*, 82 FR 19657, (April 28, 2017) (*Lumber Preliminary Determination*), and accompanying PDM at 81; unchanged in *Certain Softwood Lumber Products from Canada: Final Affirmative Countervailing Duty Determination, and Final Negative Determination of Critical Circumstances*, 82 FR 51814 (November 8, 2017) (*Lumber Final Determination*), and accompanying IDM at Comment 75.

<sup>88</sup> See Irving IQR at Exhibit GFT NB-01.

<sup>89</sup> *Id.*

<sup>90</sup> See Irving Preliminary Calculation Memorandum.



## 9. The Federal Pulp and Paper Green Transformation Program

In the *SC Paper Final Determination* and the *Expedited Review*, Commerce determined that this program constitutes a countervailable subsidy.<sup>91</sup> Grants from the GOC under this program 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). 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. 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 the respondents' total sales. In a CVD administrative review, we do not revisit past determinations of countervailability, absent new evidence,<sup>92</sup> and none has been presented here. Therefore, we continue to find that this program provides a countervailable subsidy.

Irving reported that it, IPP, and JDIL received benefits under this program during the AUL.<sup>93</sup> Resolute also reported that it and Fibrek received benefits under this program during the AUL.<sup>94</sup> However, Resolute argues that benefits received by Fibrek were received prior to its acquisition by Resolute and are extinguished by the Resolute's purchase, which, according to Resolute, was at arm's length and for fair market value.<sup>95</sup> To support this argument, Resolute provided a complete response to the change in ownership appendix.<sup>96</sup>

For purposes of determining whether the benefits received by Fibrek under FPPGTP are extinguished as a result of the change in ownership, we have relied upon the *Notice of Final Modification* and *Pasta from Italy* in evaluating Resolute's argument.<sup>97</sup> As stipulated in the *Notice of Final Modification*, the "baseline presumption" is that non-recurring, allocable subsidies continue to benefit the subsidy recipient throughout the allocation period.<sup>98</sup> However, an interested party may rebut this baseline presumption by demonstrating that a change in

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<sup>91</sup> See *SC Paper Final Determination*, and accompanying IDM at 26-27; see also *Expedited Review Preliminary Results*, and accompanying PDM at 12; unchanged in *Expedited Review*, and accompanying IDM at Comment 30.

<sup>92</sup> See *Magnola*, 508 F.3d 1349; see also *Solar Cells from the PRC 2012 AR* and accompanying IDM at 27.

<sup>93</sup> See Irving IQR at "Irving Paper Limited General Questions Response" at IPL-13.

<sup>94</sup> See *e.g.*, Resolute IQR at Exhibit 1.

<sup>95</sup> See *e.g.*, Resolute IQR at III-38. In the *SC Paper Final Determination*, Resolute made a similar argument that the benefits under this program were approved prior to Resolute's acquisition of Fibrek, which, they hold, occurred at arm's length and for fair market value, and thus Fibrek's benefits under this program should be extinguished. See *SC Paper Final Determination* and accompanying IDM at Comment 20. However, because the necessary information regarding the acquisition was not on the record, in the final determination we deferred our examination until this administrative review, and in-turn, we found that the subsidies received by Fibrek were not extinguished by Resolute's purchase. *Id.*

<sup>96</sup> See Resolute IQR at Change in Ownership (CIO) Appendix and Exhibits A-1 to A-7.

<sup>97</sup> See *Notice of Final Modification of Agency Practice Under Section 123 of the Uruguay Round Agreements Act Section 123 Modification*, 68 FR 37125 (June 23, 2003) (*Notice of Final Modification*). The *Notice of Final Modification* explicitly addresses full privatization, but the Department later determined to apply this methodology to private-to-private sales. See *e.g.*, *Certain Pasta from Italy: Preliminary Results and Partial Rescission of the Eighth Countervailing Duty Administrative Review*, 70 FR 17971; 17972 (April 8, 2005) (*Pasta from Italy*).

<sup>98</sup> See *Notice of Final Modification* at 68 FR at 37127.

ownership occurred in which the former owner sold all or substantially all of a company or its assets, and that the sale was at arm's length and for fair market value.<sup>99</sup> Further, in accordance with the *Notice of Final Modification* and *Pasta from Italy*, if the evidence presented does not demonstrate that the change in ownership was at arm's length and for fair market value, the baseline presumption will not be rebutted and we will find that the pre-change-in-ownership benefits were not extinguished.<sup>100</sup>

After a careful review of the information regarding Resolute's purchase of Fibrek, we find that the purchase of Fibrek by Resolute was not a transaction at arm's-length for fair market value. Therefore, for purposes of these preliminary results, we find the subsidy received by Fibrek under this program was not extinguished by Resolute's purchase, and it continues to provide a countervailable benefit to Fibrek, which is attributable to Resolute under 19 CFR 351.525(b)(6)(iv).

In considering whether the transaction is an arm's length transaction, the *Notice of Final Modification* and *Pasta from Italy* points to the SAA, which defines an arm's-length transaction as a transaction between *unrelated* parties, each acting in its own interest, or between related parties such that the terms of the transaction are those that would exist if the transaction had been negotiated between unrelated parties.<sup>101</sup> We find that Resolute's purchase of Fibrek meets neither of these definitions.

First, we find that Resolute and Fibrek were not unrelated parties at the time of the acquisition. Specifically, the record evidence demonstrated that during this time, shares of both companies were held by Fairfax. Specifically, at the time of the acquisition, Fairfax was the largest shareholder in Fibrek, at 25.9 percent,<sup>102</sup> while also holding a significant volume, 18 percent, of Resolute's shares.<sup>103</sup> Also, at the time of the acquisition, a director and board member at Resolute was also serving as vice president and chief legal officer of Fairfax.<sup>104</sup> Further, the record shows that Steelhead was another common shareholder of Fibrek.<sup>105</sup> As such, we find that Resolute and Fibrek were not unrelated parties at the time of Resolute's acquisition of Fibrek.

The record further shows that, prior to making the formal offer to purchase Fibrek, Resolute first negotiated and agreed upon a share price with Fairfax.<sup>106</sup> Specially, prior to Resolute's offer to Fibrek, discussions occurred between senior officials at both Fairfax and Resolute regarding acquiring Fibrek and the potential terms for this acquisition. Most notably, these two companies appear to have agreed upon the final share price (C\$1.00 per share) between themselves.<sup>107</sup> As such, we find that the transaction was not negotiated as if the parties were unrelated. This finding is supported by the fact that the price paid, discussed further below, was not at market

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<sup>99</sup> *Id.*

<sup>100</sup> *Id.*

<sup>101</sup> *Id.*

<sup>102</sup> See Resolute SQR at RES-SUPP-CIO0-16 (Mercer Offer to Purchase Fibrek a 75).

<sup>103</sup> See Resolute IQR at CIO Appendix at 6.

<sup>104</sup> *Id.*; see also Resolute SQR at RES-SUPP-CIO-2 at Appendix B (Directors and Executive Officers of Resolute).

<sup>105</sup> See Resolute IQR at CIO Appendix at 6.

<sup>106</sup> See e.g., Resolute IQR at Appendix A-3 at 58 to 60.

<sup>107</sup> *Id.*

value. Thus, we find that this transaction and the terms between Resolute and Fairfax were not negotiated at arm's length, *i.e.*, as if they were unrelated parties.

In addition to finding that the transaction was not at arm's-length, we also find that the price paid does not represent the fair market value. While there is no statutory definition of fair market value, nor is there any discussion in the SAA, we have relied upon the *Notice of Final Modification* and *Pasta from Italy*, which provides relevant guidance. Specifically, both documents state that "in analyzing whether the transaction was for fair market value, the basic question is whether the full amount that the company or its assets was actually worth under the prevailing market conditions was paid. In making this determination, we normally will examine whether the seller acted in a manner consistent with the normal sales practices of private, commercial sellers in that country."<sup>108</sup> Further, the *Notice of Final Modification* provides a non-exhaustive list of factors that Commerce may consider. One of these factors is whether the highest bid price was accepted.<sup>109</sup>

Using the guidance above, we find that the record information indicates that Resolute's purchase of Fibrek was not at fair market value. We find that the transaction is not consistent with the normal sales practice of private, commercial sellers, because the price agreed upon to purchase Fibrek's shares appears to be significantly below the fair market value of these shares.

Fibrek shareholders agreed to Resolute's offer to pay the equivalent of C\$1.00 per Fibrek share when acquiring the company.<sup>110</sup> However, there are a number of indications that the fair value of Fibrek's stock was higher than this agreed-upon price. First, the record shows that the Fibrek board itself regarded Resolute's bid as too low.<sup>111</sup> In fact, the Fibrek board considered taking specific actions to defeat the Resolute offer, including implementing a "poison pill" to neutralize the offer.<sup>112</sup>

In response to the offer, Fibrek commissioned a formal valuation by Canaccord Genuity Corp (Canaccord), an independent investment bank.<sup>113</sup> In their valuation, Canaccord determined the value of a common share of Fibrek to be between C\$1.25 to C\$1.45 per share.<sup>114</sup> Additionally, following Resolute's bid announcement, another company, Mercer Corporation (Mercer),

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<sup>108</sup> See *Notice of Final Modification* at 68 FR at 37127.

<sup>109</sup> *Id.*

<sup>110</sup> Under the offer to purchase and subsequent plan of agreement, Fibrek shareholders were offered three choices for compensation. The first option was the "cash only" option, in which Fibrek shareholders were paid C\$1.00 per share. The second option was the "shares only" option, in which Fibrek shareholders received 0.0632 shares of Resolute stock for each share of Fibrek stock. The final option was the "cash and share" option in which shareholders were paid C\$0.55 in cash plus 0.0284 shares of Resolute stock for each share of Fibrek stock. See Resolute IQR at Exhibits A-3 and A-7. At time of the offer, Resolute's share price on the Toronto Stock Exchange was C\$15.82 per share. *Id.* at Exhibit A-3 at 18. As such, the "shares only" and "cash and share" options were the equivalent of C\$1.00 per share.  $(0.0632 * 15.82 = 0.999824 \text{ (shares only)}; 0.55 + (0.0284 * 15.82) = 0.999288 \text{ (cash and shares)})$ .

<sup>111</sup> See *e.g.*, Resolute SQR at 12.

<sup>112</sup> See *e.g.*, Resolute IQR at CIO Appendix at 4.

<sup>113</sup> See *e.g.*, Resolute SQR at 17.

<sup>114</sup> *Id.* at Exhibit RES-SUPP-CIO-20 (Fibrek's Director Circular, which includes the Canaccord Valuation).

submitted an offer to purchase Fibrek's shares for C\$1.30 per share.<sup>115</sup> Mercer's offer was later increased to C\$1.40 per Fibrek share.<sup>116</sup> However, Resolute's offer of C\$1.00 per Fibrek share was ultimately accepted as the winning offer. Resolute has not pointed to any evidence or argument that would explain why the highest offer was not accepted.<sup>117</sup>

Thus, the information on the record indicates that the market valuation of Fibrek's shares was greater than the C\$1.00 a share offered by Resolute. This finding is further supported by the fact that certain Fibrek shareholders exercised their right of dissent with respect to the Resolute takeover. These shareholders are seeking, and still awaiting, a judicial determination of the value of their Fibrek shares, which they claim is no less than C\$1.40 per share.<sup>118</sup> As such, because the price paid was less than what was offered by another bidder, and less than the independent valuation, we find that this transaction is not consistent with the practices of a private seller, which would be to maximize the price paid per share.<sup>119</sup>

Therefore, for the reasons discussed above, we find that Resolute has not provided sufficient evidence to rebut our baseline presumption that non-recurring subsidies continue to benefit the recipient following the change in ownership. As such, we are continuing to attribute to Resolute the benefits received by Fibrek under this program.

Because benefits under this program are not received on an on-going basis, we are treating this subsidy as a non-recurring grant. Consistent with the *Expedited Review*, the total amount of benefits approved was based on production of black liquor in 2009.<sup>120</sup> As such, we performed the "0.5 percent test" by taking the total amount approved for and dividing that by the combined sales pulp and paper sales in the corresponding year. We found that the amount passed the 0.5 percent test. Therefore, for each year in which benefits were received, 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 allocated to the POR. We then divided the POR benefits by the appropriate pulp and paper sales denominator during the POR for each company, consistent with 19 CFR 351.525(b)(6)(iv). We summed the resulting rates for each respective company to arrive at a total countervailable subsidy rate.

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<sup>115</sup> *Id.* at Exhibit RES-SUPP-CIO-7.

<sup>116</sup> *Id.* at Exhibit RES-SUPP-CIO-13.

<sup>117</sup> In its response to why the highest bid was not selected, Resolute stated it had no knowledge of the criteria applied by the individual shareholders when evaluating these offers. *See* Resolute IQR at CIO Appendix at 19.

<sup>118</sup> *See* Resolute SQR at 18.

<sup>119</sup> While we did not rely on this information as support for our preliminary finding, we note that the Quebec securities regulatory authority is conducting an investigation of Resolute's offer to purchase Fibrek. In our November 21, 2017 supplemental questionnaire, we asked Resolute to discuss the investigation and provide supporting documentation. In its response, Resolute stated that it had no information or supporting documentation regarding this investigation. However, publicly available information indicates that both Resolute and Fairfax are being investigated for the possibility of illegal insider trading in connection with the offer to purchase Fibrek. *See* Resolute Preliminary Calculation Memorandum at Attachments III and IV.

<sup>120</sup> *See Expedited Review Preliminary Results*, and accompanying PDM at 13-14; unchanged in *Expedited Review*.

On this basis, we preliminarily determine the countervailable subsidy rate to be 0.65 percent *ad valorem* for Irving,<sup>121</sup> and 0.31 percent *ad valorem* for Resolute.<sup>122</sup>

## 10. Workforce Expansion – One Job Pledge

In the *Expedited Review*, Commerce determined this program to be countervailable.<sup>123</sup> This program is *de facto* specific under section 771(5A)(D)(iii)(I) of the Act, as the actual recipients are limited in number, and provides a financial contribution in the form of a direct transfer of funds from the GNB, under section 771(5)(D)(i) of the Act.<sup>124</sup> The benefit exists in the amount of the grant provided to the companies in accordance with section 771(5)(E) of the Act and 19 CFR 351.504(a). In a CVD administrative review, we do not revisit past determinations of countervailability, absent new evidence,<sup>125</sup> and none has been presented here. Therefore, we continue to find that this program provides a countervailable subsidy.

Irving reported that it, IPP, and JDIL used this program in the POR.<sup>126</sup> Because this program provides benefits on a recurring basis, we divided the wage subsidy amounts received by each company during the POR by the appropriate total sales denominator for each company, in accordance with the attribution analysis described above. We summed the resulting rates to arrive at a total countervailable subsidy rate.

On this basis, we preliminarily determine the countervailable subsidy rate to be 0.01 percent *ad valorem* for Irving.<sup>127</sup>

## 11. New Brunswick Large Industrial Renewable Energy Purchase Program

In the *Expedited Review*, Commerce determined that this program conferred countervailable subsidies on subject merchandise because: 1) it provides a financial contribution in the form of revenue forgone, as described under section 771(5)(D)(ii) of the Act, and 2) the credits 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.<sup>128</sup> Consistent with the *Lumber Final Determination*, we find that this program is *de jure* specific in accordance with section 771 (5A)(D)(i) of the Act, because the GNB expressly limits access to LIREPP to certain eligible enterprises by law.<sup>129</sup>

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<sup>121</sup> See Irving Preliminary Calculation Memorandum.

<sup>122</sup> See Resolute Preliminary Calculation Memorandum.

<sup>123</sup> See *Expedited Review Preliminary Results*, and accompanying PDM at 17; unchanged in *Expedited Review*.

<sup>124</sup> *Id.*; see also *Lumber Final Determination* and accompanying IDM at Comment 62.

<sup>125</sup> See *Magnola*, 508 F.3d 1349; see also *Solar Cells from the PRC 2012 AR* and accompanying IDM at 27.

<sup>126</sup> See Irving QR at Exhibits OJP-01 through OJP-37.

<sup>127</sup> See Irving Preliminary Calculation Memorandum.

<sup>128</sup> See *Expedited Review Preliminary Results*, and accompanying PDM at 21-22; unchanged in *Expedited Review*.

<sup>129</sup> See *Lumber Final Determination* and accompanying IDM at Comment 76. In the *Expedited Review*, we found that this program was *de facto* specific. However, in the *Lumber Final Determination*, we found that based on the following record information, which is also on this administrative review record, this program was *de jure* specific: “LIREPP is only available to large industrial companies that produce eligible renewable sources of energy and owns and operates an eligible facility that has an electrical energy requirement of not less than 50 GWh per year; obtain all or a portion of its electricity on a firm basis from NB Power; and at least 50 percent of the primary products produced by the facility are exported to another province or territory of Canada or elsewhere. Eligible renewable

Information on the record of this review remains consistent with these determinations.<sup>130</sup> In a CVD administrative review, we do not revisit past determinations of countervailability, absent new evidence,<sup>131</sup> and none has been presented here. Therefore, we continue to find that this program provides a countervailable subsidy.

Irving reported that it and JDIL used this program.<sup>132</sup> Because this program provides benefits on a recurring basis, to calculate the benefit from the electricity credits that Irving and JDIL received under the LIREPP program, we summed the total amount of energy subsidies reported by Irving and JDIL during the POR, and divided these totals by the appropriate total sales denominator for each company, in accordance with the attribution analysis described above. We summed the resulting rates to arrive at a total countervailable subsidy rate.

On this basis, we preliminarily determine the countervailable subsidy rate to be 1.53 percent *ad valorem* for Irving.<sup>133</sup>

## 12. New Brunswick Silviculture Grants

In the *Expedited Review*, Commerce determined that this program conferred countervailable subsidies on subject merchandise. We determined 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 and that a benefit exists under 19 CFR 351.504(a), equal to the amount of the grant.<sup>134</sup> Finally, we determined 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 Forest Management Agreement (FMA). Information on the record of this review remains consistent with these determinations.<sup>135</sup> In a CVD administrative review, we do not revisit past determinations of countervailability, absent new evidence,<sup>136</sup> and none has been presented here. Therefore, we continue to find that this program provides a countervailable subsidy on subject merchandise.

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sources of energy mean electricity generated in the Province at an eligible facility at which electricity is generated through the combustion of woody biomass or its by-products from the chemical manufacture of pulp, including black and red liquors, for the purposes of cogeneration of producing combined heat and power.” *Id.*, at 212, footnote 1306.

<sup>130</sup> See Irving IQR at Exhibit LIREPP-01.

<sup>131</sup> See *Magnola*, 508 F.3d 1349; see also *Solar Cells from the PRC 2012 AR* and accompanying IDM at 27.

<sup>132</sup> Consistent with *Lumber Preliminary Determination*, and accompanying PDM at 80, we find that JDIL did not receive LIREPP benefits directly; rather, Irving received a Net LIREPP credit on each of its monthly electricity bills. Irving keeps Request-to-Pay internal invoices to pay credits to JDIL’s Lake Utopia Paper Division, and banking information (payment registers & reports, bank activity reports & bank statements) to support the movement of these funds. JDIL’s Lake Utopia Paper Division keeps cash receipt and banking information to support the movement of these funds from IPL. In accordance with 19 CFR 351.525(b)(6)(v), we find that the amount of LIREPP credits that Irving transfers to JDIL confers a benefit to JDIL; see also Irving IQR at Exhibit LIREPP-01.

<sup>133</sup> See Irving Preliminary Calculation Memorandum.

<sup>134</sup> See *Expedited Review Preliminary Results*, and accompanying PDM at 26-27; unchanged in *Expedited Review*.

<sup>135</sup> See Irving IQR at Exhibit SILV-06.

<sup>136</sup> See *Magnola*, 508 F.3d 1349; see also *Solar Cells from the PRC 2012 AR* and accompanying IDM at 27.

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 number seven.<sup>137</sup> 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, we divided the silviculture reimbursement amounts received by JDIL by the appropriate total sales denominator in accordance with the attribution analysis described above, to arrive at a total countervailable subsidy rate.

On this basis, we preliminarily determine the countervailable subsidy rate to be 0.24 percent *ad valorem* for Irving.<sup>138</sup>

### 13. License Management Fee

We determined in the *Expedited Review* that the License Management Fees (LMFs) that JDIL received from the GNB conferred countervailable subsidies on subject merchandise because they 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 determined that a benefit exists under 19 CFR 351.504(a), equal to the amount of the grant. Finally, we determined 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. Information on the record of this review remains consistent with these determinations.<sup>139</sup> In a CVD administrative review, we do not revisit past determinations of countervailability, absent new evidence,<sup>140</sup> and none has been presented here. Therefore, we continue to find that this program provides a countervailable subsidy on subject merchandise.

Irving reported that JDIL received payments in the form of LMFs from the GNB for non-silviculture activities required as part of its FMA for its Crown license.<sup>141</sup> 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, we divided the benefit amount received by JDIL by the appropriate total sales denominator in accordance with the attribution analysis described above to arrive at a total countervailable subsidy rate.

On this basis, we preliminarily determine the countervailable subsidy rate to be 0.44 percent *ad valorem* for Irving.<sup>142</sup>

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<sup>137</sup> See Irving IQR at Exhibit SILV-01.

<sup>138</sup> See Irving Preliminary Calculation Memorandum.

<sup>139</sup> See Irving IQR at Exhibit LMF-07.

<sup>140</sup> See *Magnola*, 508 F.3d 1349; see also *Solar Cells from the PRC 2012 AR* and accompanying IDM at 27.

<sup>141</sup> See Irving IQR at Exhibit LMF-01.

<sup>142</sup> See Irving Preliminary Calculation Memorandum.

## 14. GNS Grants for Maintaining Hot Idle Status

In the *SC Paper Final Determination*, Commerce found that the grants conferred countervailable subsidies on subject merchandise from the GNS, and 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.<sup>143</sup> We determined that this program is specific under section 771(5A)(D)(i) of the Act because the grants are *de jure* specific in that the GNS only authorized the assistance to Port Hawkesbury, and that a benefit exists under 19 CFR 351.504(a), equal to the amount of the grant. In a CVD administrative review, we do not revisit past determinations of countervailability, absent new evidence,<sup>144</sup> and none has been presented here. Therefore, we continue to find that this program provides a countervailable subsidy.

Moreover, in the *SC Paper Final Determination*, we found that the subsidy from program funds provided by the GNS after the date of PWCC's bid to purchase NewPage Port Hawkesbury was not extinguished by PWCC's purchase.<sup>145</sup> In the absence of new evidence regarding the provision of the funding and the purchase by PWCC, we are not revisiting the determination that the subsidy was not extinguished.

Port Hawkesbury reported receiving grants under this program.<sup>146</sup> Consistent with the *SC Paper Final Determination*, we are treating these grants as non-recurring.<sup>147</sup> Using this total, we conducted the "0.5 percent test" pursuant to 19 CFR 351.524(b)(2) and we found that the benefits were greater than 0.5 percent of Port Hawkesbury's total sales in the year the grants were approved. Therefore, 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 total sales denominator during the POR.

On this basis, we preliminarily determine the countervailable subsidy rate to be 0.68 percent *ad valorem* for Port Hawkesbury.<sup>148</sup>

## 15. Forestry Infrastructure Fund (FIF)

In the *SC Paper Final Determination*, Commerce found that the grants provided by the GNS and GNS's Department of Economic and Rural Development and Tourism (ERDT) under the second FIF conferred countervailable subsidies on subject merchandise, and constitute a financial contribution in the form of a direct transfer of funds from the government within the meaning of

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<sup>143</sup> See *SC Paper Preliminary Determination*, and accompanying PDM at 17-20; unchanged in *SC Paper Final Determination*, and accompanying IDM at 17-20.

<sup>144</sup> See *Magnola*, 508 F.3d 1349; see also *Solar Cells from the PRC 2012 AR* and accompanying IDM at 27.

<sup>145</sup> See *SC Paper Preliminary Determination*, and accompanying PDM at 19; unchanged in *SC Paper Final Determination*, and accompanying IDM at 17-20.

<sup>146</sup> See PHP IQR at 48-51.

<sup>147</sup> See *SC Paper Preliminary Determination*, and accompanying PDM at 19; unchanged in *SC Paper Final Determination*, and accompanying IDM at 20.

<sup>148</sup> See PHP Preliminary Calculation Memorandum.



sections 771(5)(D)(i) and 771(5)(E) of the Act.<sup>149</sup> We determined that this program is *de jure* specific under section 771(5A)(D)(i) of the Act because the GNS only authorized the assistance to Port Hawkesbury, and that a benefit exists under 19 CFR 351.504(a), equal to the amount of the grant. In a CVD administrative review, we do not revisit past determinations of countervailability, absent new evidence,<sup>150</sup> and none has been presented here. Therefore, we continue to find that this program provides a countervailable subsidy. Moreover, in the investigation, we found that the subsidy provided through the FIF after the date of PWCC's bid to purchase NewPage Port Hawkesbury was not extinguished by PWCC's purchase. In the absence of new evidence regarding the provision of the funding and the purchase by PWCC, we are not revisiting the determination that the subsidy was not extinguished.

Port Hawkesbury received grants under this program.<sup>151</sup> Consistent with the *SC Paper Final Determination*, we are treating these grants as non-recurring. The remaining amount is the total amount of the grant<sup>152</sup> on which we conducted the "0.5 percent test" pursuant to 19 CFR 351.524(b)(2). We found that the benefits were greater than 0.5 percent of Port Hawkesbury's total sales in the year the grants were approved. Therefore, 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 total sales denominator during the POR.

On this basis, we preliminarily determine the countervailable subsidy rate to be 0.52 percent *ad valorem* for Port Hawkesbury.<sup>153</sup>

## **16. GNS Grants for the Sustainable Forest Management and Outreach Agreement**

The grants provided under the Outreach Agreement that Port Hawkesbury received from the GNS conferred countervailable subsidies on subject merchandise because they constitute a financial contribution in the form of a direct transfer of funds from the government within the meaning of sections 771(5)(D)(i) and 771(5)(E) of the Act, consistent with our determination in the *SC Paper Final Determination*.<sup>154</sup> We determined that this program is specific under section 771(5A)(D)(i) of the Act because the GNS only authorized the assistance to Port Hawkesbury, and that a benefit exists under 19 CFR 351.504(a), equal to the amount of the grant. In a CVD administrative review, we do not revisit past determinations of countervailability, absent new evidence,<sup>155</sup> and none has been presented here. Therefore, we continue to find that this program provides a countervailable subsidy on subject merchandise.

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<sup>149</sup> See *SC Paper Preliminary Determination*, and accompanying PDM at 20-23; unchanged in *SC Paper Final Determination*, and accompanying IDM at 20-24.

<sup>150</sup> See *Magnola*, 508 F.3d 1349; see also *Solar Cells from the PRC 2012 AR* and accompanying IDM at 27.

<sup>151</sup> See PHP IQR at 51-54.

<sup>152</sup> See *SC Paper Preliminary Determination*, and accompanying PDM at 20-23; unchanged in *SC Paper Final Determination*, and accompanying IDM at 20-24.

<sup>153</sup> See PHP Preliminary Calculation Memorandum.

<sup>154</sup> See *SC Paper Preliminary Determination*, and accompanying PDM at 23-24; unchanged in *SC Paper Final Determination*, and accompanying IDM at 24-25.

<sup>155</sup> See *Magnola*, 508 F.3d 1349; see also *Solar Cells from the PRC 2012 AR* and accompanying IDM at 27.

Port Hawkesbury reported receiving grants under this program.<sup>156</sup> In accordance with 19 CFR 351.524(c)(2), we find that the grants provided under the program constitute recurring benefits. Therefore, we calculated the countervailable subsidy rate by dividing the amount of the grant received under this program during the POR by Port Hawkesbury's total sales during the POR, in accordance with the attribution analysis described above, to arrive at a total countervailable subsidy rate.

On this basis, we preliminarily determine the countervailable subsidy rate to be 1.52 percent *ad valorem* for Port Hawkesbury.<sup>157</sup>

## **17. GNS Provision of Worker Training and Marketing**

In the *SC Paper Final Determination*, Commerce determined that this program conferred countervailable subsidies on subject merchandise because the grants for workforce training and marketing that Port Hawkesbury received from the GNS and ERDT 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.<sup>158</sup> We determined that this program is specific under section 771(5A)(D)(i) of the Act because the GNS and ERDT only authorized the assistance to Port Hawkesbury, and that a benefit exists under 19 CFR 351.504(a), equal to the amount of the grant. In a CVD administrative review, we do not revisit past determinations of countervailability, absent new evidence,<sup>159</sup> and none has been presented here. Therefore, we continue to find that this program provides a countervailable subsidy.

Port Hawkesbury reported receiving funds for worker training under this program.<sup>160</sup> Under 19 CFR 351.513(c), Commerce treats worker training subsidies and promotion assistance subsidies, which would include marketing subsidies, as recurring benefits. Therefore, we calculated the countervailable subsidy rate by dividing the amount of the grants received for worker training during 2015 under this program by Port Hawkesbury's total sales during the POR, in accordance with the attribution analysis described above, to arrive at a total countervailable subsidy rate.

On this basis, we preliminarily determine the countervailable subsidy rate to be 0.19 percent *ad valorem* for Port Hawkesbury.<sup>161</sup>

## **18. Ontario Northern Industrial Electricity Rate Program**

In the *SC Paper Final Determination*, Commerce determined that this program conferred countervailable subsidies on subject merchandise because the electricity rebates from the GOO constitute a financial contribution in the form of a direct transfer of funds from the government

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<sup>156</sup> See PHP IQR at 54-60.

<sup>157</sup> See PHP Preliminary Calculation Memorandum.

<sup>158</sup> See *SC Paper Preliminary Determination*, and accompanying PDM at 24-25; unchanged in *SC Paper Final Determination*, and accompanying IDM at 25.

<sup>159</sup> See *Magnola*, 508 F.3d 1349; see also *Solar Cells from the PRC 2012 AR* and accompanying IDM at 27.

<sup>160</sup> See PHP IQR at 60-63.

<sup>161</sup> See PHP Preliminary Calculation Memorandum.

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.<sup>162</sup> We determined that this program is specific under section 771(5A)(D)(iv) of the Act because the rebates provided under the program are limited to companies located in a certain designated geographical region, *i.e.*, Northern Ontario, within the jurisdiction of the authority providing the subsidy, and that a benefit exists under 19 CFR 351.504(a), equal to the amount of the grant. In a CVD administrative review, we do not revisit past determinations of countervailability, absent new evidence,<sup>163</sup> and none has been presented here. Therefore, we continue to find that this program provides a countervailable subsidy.

Resolute reported receiving grants under this program.<sup>164</sup> In accordance with 19 CFR 351.524(c)(2), we find that the electricity rebates provided under the program constitute recurring benefits. Therefore, we calculated the countervailable subsidy rate by dividing the amount of the rebates received under this program during the POR by Resolute's total sales during the POR, in accordance with the attribution analysis described above, to arrive at a total countervailable subsidy rate.

On this basis, we preliminarily determine the countervailable subsidy rate to be 0.32 percent *ad valorem* for Resolute.<sup>165</sup>

## **19. Ontario Forest Sector Prosperity Fund (FSPF)**

In the *SC Paper Final Determination*, we determined that this program conferred countervailable subsidies on subject merchandise because the grants from the GOC under the FSPF constitute a financial contribution in the form of a direct transfer of funds from the government, and bestow a benefit equal to 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).<sup>166</sup> We also determined that this program is specific under section 771(5A)(D)(iv) of the Act because the grants provided under the program are geographically limited to projects in northern or rural Ontario. In a CVD administrative review, we do not revisit past determinations of countervailability, absent new evidence,<sup>167</sup> and none has been presented here. Therefore, we continue to find that this program provides a countervailable subsidy.

Resolute reported receiving grants under this program.<sup>168</sup> Because Resolute does not receive these benefits on an on-going basis, we are treating these subsidies as a non-recurring grant. Additionally, we conducted the "0.5 percent test" pursuant to 19 CFR 351.524(b)(2). We found that the amount of assistance was greater than 0.5 percent of Resolute's relevant sales in the year of approval. Therefore, for the grant related to the project at Resolute's Fort Frances mill, we allocated the total benefit over the AUL using the discount rate discussed above in the "Loan

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<sup>162</sup> See *SC Paper Preliminary Determination*, and accompanying PDM at 26-27; unchanged in *SC Paper Final Determination*, and accompanying IDM at 28.

<sup>163</sup> See *Magnola*, 508 F.3d 1349; see also *Solar Cells from the PRC 2012 AR* and accompanying IDM at 27.

<sup>164</sup> See *e.g.*, Resolute IQR at Exhibit 1.

<sup>165</sup> See Resolute Preliminary Calculation Memorandum.

<sup>166</sup> See *SC Paper Final Determination*, and accompanying IDM at 28-29.

<sup>167</sup> See *Magnola*, 508 F.3d 1349; see also *Solar Cells from the PRC 2012 AR* and accompanying IDM at 27.

<sup>168</sup> See *e.g.*, Resolute IQR at Exhibit 1.

Interest Rate Benchmarks and Discount Rates” to determine the amount attributable to the POR. We then divided the POR benefits by Resolute’s total sales during the POR, in accordance with the attribution analysis described above, to arrive at a total countervailable subsidy rate.

On this basis, we preliminarily determine the countervailable subsidy rate to be 0.10 percent *ad valorem* for Resolute.<sup>169</sup>

## **20. New Brunswick Provision of Stumpage to Irving for Less than Adequate Remuneration**

In the *Expedited Review* and the *Lumber Final Determination*, we determined that New Brunswick’s provision of stumpage to Irving was for less than adequate remuneration (LTAR).<sup>170</sup> We found that the provision of stumpage from Crown land by the GNB constitutes a financial contribution as a provision of a good within the meaning of 771(5)(D)(iii) of the Act. We found 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. In a CVD administrative review, we do not revisit past determinations of countervailability, absent new evidence,<sup>171</sup> and none has been presented here. Therefore, we continue to find that this program provides a countervailable subsidy.

To determine the benchmark for this input, consistent with the *Expedited Review*, we followed Commerce’s regulations under 19 CFR 351.511(a)(2), which sets 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 one 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 one is based on the

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<sup>169</sup> See Resolute Preliminary Calculation Memorandum.

<sup>170</sup> See *Expedited Review Preliminary Results*, and accompanying PDM at 24; unchanged in *Expedited Review*. see also *Lumber Final Determination* and accompanying IDM at 28.

<sup>171</sup> See *Magnola*, 508 F.3d 1349; see also *Solar Cells from the PRC 2012 AR* and accompanying IDM at 27.

expectation that such prices would generally reflect most closely the commercial environment of the purchaser under investigation or review.<sup>172</sup>

Based on the hierarchy, we must first determine whether there are market-determined prices from actual sales transactions that can be used to determine whether the provincial governments sold stumpage to the respondents for LTAR. Notwithstanding the regulatory preference for the use of prices stemming from actual transactions in the country, where Commerce finds that the government provides the majority or, in certain circumstances, a substantial portion of the market for a good or service, it may consider prices for such goods and services in the country to be significantly distorted and not an appropriate basis of comparison for determining whether there is a benefit. This is because, where the government's role as provider of the good or service is so predominant, it, in effect, determines the prices for private sellers of the same or similar goods or services such that comparing the government prices to private prices would amount to comparing the financial contribution to itself.<sup>173</sup>

In this administrative review, the GNB has proposed the use of actual private prices from within New Brunswick for use as a market-based, tier-one benchmark price, as described under 19 CFR 351.511(a)(2)(i). The *CVD Preamble* states that Commerce will not use tier-one benchmark prices, such as prices from private parties, in instances in which it is reasonable to conclude that tier-one prices are significantly distorted as a result of the government's involvement in the market. The *CVD Preamble* indicates that we will normally assume that government distortion is minimal unless the government's sale of the good accounts for a majority or, in certain circumstances, a substantial portion of the market.<sup>174</sup> During the POR, JDIL made purchases of stumpage from private land in New Brunswick and in Nova Scotia.<sup>175</sup> Thus, we have considered whether these prices satisfy the criteria to be used as tier-one 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. Consistent with the *Expedited Review* and the *Lumber Final Determination*, we find that New Brunswick prices cannot serve as tier-one benchmarks, as discussed below.

Commerce concluded that the evidence on the record of the *Expedited Review* established that the GNB held a majority share of the market for stumpage in New Brunswick, and that it restricted eligibility for Crown stumpage rights to companies that operate pulp and paper or lumber mills. Further, the prices for stumpage rights on these Crown lands during the POR were administratively and uniformly set using a proprietary formula based on a survey of private stumpage prices in the Maritime provinces (including New Brunswick).<sup>176</sup> No evidence has been provided in this proceeding that would cause Commerce to reconsider these findings. According to data provided by the GNB in this administrative review, timber harvested on Crown land in

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<sup>172</sup> See *CVD Preamble*, 63 FR at 65377.

<sup>173</sup> *Id.*; see also, *Notice of Final Affirmative Countervailing Duty Determination and Final Negative Critical Circumstances Determination: Certain Softwood Lumber Products from Canada*, 67 FR 15545 (April 2, 2002) (*Lumber IV Final Determination*), and accompanying IDM at 38-39.

<sup>174</sup> See *CVD Preamble*, 63 FR at 65377.

<sup>175</sup> See Irving SQR at Exhibit Supp-05.

<sup>176</sup> See GNB IQR at Volume 1, NB-16.

New Brunswick represented approximately 50 percent of the total timber harvest in New Brunswick during the POR.<sup>177</sup>

Moreover, Commerce found that the evidence established that private woodlot owners accounted for a much smaller share of the New Brunswick stumpage market than the government and 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 to price-setting behavior by the dominant private mills.<sup>178</sup> As in the *Expedited Review*, Crown lands continue to account for the plurality of logs harvested in New Brunswick during this POR. The record of this review also establishes that thousands of private woodlot owners accounted for approximately one-fourth of harvested timber in New Brunswick.<sup>179</sup>

Furthermore, in the *Expedited Review*, Commerce noted that according to the private Woodlot Owners Association, its members cannot compete with the low prices set on Crown land.<sup>180</sup> 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.<sup>181</sup> Specifically, Commerce notes the following passage from the *Report of the Auditor General - 2008*.

The fact that the mills directly or indirectly control so much of the source of the timber supply in New Brunswick means that the market is not truly an open market. In such a situation it is not possible to be confident that the prices paid in the market are in fact fair market value...the royalty system provides an incentive for processing facilities to keep prices paid to private land owners low...<sup>182</sup>

Commerce further determined in that review that the market situation described above had not changed between the release of the *Report of the Auditor General - 2008* and the POR in that review (2014). In particular, Commerce credited the *2012 PFTF Report*, published by the GNB

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<sup>177</sup> See GNB IQR at Exhibit NB-STUMP-3. 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 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 Preliminary Calculation Memorandum.

<sup>178</sup> See *Expedited Review Preliminary Results*, and accompanying PDM at 25; unchanged in *Expedited Review*, and accompanying IDM at Comment 23; see also *Lumber Final Determination* and accompanying IDM at Comment 28.

<sup>179</sup> The remaining share of timber harvested in New Brunswick came from Crown land and industrial freehold land. The figures used to calculate this percentage are business proprietary, for further details regarding this calculation please see Irving Preliminary Calculation Memorandum.

<sup>180</sup> See *Expedited Review Preliminary Results*, and accompanying PDM at 25; unchanged in *Expedited Review*, and accompanying IDM at Comment 23.

<sup>181</sup> See *Expedited Review Preliminary Results*, and accompanying PDM at 25, citing to *Report of the Auditor General - 2008*; unchanged in *Expedited Review* and accompanying IDM at Comment 23.

<sup>182</sup> *Id.*

in 2012, which evaluated the concerns cited in the *Report of the Auditor General – 2008* and concurred with the Auditor’s findings.<sup>183</sup> As Commerce determined in the *Expedited Review*:

New Brunswick’s forest products market combines aspects of a bilateral monopoly (a single dominant seller, the Crown; and a single dominant buyer, JDIL) and an oligopoly (many small sellers, the private woodlot owners; and a few buyers, the mills, which purchase from both private woodlot owners and the Crown). Two parties dominate the transactions, and prices for a large proportion of the total harvest are set administratively. Thus it is difficult to establish fair market value.<sup>184</sup>

Further, in the *Expedited Review*, Commerce considered the *Report of the Auditor General – 2015*, which reported that the GNB has contributed to the ongoing divergence between private woodlot sales and Crown harvest. Commerce highlighted that the *Report of the Auditor General – 2015* indicated that the GNB has “potentially conflicting interests” and that “since the most significant source of departmental revenue is Crown-origin standing timber royalties, any increase in Crown-origin standing timber supports the {GNB} Department’s efforts to balance budgets.”<sup>185</sup> Commerce also credited the conclusion in the *Report of the Auditor General – 2015* that the GNB has not complied with its responsibilities under the Crown Lands and Forests Act, because it has not enforced that Act’s requirement that private woodlots maintain their proportional supply of the market over time (*i.e.*, that private woodlot owners had not sold a sufficient volume of standing timber relative to Crown-origin standing timber).<sup>186</sup> The report further stated that the GNB has mechanisms available to it to address shortfalls in purchases of wood from private woodlots, but that the GNB has “never taken action under these sections of the Crown Lands and Forests Act.”<sup>187</sup>

In the *Expedited Review*, Commerce also found that private woodlots were a supplemental source of supply for the tenure-holding mills in New Brunswick because an “overhang” existed with regard to the volume of Crown-origin standing timber allocated to tenure holders.<sup>188</sup> Specifically, Commerce found that the Crown tenure holders harvested less than their allocated volume of Crown-origin standing timber during calendar year 2014. Based on this information, Commerce concluded that tenure holding mills could harvest additional standing timber if needed and, because the mills had access to additional Crown origin standing timber, private woodlot owners could not expect to charge more than Crown stumpage prices because the private woodlot owners were only a supplemental source of supply to the large mills.<sup>189</sup> Thus, in the *Expedited Review*, Commerce determined that private New Brunswick stumpage prices were not “market-determined” and therefore did not qualify as tier-one benchmark prices.<sup>190</sup>

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<sup>183</sup> See *Expedited Review Preliminary Results*, and accompanying PDM at 25, citing to *2012 PFTF Report*; unchanged in *Expedited Review* and accompanying IDM at Comment 23.

<sup>184</sup> *Id.*

<sup>185</sup> See *Expedited Review Preliminary Results*, and accompanying PDM at 25, citing to *Report of the Auditor General – 2015*; unchanged in *Expedited Review* and accompanying IDM at Comment 23.

<sup>186</sup> *Id.*

<sup>187</sup> *Id.*

<sup>188</sup> See *Expedited Review* and accompanying IDM at Comment 23.

<sup>189</sup> *Id.*

<sup>190</sup> *Id.*

We find that information on the record of this administrative review supports the findings made by Commerce in the *Expedited Review*. First, the sources discussed above and relied upon by Commerce in the *Expedited Review* – namely, the *Report of the Auditor General – 2008*, the *2012 PFTF Report*, and the *Report of the Auditor General - 2015* – are also on the record in this instant administrative review.<sup>191</sup>

Data from the GNB regarding sawmills' sourcing patterns also support the conclusions made by Commerce in the *Expedited Review*. The GNB provided the volume of standing timber harvested by individual sawmills from the Crown forest, private lands, and First Nation sources, as well as the volume of logs imported from the United States and other Canadian provinces in this instant review.<sup>192</sup> Data in the GNB's response allow us to aggregate the sawmill data based on the sawmills' corporate addresses. We preliminarily find that it is appropriate to aggregate the sawmill data by corporation, because sawmills act as members of corporate families rather than as stand-alone entities.<sup>193</sup> An analysis of the data indicates that consumption of Crown-origin standing timber by sawmills is concentrated among a small number of corporations. The data further indicate that the corporations that dominate the consumption of Crown-origin standing timber also dominate the consumption of standing timber harvested from private lands.

For example, sorting the log processing data for FY 2015-2016 in descending order by volume of Crown-origin standing timber consumed reveals that a small number of corporations accounted for the predominant percentage of Crown-origin standing timber consumption, and that these same corporations accounted for a predominant percentage of private-origin standing timber consumption.<sup>194</sup> In the Initial Questionnaire, Commerce requested that the GNB provide any survey data it had concerning the prices for standing timber in private forests. In response, the GNB provided a study commissioned by the NBDNR that contained the volume and value that companies paid for stumpage in New Brunswick's private forest.<sup>195</sup> Aggregating the private forest survey data by volume and by corporation yields the same patterns present as when Crown-origin log processing data is sorted by volume: private forest consumption volumes are dominated by a very limited number of corporations. For example, sorting the data in the NBDNR survey in descending order by volume indicates that a small number of firms (the same small number of firms referenced above) accounted for a predominant percentage of private-origin standing timber consumption.<sup>196</sup>

In addition, we find, consistent with Commerce's conclusion in the *Expedited Review* and *Lumber Final Determination*, that tenure holding corporations are not consuming all their

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<sup>191</sup> See Petitioner Benchmark Submission at Exhibits 1, 7, and 2, respectively.

<sup>192</sup> See GNB SQR at Exhibit NB-STUMP-41 at Table 2.

<sup>193</sup> For example, the Sawmills Division of JDIL (one of JDIL's ten operating divisions) owns and operates nine saw mills in NB. See e.g., Irving IQR at JDIL-2 through JDIL-4.

<sup>194</sup> See GNB SQR at Exhibit NB-STUMP-41 at Table 2; see also Memorandum, "Preliminary Results Analysis for the Government of New Brunswick," December 21, 2017 (GNB Preliminary Determination Calculation Memorandum) at Attachment II for the exact, proprietary percentages.

<sup>195</sup> See GNB SQR at Exhibit NB-STUMP-41 at Table 7.

<sup>196</sup> *Id.*; see also GNB Preliminary Determination Calculation Memorandum at Attachments I and II for the exact percentages.



respective allocated Crown timber volumes. The GNB provided data on the volume of Crown-origin standing timber allocated and consumed by softwood sawmills during FY 2015-2016. Aggregating by corporation indicates that a small number of corporations harvested all its allocated Crown volume during this period. The data further indicate that the total “overhang” of Crown volume was approximately 20 percent of the softwood Crown harvest in FY 2015-2016.<sup>197</sup>

Therefore, based on Commerce’s findings in the *Expedited Review* and on information submitted by the GNB in this instant administrative review, we preliminarily determine that private prices for standing timber in New Brunswick are not market-based, and accordingly it is not appropriate to use them as a tier-one benchmark.

Irving reported that JDIL also purchased stumpage in significant volume from private parties in Nova Scotia during the POR. In the *Expedited Review*, 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 or in subsequent investigations.<sup>198</sup> 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, Commerce compared, on a transaction-, product-, and species-specific basis, the prices that JDIL paid for Crown-origin standing timber in New Brunswick during 2015 to the weighted-average monthly prices JDIL paid for its private-origin standing timber in Nova Scotia during the same period.<sup>199</sup> Next, we summed the benefits resulting from all Crown-origin standing timber purchases that were made at prices lower than the applicable benchmark price to calculate the total benefit for the program. We divided the total stumpage benefit by the appropriate total sales denominator for JDIL, in accordance with the attribution analysis described above, to arrive at a total countervailable subsidy rate.

On this basis, we preliminarily determine the countervailable subsidy rate to be 0.51 percent *ad valorem* for Irving.<sup>200</sup>

## **21. Government of Nova Scotia Provision of Stumpage and Biomass Material for Less Than Adequate Remuneration**

In the *SC Paper Final Determination*, we determined that Nova Scotia provided stumpage and biomass material for LTAR.<sup>201</sup> We found that the provision of stumpage from Crown land by the GNS to Port Hawkesbury constitutes a financial contribution as a provision of a good within

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<sup>197</sup> See GNB SQR at Exhibit NB-STUMP-41 at Table 1 *see also* GNB Preliminary Determination Calculation Memorandum at Attachment II for the exact, proprietary percentages.

<sup>198</sup> See *Expedited Review*, and accompanying IDM at Comment 23; *see also Lumber Final Determination* and accompanying IDM at 51.

<sup>199</sup> See Irving SQR at Exhibit Supp-05.

<sup>200</sup> See Irving Preliminary Calculation Memorandum.

<sup>201</sup> See *SC Paper Preliminary Determination*, and accompanying PDM at 37-40; unchanged in *SC Paper Final Determination*, and accompanying IDM at 49-53.

the meaning of section 771(5)(D)(iii) of the Act. We found that the provision of stumpage is *de jure* specific because it is limited to Port Hawkesbury under the terms of the Forest Utilization License Agreement (FULA), consistent with section 771(5A)(D)(i) of the Act. The provision of stumpage provides a benefit within section 771(5)(D)(iv) of the Act, to the extent that the GNS received less than adequate remuneration when measured against an appropriate benchmark for stumpage. In a CVD administrative review, we do not revisit past determinations of countervailability, absent new evidence,<sup>202</sup> and none has been presented here. Therefore, we continue to find that this program provides a countervailable subsidy.

Following Commerce's hierarchical order of preference for benchmarks discussed above, to determine the existence and extent of the benefit, we analyzed our first preference in the hierarchy, the stumpage market in Nova Scotia during the POR. Each year, Commerce of Natural Resources (DNR) issues a Registry of Buyers annual report indicating the total harvest in Nova Scotia from both Crown land and from private land.<sup>203</sup> According to the 2016 Registry of Buyers, which covers 2015, stumpage harvest from Crown land accounted for 23.2 percent of the total harvest during 2015<sup>204</sup> the harvest from private land accounted for the remainder.

Because the participation of the Province in the stumpage market is small, and is well below a majority, we determine that it does not have a distortive impact on the private stumpage market or the stumpage prices therein. Thus, for this determination, it is appropriate to rely on observed market prices for stumpage as the tier one benchmark. Moreover, Port Hawkesbury itself purchased a significant amount of pulpwood and biomass stumpage from private parties during the POR; we 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.

During the POR, Port Hawkesbury purchased stumpage from private lands under both Lease Agreements and Purchase Agreements.<sup>205</sup> Under the Lease Agreements, Port Hawkesbury pays private woodlot owners for access to land and the right to build and maintain roads and harvest wood for both pulpwood and biomass. Port Hawkesbury also incurs regeneration obligations such as replanting under its Lease Agreements.<sup>206</sup> These obligations are the same as the obligations that Port Hawkesbury incurs under the FULA. Under the Purchase Agreements, Port Hawkesbury purchases the already-harvested wood. Because the Lease Agreements reflect the same rights and obligations that are set forth in the FULA, we are relying on purchases under the Lease Agreements as the basis for our benchmark.

During 2015, the GNS's stumpage prices recognized 17 product species categories, including distinct categories for hardwood and softwood products, as well as distinct categories for pulpwood, biomass, and saw fiber products.<sup>207</sup> For each of the separate stumpage rate categories

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<sup>202</sup> See *Magnola*, 508 F.3d 1349; see also *Solar Cells from the PRC 2012 AR* and accompanying IDM at 27.

<sup>203</sup> See GNS IQR NS Volume VIII Stumpage at NS.VIII-2/3.

<sup>204</sup> See GNS IQR NS Volume VIII Stumpage at NS.VIII-2/3, Exhibit NS-ST-1.

<sup>205</sup> See PHP IQR at 68-76.

<sup>206</sup> *Id.* at 71 and Exhibit STUMP-6.

<sup>207</sup> *Id.* at Exhibit STUMP-5.

set by the DNR within the FULA, we compared that rate to the stumpage rate for the equivalent timber product harvested by Port Hawkesbury under private Lease Agreements during 2015.

Therefore, we continue to compare the stumpage prices under the FULA to the stumpage prices for the equivalent timber products harvested by Port Hawkesbury from private lands under the Lease Agreements during 2015 because, except as noted, they are on the same terms and carry the same infrastructure obligations. In order to ensure that our benchmark reflects market-determined prices that represent actual transactions that are comparable to the Crown prices for which we are evaluating the adequacy of remuneration, we find it appropriate to add to the private Lease Agreement stumpage benchmarks the silviculture fee that is included in the stumpage prices under the FULA for softwood and hardwood products.<sup>208</sup> This is consistent with 19 CFR 351.511(a)(2)(i), under which we consider factors affecting comparability.

To calculate the benefits received under this program, Commerce compared, on a transaction- and timber type product-specific basis, the stumpage prices paid by Port Hawkesbury to the GNS under the FULA during 2015 to the comparable prices Port Hawkesbury paid under private Lease Agreements during the same period.<sup>209</sup> We calculated monthly benchmarks for purchases of timber delivered during 2015 under private lease agreements and then calculated a benefit for the corresponding individual transactions of Crown-origin standing timber. Next, we summed the benefits resulting from all Crown-origin standing timber purchases that were made at prices lower than the applicable benchmark rate to calculate the total benefit for its portion of the stumpage provision. Specifically, for biomass material we compared the fully cost-inclusive price of biomass stumpage obtained under the FULA to the fully cost-inclusive price of fuel logs, used for biomass material.<sup>210</sup> We then summed the total benefits for timber products and biomass material to derive a total for benefit for stumpage provided at LTAR.

We then divided the total stumpage benefit for all grades by the appropriate total sales denominator for Port Hawkesbury, in accordance with the attribution analysis described above, to arrive at a total countervailable subsidy rate.

On this basis, we preliminarily determine the countervailable subsidy rate to be 2.12 percent *ad valorem* for Port Hawkesbury.<sup>211</sup>

## **22. GNS Preferential Electricity Rate for Port Hawkesbury**

In the *SC Paper Final Determination*, we determined that Nova Scotia provided electricity for LTAR.<sup>212</sup> We found that the Nova Scotia Power, Inc. (NSPI) provides electricity at the entrustment or direction of the GNS; therefore, this provision of electricity constitutes a financial contribution under section 771(5)(D)(iii) of the Act because the provision of electricity is the provision of a good or service, other than general infrastructure. We found that the provision of

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<sup>208</sup> *Id.*

<sup>209</sup> See PHP Preliminary Calculation Memorandum.

<sup>210</sup> See PHP IQR at Exhibit STUMP-9.

<sup>211</sup> See PHP Preliminary Calculation Memorandum.

<sup>212</sup> See *SC Paper Preliminary Determination*, and accompanying PDM at 27-37; unchanged in *SC Paper Final Determination*, and accompanying IDM at 30-48.

electricity is *de jure* specific because the approved Load Retention Rate (LRR) it is expressly limited to Port Hawkesbury, consistent with section 771(5A)(D)(i) of the Act. The provision of electricity provides a benefit within section 771(5)(E)(iv) of the Act, to the extent that the GNS received less than adequate remuneration when measured against an appropriate benchmark for electricity. Consistent with Commerce's *Final Redetermination* pursuant to the April 13, 2017 North American Free Trade Agreement (NAFTA) Opinion and Order of the Panel (*Panel Decision*), we continue to find that this program provides a countervailable subsidy.<sup>213</sup>

Port Hawkesbury reported purchasing electricity from NSPI during the POR.<sup>214</sup> In the *SC Paper Final Determination*, Commerce analyzed whether there were appropriate tier one or tier two benchmarks, and determined that, based on the record, a tier three benchmark is the most appropriate.<sup>215</sup> The same record evidence from the *SC Paper Final Determination* is also on the record of this instant administrative review. Therefore, consistent with the *SC Paper Final Determination*, *Final Redetermination*, and following Commerce's benchmark hierarchical order, we are using a tier three benchmark to determine Port Hawkesbury's benefit under this program.<sup>216</sup>

In order to determine an appropriate tier three benchmark, we have assessed whether the LRR provided to Port Hawkesbury is consistent with market principles, as required by 19 CFR 351.511(a)(2)(iii), by examining the utility company's price-setting philosophy.<sup>217</sup> NSPI's standard pricing mechanism (price-setting philosophy) for setting electricity tariffs is to cover all variable costs and fixed costs including a regulated return on equity. Therefore, to determine the appropriate tier three benchmark in accordance with 19 CFR 351.511(a)(iii), we started with the Port Hawkesbury LRR that covers all variable costs and makes a contribution to fixed costs. To estimate unrecovered fixed costs, we used an affirmative statement of the level of fixed costs covered by the 2012 Extra-Large Industrial Two Part Real Time Pricing (C\$26/MWh), the last "above-the-line" rate used to service the mill, and subtracted from it the amount of fixed cost recovery in the Port Hawkesbury LRR (C\$2/MWh), leaving C\$24/MWh in unrecovered fixed costs under the Port Hawkesbury LRR.<sup>218</sup> By adding together these two pricing-setting factors, we constructed a tier three benchmark that is consistent with market principles because this benchmark is based on the methodology used by NSPI to determine electricity rates that are applicable to all electricity consumers in Nova Scotia except for four customers that have

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<sup>213</sup> Both Port Hawkesbury and the GNS continue to argue that in the *SC Paper Final Determination* Commerce incorrectly determined that NSPI is providing electricity at the entrustment or direction of the GNS. These arguments are consistent with those made before the NAFTA Panel, as discussed in the Memorandum Opinion and Order, April 13, 2017 (*Panel Decision*). In the *Final Redetermination Pursuant to Panel Remand*, Secretariat File No. USA-CDA-2015-1904-01, dated November 8, 2017 (*Final Redetermination*), Commerce continued to find that the GNS entrusted and directed NSPI to provide electricity; there is no suitable tier one electricity benchmark; and, use of a tier three benchmark to measure the provision of electricity for LTAR is appropriate. Therefore, for purposes of these preliminary results, in instances where we have not revised our findings from the investigation in the *Final Redetermination*, we continue to use the same methodology from the investigation.

<sup>214</sup> See PHP IQR at 78-79.

<sup>215</sup> See *SC Paper Final Determination*, and accompanying IDM at 41-48.

<sup>216</sup> *Id.* for a complete discussion regarding how Commerce determined that a tier three benchmark is the most appropriate benchmark to use. See also *Final Redetermination* at 43-56.

<sup>217</sup> See *CVD Preamble* at 65378.

<sup>218</sup> See GNS IQR at Exhibit NS-EL-32 at DE-03-04 at 19.

specially-tailored “below-the-line” rates. Consistent with the *Final Redetermination*, we find that the fixed cost component of the benchmark is inclusive of a component for the return on equity, and thus it is not necessary to add a separate variable to represent the return on equity.<sup>219</sup>

To calculate the benefit pursuant to section 771(5)(e)(iv) of the Act, we subtracted from the amount that Port Hawkesbury would have paid for the electricity it consumed during 2015 according to the benchmark the actual amount paid by Port Hawkesbury during 2015 under its LRR. The difference represents the benefit to Port Hawkesbury. We divided the total electricity benefit by the appropriate total sales denominator for Port Hawkesbury, in accordance with the attribution analysis described above, to arrive at a total countervailable subsidy rate.

On this basis, we preliminarily determine the countervailable subsidy rate to be 9.44 percent *ad valorem* for Port Hawkesbury.<sup>220</sup>

### **23. 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.<sup>221</sup> During the POR, the tax credit was available at a standard rate of 15 percent of the cost of these expenditures.<sup>222</sup> An enhanced rate of 35 percent is available to small Canadian businesses, though none of the respondent companies qualified for this rate.<sup>223</sup> There was no application to receive this tax credit; rather it was claimed on Form T661 of the tax payer’s federal tax return.<sup>224</sup> Commerce has previously countervailed this program.<sup>225</sup>

This tax credit constitutes a financial contribution in the form of revenue forgone, within the meaning of section 771(5)(D)(ii) of the Act. The tax credit received by Irving and Port Hawkesbury conferred a benefit equal to the amount of the tax savings pursuant to 19 CFR 351.509(a)(1). The GOC reported that 19,490 firms claimed this tax credit in the POR,<sup>226</sup> out of approximately 1,940,000 corporate tax filers.<sup>227</sup> Because the actual recipients, relative to total corporate tax filers, are limited in number on an enterprise basis, we preliminarily determine that this program is *de facto* specific, in accordance with section 771(5A)(D)(iii)(I) of the Act.

Irving, JDIL, and Port Hawkesbury reported that they claimed a credit under this program in their respective 2014 tax year annual returns filed during the POR.<sup>228</sup> We divided the tax credit amounts received by each company by the appropriate total sales denominator for each company,

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<sup>219</sup> See *Final Redetermination* at 54-56.

<sup>220</sup> See PHP Preliminary Calculation Memorandum.

<sup>221</sup> See GOC IQR at Volume II, GOC-CRA-68 and GOC-CRA-74.

<sup>222</sup> *Id.*

<sup>223</sup> *Id.*

<sup>224</sup> *Id.*, at GOC-CRA-71.

<sup>225</sup> See *Lumber Preliminary Determination*, and accompanying PDM at 74; unchanged in *Lumber Final Determination*.

<sup>226</sup> See GOC IQR at Exhibit GOC-CRA-SRED-4.

<sup>227</sup> See GOC SQR at GOC-SUPP1-1.

<sup>228</sup> See Irving IQR at Exhibit SRED-01; see also PHP IQR at 88-89, Exhibit G-19a.

in accordance with the attribution analysis described above. For Irving, we summed the resulting rates for Irving and JDIL to arrive at a total countervailable subsidy rate. For Port Hawkesbury, the result is the total countervailable subsidy rate.

On this basis, we preliminarily determine the countervailable subsidy rate to be 0.07 percent *ad valorem* for Irving, 0.01 percent *ad valorem* for Port Hawkesbury.<sup>229</sup>

#### **24. NB Energy Rebate Fund/ High Energy Use Property Tax Rebate**

The High Energy Use Tax Rebate program was authorized by a special Cabinet Committee on Forestry on December 11, 2007, and is administered by the Revenue and Taxation Division of the Department of Finance of the Province of New Brunswick.<sup>230</sup> The purpose of the tax rebate was to provide short-term assistance to allow for the pulp and paper mill industries to adjust due to substantially increased electricity costs beginning in 2007 and to support future operations. The rebate was initially available for the 2007-2008 and 2008-2009 fiscal years, but this availability was extended one additional year for the 2009-2010 fiscal year.<sup>231</sup> For a company to be eligible to receive the rebate, it must have been operating a pulp and paper mill as of March 31 of the following year, it had to produce at least 85 percent of the prior year's output, and it must have paid all property taxes levied.<sup>232</sup> The rebate was applicable to energy cost increases due to the power rate increases only, and not to increased costs arising from a mill's increased power consumption. Companies must complete an electronic application form that uses the entered information regarding power consumption to calculate the companies' rebate; the companies receive the rebate in a lump sum, which they treat as "sundry revenue."<sup>233</sup> The GNB conducted audits for all claims made during the three-year period of the program.<sup>234</sup> The GNB stated that this program was discontinued effective March 31, 2010.<sup>235</sup>

We preliminarily determine that the tax rebates to property taxes that Irving, IPP, and JDIL received under this program constitute a financial contribution in the form of revenue forgone, within the meaning of section 771(5)(D)(ii) of the Act. The tax rebate received conferred a benefit equal to the amount of the tax savings pursuant to 19 CFR 351.509(a)(1). Finally, we determined that the program is specific, in accordance with section 771(5A)(D)(i) of the Act, because the rebates provided under the program are limited to the pulp and paper mill industry.<sup>236</sup>

Irving reported that it, JDIL, and IPP received funds under this grant program during the AUL, and that IPP was the only company that received funds during the POR.<sup>237</sup> To calculate the benefit from this program to Irving, we treated this tax rebate as a recurring benefit, consistent

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<sup>229</sup> See Irving Preliminary Calculation Memorandum; *see also* PHP Preliminary Calculation Memorandum.

<sup>230</sup> See GNB IQR at Volume V at Exhibit NB-HEAUTR-1.

<sup>231</sup> *Id.*

<sup>232</sup> *Id.*

<sup>233</sup> See Irving IQR at Exhibit HEUTR-01 at 4.

<sup>234</sup> See GNB IQR at Volume V at Exhibit NB-HEAUTR-1 at 11.

<sup>235</sup> *Id.* at 9.

<sup>236</sup> *Id.* at 7.

<sup>237</sup> See Irving IQR at Exhibit HEUTR-01.

with 19 CFR 351.524(c)(1), and only determined a countervailable subsidy for tax rebates received during the POR. To calculate the countervailable subsidy rate, in accordance with 19 CFR 351.525(b)(6)(iv), we divided the tax rebate amount received, by the appropriate total sales denominator for IPP, in accordance with the attribution analysis described above, to arrive at a total countervailable subsidy rate.

On this basis, we preliminarily determine the countervailable subsidy rate to be 0.05 percent *ad valorem* for Irving.<sup>238</sup>

## **25. 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 under-represented in Canada's labor force and enhancing the employability and skills of Canada's labor force.<sup>239</sup> 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.<sup>240</sup> The 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.<sup>241</sup> Commerce found this program countervailable in prior proceedings.<sup>242</sup>

We preliminarily determine that the grants that Irving received under this program constitute a financial contribution in the form of a direct transfer of funds from the government, within the meaning of section 771(5)(D)(i) of the Act, and that a benefit exists under section and 771(5)(E) of the Act and 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)(iv) of the Act, because the funds provided by the GOC are limited to the province of New Brunswick pursuant to the terms of the Canada-New Brunswick Job Fund Agreement.

Irving reported that IPP and JDIL received funds under this grant program during the POR.<sup>243</sup> We preliminarily determine that this program is recurring, in accordance with 19 CFR 351.524(c)(1). We divided the grant amounts received by IPP and JDIL by the appropriate total sales denominator for each company, in accordance with the attribution analysis described above. We summed these rates to arrive at a total countervailable subsidy rate.

On this basis, we preliminarily determine the countervailable subsidy rate to be 0.03 percent *ad valorem* for Irving.<sup>244</sup>

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<sup>238</sup> See Irving Preliminary Calculation Memorandum.

<sup>239</sup> See GNB IQR at Volume V at Exhibit NB-CNBJG-1.

<sup>240</sup> *Id.*

<sup>241</sup> *Id.*

<sup>242</sup> See *Lumber Preliminary Determination*, and accompanying PDM at 64; unchanged in *Lumber Final Determination*.

<sup>243</sup> See Irving IQR at Exhibits CNB Jobs-01 through CNB Jobs-26.

<sup>244</sup> See Irving Preliminary Calculation Memorandum.

## 26. New Brunswick Workforce Expansion Program – Youth Employment Fund

The Youth Employment Fund was launched in April 2015 pursuant to the Employment Development Act. Its purpose is to provide 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.<sup>245</sup> Under the program, which is administered by the Department of Post-Secondary Education, Training and Labour, 100 percent of the employee's minimum wage for 30 hours a week is paid to employers participating in the program.<sup>246</sup> Commerce has previously countervailed this program.<sup>247</sup>

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, assistance under this program is limited in the number of recipients. The GOC reported that there were 31,400 corporate tax filers in New Brunswick.<sup>248</sup> Information provided by the GNB demonstrates that, relative to the number of companies in New Brunswick, a limited number of companies used this program during the POR.<sup>249</sup> 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.

Irving reported that JDIL received assistance in the form of wage subsidies under this program during the POR.<sup>250</sup> We preliminarily determine that this is a wage subsidy program and, therefore, is a recurring grant pursuant to 19 CFR 351.524(c)(1). These grants 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). To attribute the benefit received by JDIL to Irving, we divided the benefit amount received by JDIL by the appropriate total sales denominator, in accordance with the attribution analysis described above, to arrive at a total countervailable subsidy rate.

On this basis, we preliminarily determine the countervailable subsidy rate to be 0.01 percent *ad valorem* for Irving.<sup>251</sup>

## 27. GOQ Purchase of Electricity for MTAR under PAE 2011-01<sup>252</sup>

In the *Lumber Final Determination*, we found that Hydro-Québec is an authority within the meaning of section 771(5)(B) of the Act because it is a state-owned utility, whose sole

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<sup>245</sup> See GNB IQR at Exhibit NB-YEF-1.

<sup>246</sup> *Id.*

<sup>247</sup> See *Lumber Preliminary Determination*, and accompanying PDM at 70; unchanged in *Lumber Final Determination*.

<sup>248</sup> See GOC SQR at GOC-SUPP1-1.

<sup>249</sup> See GNB IQR at Exhibit NB-YEF-1 at NB-YEF-14.

<sup>250</sup> See Irving IQR at Exhibit Youth-01.

<sup>251</sup> See Irving Preliminary Calculation Memorandum.

<sup>252</sup> Commerce initiated a review of 13 programs in the NSA Analysis Memorandum, including this program. Although Commerce has not yet received questionnaire responses for these alleged programs, information from the



shareholder is the Québec government.<sup>253</sup> We also determined that Hydro-Québec's purchase of electricity constitutes a financial contribution within the meaning of section 771(5)(D)(iv) of the Act. We determined that the PAE 2011-01 program is *de facto* specific within the meaning of section 771(5A)(D)(iii)(I) of the Act because recipients of the subsidy are limited in number (for 2014 there were nine program recipients and in 2015 there were 12 program recipients).<sup>254</sup> We found that a benefit was provided within the meaning of section 771(5)(E)(iv) of the Act to the extent that the GNS purchased electricity for more than adequate remuneration when measured against an appropriate benchmark for electricity. No additional information or evidence was provided that warrants the reconsideration of this finding.<sup>255</sup> Furthermore, the record evidence provided for the *Lumber Final Determination* was placed on the record this administrative review.<sup>256</sup> Therefore, we preliminarily find that this program provides a countervailable subsidy.

Because there is no evidence on the record to suggest that the electricity rates paid by consumers in Québec are not market-based prices,<sup>257</sup> we relied on the electricity tariff schedule in effect during the POR to select a benchmark to measure the adequacy of remuneration of Hydro-Québec's purchases of electricity from Resolute. Specifically, we selected the Industrial L electricity rate that Resolute's pulp and paper mills paid to Hydro-Québec for electricity during the POR as the benchmark.<sup>258</sup> To determine whether a benefit exists, we compared the Industrial L Rate that Resolute paid to the unit price of electricity that Hydro-Québec paid for its purchases of electricity from Resolute for each month of the POR. We multiplied the difference by the total volume of electricity purchased by Hydro-Québec for each month and then summed those amounts. Because this program is recurring under 19 CFR 351.524(c)(1), we divided the sum of the benefits by Resolute's in accordance with the attribution analysis described above, to arrive at a total countervailable subsidy rate.

On this basis, we preliminarily determine the countervailable subsidy rate to be 0.74 percent *ad valorem* for Resolute.<sup>259</sup>

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*Lumber Final Determination* was placed on the record of this review allowing Commerce to make a preliminary finding for this program.

<sup>253</sup> See *Lumber Preliminary Determination*, and accompanying PDM at 85; unchanged in *Lumber Final Determination*, and accompanying IDM at Comments 52 through 55.

<sup>254</sup> *Id.*

<sup>255</sup> See *Magnola*, 508 F.3d 1349; see also *Solar Cells from the PRC 2012 AR* and accompanying IDM at 27.

<sup>256</sup> See Letter from Resolute, "Supercalendered Paper from Canada: Countervailing Duty Administrative Review, Resolute's Response to the Department's "Other Assistance" Question in Section III of Initial Questionnaire," August 1, 2017 (Resolute Other Assistance), at Letter from Resolute, "Softwood Lumber from Canada: Resolute's Response to Section III of Initial Questionnaire on General Issues and Non-Stumpage Programs," March 15, 2017, at 56.

<sup>257</sup> See *Lumber Preliminary Determination*, and accompanying PDM at 85; unchanged in *Lumber Final Determination*.

<sup>258</sup> See Resolute Other Assistance at Letter from Resolute, "Softwood Lumber from Canada: Resolute's Verification Exhibits," July 6, 2017 at Exhibit VE-32.

<sup>259</sup> See Resolute Preliminary Calculation Memorandum.

## 28. Credits for the Construction and Major Repair of Public Access Roads and Bridges in Forest Areas<sup>260</sup>

In the *Lumber Final Determination*, Commerce determined that this program provides a refundable tax credit that constitutes a financial contribution in the form of revenue forgone, within the meaning of section 771(5)(D)(ii) of the Act, and provides a benefit in the amount of the tax credit used to reduce taxes payable under 19 CFR 351.509(a)(1).<sup>261</sup> We also found that this program is *de jure* specific under section 771(5A)(D)(i) of the Act because eligibility is limited to applicants that hold a qualification certificate issued by the Ministry of Forests, Wildlife and Parks (MFFP) and have a forest management agreement, a timber supply and forest management agreement, or forest management contract with MFFP.<sup>262</sup> No additional information or evidence was provided that warrants the reconsideration of this finding. Furthermore, the record evidence provided for the *Lumber Final Determination* was placed on the record this administrative review.<sup>263</sup> Therefore, we preliminarily find that this program provides a countervailable subsidy.

Resolute reported receiving credits under this program during the POR. Because this program is recurring under 19 CFR 351.524(c)(1), we divided the sum of the tax savings by Resolute's total sales during the POR, in accordance with the attribution analysis described above, to arrive at a total countervailable subsidy rate.

On this basis, we preliminarily determine the countervailable subsidy rate to be 0.20 percent *ad valorem* for Resolute.<sup>264</sup>

## 29. Partial Cut Investment Program (PCIP)<sup>265</sup>

In the *Lumber Final Determination*, Commerce determined that this program provides 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 that a benefit exists under 19 CFR 351.504(a), equal to the amount of the grant.<sup>266</sup> We found that the PCIP is *de jure* specific under section 771(5A)(D)(i) of the Act because

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<sup>260</sup> Commerce initiated a review of 13 programs in the NSA Analysis Memorandum, including this program. Although Commerce has not yet received questionnaire responses for these alleged programs, information from the *Lumber Final Determination* was placed on the record of this review allowing Commerce to make a preliminary finding for this program.

<sup>261</sup> See *Lumber Preliminary Determination*, and accompanying PDM at 82-83; unchanged in *Lumber Final Determination*.

<sup>262</sup> *Id.*

<sup>263</sup> See Resolute Other Assistance, at Letter from Resolute, "Softwood Lumber from Canada: Resolute's Response to the Second Supplemental Questionnaire on Non-Stumpage Programs," April 6, 2017, at 7.

<sup>264</sup> See Resolute Preliminary Calculation Memorandum.

<sup>265</sup> Commerce initiated a review of 13 programs in the NSA Analysis Memorandum, including this program. Although Commerce has not yet received questionnaire responses for these alleged programs, information from the *Lumber Final Determination* was placed on the record of this review allowing Commerce to make a preliminary finding for this program.

<sup>266</sup> See *Lumber Preliminary Determination*, and accompanying PDM at 71; unchanged in *Lumber Final Determination*.

recipients are limited on an industry basis to the forestry sector. No additional information or evidence was provided that warrants the reconsideration of this finding.<sup>267</sup> Furthermore, the record evidence provided for the *Lumber Final Determination* was placed on the record this administrative review.<sup>268</sup> Therefore, we continue preliminarily find that this program provides a countervailable subsidy.

Resolute reported receiving a payment in the form of a reimbursement under the PCIP during the POR

We calculated the countervailable subsidy rate by dividing the amount of rebates received under this program during the POR by Resolute's total sales during the POR, in accordance with the attribution analysis described above, to arrive at a total countervailable subsidy rate.

On this basis, we preliminarily determine the countervailable subsidy rate to be 0.05 percent *ad valorem* for Resolute.<sup>269</sup>

### **30. Refund of Fuel Tax Paid on Fuel Used – Stationary Purposes Refund of Fuel Tax Paid on Fuel Used – Certain Purposes**

The Refund of Fuel Tax Paid on Fuel Used is a program administered by Revenu Québec, which provides refunds of fuel taxes paid under two elements. The first element, Certain Purposes, allows businesses to receive a refund of the taxes paid on fuel used to operate road vehicles registered for off-the-road use and used in their farm, forest, or mining operations.<sup>270</sup> The second element, Stationary Purposes, provides a tax refund for fuel required to operate the stationary equipment of a prescribed vehicle used for commercial or public purposes.<sup>271</sup>

Commerce preliminarily determines that this program constitutes a financial contribution in the form of revenue forgone, within the meaning of section 771(5)(D)(ii) of the Act. The tax credit provides a benefit equal to the amount of the tax refund derived from this program in accordance with section 771(5)(E) of the Act and 19 CFR 351.509(a)(1). We preliminarily determine that both elements of this program, Stationary Purposes and Certain Purposes, are *de jure* specific within the meaning of section 771(5A)(D)(i) of the Act because they expressly limit companies who are entitled to refunds on fuel tax paid for certain specified activities.

Resolute reported receiving benefits under both elements of the program during the POR.<sup>272</sup> In accordance with 19 CFR 351.524(c)(1), we are treating this subsidy as a recurring subsidy. We calculated the countervailable subsidy rate by dividing the amount of refunds received under each element of this program during the POR by Resolute's total sales during the POR, in

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<sup>267</sup> See *Magnola*, 508 F.3d 1349; see also *Solar Cells from the PRC 2012 AR* and accompanying IDM at 27.

<sup>268</sup> See Resolute Other Assistance, at Letter from Resolute, "Softwood Lumber from Canada: Resolute's Response to the Second Supplemental Questionnaire on Non-Stumpage Programs," April 6, 2017, at 13.

<sup>269</sup> See Resolute Preliminary Calculation Memorandum.

<sup>270</sup> See GOQ IQR at Volume III, Part 26, QC-OTHER-47.

<sup>271</sup> *Id.*

<sup>272</sup> See Resolute's Other Assistance QR at 17.

accordance with the attribution analysis described above, to arrive at a total countervailable subsidy rate for each respective element of this program.

On this basis, we preliminarily determine the countervailable subsidy rate to be 0.01 percent *ad valorem* for Resolute under the Stationary Purposes element, and we preliminarily determine that there are no measurable benefits for Resolute under the Certain Purposes element.<sup>273</sup>

### **31. Hydro-Quebec Energy Efficiency Programs – Industrial Systems Program Hydro-Quebec Energy Efficiency Programs – EcoPerformance**

As part of its mandate under the Hydro-Quebec Act, which (among other things) stipulates that it must pursue endeavors related to energy conservation, Hydro-Quebec administers various energy efficient programs.<sup>274</sup> The Industrial Systems program is an incentive program to industrial businesses to reduce the amount of electricity used per unit produced for the participant.<sup>275</sup> The EcoPerformance program provides grants to participants that reduce their greenhouse gas emissions through implementation of measures or projects.<sup>276</sup>

Both the GOQ and Resolute have argued that a broad variety of sectors participated in these energy efficiency industrial programs.<sup>277</sup> However, information provided by the GOQ demonstrates that a limited number of companies used this programs during 2015.<sup>278</sup> Therefore, we find that these programs are *de facto* specific under section 771(5)A)(D)(iii)(I) of the Act, as the actual recipients are limited. Grants from the GOQ under these programs 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).

Resolute reported receiving benefits under the Industrial Systems and EcoPerformance programs during the POR.<sup>279</sup> In accordance with 19 CFR 351.524(c)(1), we are treating this subsidy as a recurring subsidy. To attribute the benefit received by Resolute, we divided the benefit amount received by Resolute by the appropriate total sales denominator, in accordance with the attribution analysis described above, to arrive at a total countervailable subsidy rate.

On this basis, we preliminarily determine the countervailable subsidy rate to be 0.02 percent *ad valorem* for Resolute under the Industrial Systems program, and we preliminarily determine the countervailable subsidy rate to be 0.04 percent *ad valorem* for Resolute under the EcoPerformance program.<sup>280</sup>

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<sup>273</sup> See Resolute Preliminary Calculation Memorandum.

<sup>274</sup> See GOQ IQR at Volume III, Part 26, QC-OTHER-52.

<sup>275</sup> *Id.* at Volume III, Part 26, QC-OTHER-53.

<sup>276</sup> *Id.* at Volume III, Part 34, QCII-SUPP-1 through QCII-SUPP-20.

<sup>277</sup> *Id.* at Volume III, Part 26, QC-OTHER-54; *see also* Resolute's Other Assistance QR at 15 and 17.

<sup>278</sup> See GOC IQR at Volume III, Part 34, Exhibit GC-SUPP-OTHER-6.

<sup>279</sup> See Resolute's Other Assistance QR at 15 and 17.

<sup>280</sup> See Resolute Preliminary Calculation Memorandum.

### 32. Co-operative Education Incentive (SEI) Program

The SEI program has operated in Nova Scotia since 2011, when it replaced a previous co-op program that began in 1996. The purpose of the program is to provide career-related work experiences to university and community college co-operative students. The program provides wage assistance to the private, public, and non-profit sector.<sup>281</sup>

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(5)A)(D)(i) of the Act. However, information provided by the GNS demonstrates that a limited number of companies were approved for this program during 2015.<sup>282</sup> Therefore, we find that these programs are *de facto* specific under section 771(5)A)(D)(iii)(I) of the Act, as the actual recipients are limited.

Port Hawkesbury reported receiving reimbursements in the form of wage subsidies under this program during the POR.<sup>283</sup> We preliminarily determine that this is a wage subsidy program and, therefore, is a recurring grant pursuant to 19 CFR 351.524(c)(1). These grants 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). To attribute the benefit received by Port Hawkesbury, we divided the benefit amount received by the appropriate total sales denominator, in accordance with the attribution analysis described above, to arrive at a total countervailable subsidy rate.

On this basis, we preliminarily determine the countervailable subsidy rate to be 0.01 percent *ad valorem* for Port Hawkesbury under the Co-op program.<sup>284</sup>

#### **B. Programs Preliminarily Determined to Confer Non-Measurable Benefits During the POR**

The respondents reported that they received assistance during the POR under additional programs. In all instances, the calculated countervailable subsidy was less than 0.005 percent. Thus, there is no measurable benefit to the respondent for the programs 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 these programs in our calculation of the countervailable subsidy rate for each respective respondent.

For a list of the subsidy programs that did not provide a measurable benefit to each respondent in the POR, *see* the Appendix attached to this memorandum.

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<sup>281</sup> See GNS SQR2 at NS.II-2, Exhibit NS-SUPP2-2.

<sup>282</sup> See GNSSQR2 at NS.II-10.

<sup>283</sup> See PHP IQR at 100, Exhibit COOP-1.

<sup>284</sup> See PHP Preliminary Calculation Memorandum.

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

The respondents reported receiving benefits under various programs, some of which the Commerce initiated and others that were self-reported, during the AUL. To calculate the benefit under these programs, 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 the benefits are allocated to the year of receipt, prior to the POR. Thus, there is no benefit to the respondent during the POR and we determine that it is unnecessary for Commerce to make a preliminary determination as to the countervailability of those programs.

Additionally, the respondent companies reported that they did not use several programs during the POR or over the AUL period.

For a list of these subsidy programs not used by each respondent, *see* the Appendix attached to this memorandum.

### **D. Program for Which the Decision is Being Deferred**

The following alleged programs, initiated on by Commerce in the New Subsidy Allegations,<sup>285</sup> are being deferred and will be examined in a post-preliminary analysis.

- 1. Quebec Provision of Stumpage for Less Than Adequate Remuneration**
- 2. Hydro-Quebec Interruptible Electricity Option**
- 3. Tax incentives for Private Forest Producers – Property Tax Refund for Forest Producers on Private Woodlands in Quebec**
- 4. Ontario Provision of Stumpage for Less than Adequate Remuneration**
- 5. The Government of Ontario’s Purchase of Electricity for More Than Adequate Remuneration**
- 6. The Government of Ontario Electricity Demand Response Payments**
- 7. The Government of Ontario’s Purchase of Wood Pellets for More Than Adequate Remuneration**
- 8. New Brunswick Property Tax Incentives for Private Forest Producers**
- 9. Nova Scotia Provision of Silviculture Grants**
- 10. The Government of Nova Scotia Bowater Mersey Subsidies**

## **VI. DISCLOSURE AND PUBLIC COMMENT**

Commerce intends to disclose to interested parties the calculations performed in connection with the preliminary results of review within five days of its public announcement.<sup>286</sup> 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 seven days after the date on which the last verification report is issued in this proceeding. In accordance with 19 CFR 351.310(d)(1),

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<sup>285</sup> See NSA Analysis Memorandum.

<sup>286</sup> See 19 CFR 351.224(b).

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.<sup>287</sup> 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*.<sup>288</sup> 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, Commerce 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.<sup>289</sup> Electronically filed documents must be received successfully in their entirety by 5:00 p.m. Eastern Time,<sup>290</sup> on the due dates established above.

## VII. CONCLUSION

We recommend that you approve the preliminary findings described above.



\_\_\_\_\_  
Agree

\_\_\_\_\_  
Disagree

12/21/2017

X



Signed by: GARY TAVERMAN

\_\_\_\_\_  
Gary Taverman  
Deputy Assistant Secretary  
for Antidumping and Countervailing Duty Operations,  
performing the non-exclusive functions and duties of the  
Assistant Secretary for Enforcement and Compliance

<sup>287</sup> See 19 CFR 351.309(c)(2) and (d)(2).

<sup>288</sup> See 19 CFR 351.310(c).

<sup>289</sup> See 19 CFR 351.303(b)(2)(i).

<sup>290</sup> See 19 CFR 351.303(b)(1).

## Appendix

### Port Hawkesbury

*Programs Preliminarily Determined Not To Provide Measurable Benefits to Port Hawkesbury During the POR*

<b>Program Name</b>
Richmond County (Nova Scotia) Promissory Note for Property Taxes
GNS Provision of Land for More than Adequate Remuneration (MTAR)

*Programs Preliminarily Determined Not To Be Used by Port Hawkesbury During the POR*

<b>Program Name</b>
Financial Assistance to Industry Program (FAIP)
Atlantic Investment Tax Credit
Accelerated Capital Cost Allowance for Class 29 Assets
New Brunswick Research and Development Tax Credit (NB R&D Tax Credit)
Gasoline and Fuel Tax Exemptions and Refunds
The Federal Pulp and Paper Green Transformation Program
Workforce Expansion – One Job Pledge
New Brunswick Large Industrial Renewable Energy Purchase Program
New Brunswick Silviculture Grants
License Management Fee
Ontario Northern Industrial Electricity Rate Program
Ontario Forest Sector Prosperity Fund (FSPF)
New Brunswick Provision of Stumpage to Irving for Less than Adequate Remuneration
NB Energy Rebate Fund/ High Energy Use Property Tax Rebate
Canada – New Brunswick Job Grant Program
New Brunswick Workforce Expansion Program – Youth Employment Fund
Atlantic Canada Opportunities Agency Loan (ACOA) – Atlantic Innovation Fund
ACOA – Business Development Program
GOC NSERC Industrial Undergraduate Student Research Awards (IUSRA)
SERG International
Canada Summer Jobs Program
Apprenticeship Job Creation Tax Credit
Province of Nova Scotia: Efficiency Nova Scotia
JDIL's Reported Grants
Grants from the Total Development Fund to J.D. Irving
Northern New Brunswick Economic Development and Innovation Fund



Government of Canada National Research Council – Industrial Research Assistance Program (IRAP)
GOC National Sciences and Engineering Research Council (NSERC) Industrial R&D Fellowship
Investment in Forest Industry Transformation Program (IFIT)
Forest Workforce Training Grants
New Brunswick Climate Action Fund Grant
Efficiency New Brunswick Industrial Program
Efficiency Commercial Energy Smart Program (New Brunswick)
Nova Scotia Manufacturing and Processing Investment Credit
Province of New Brunswick Forestry Industry Remission Program
New Brunswick Renewable Energy Purchase Program
Powell River City Revitalization Tax Exemption Program
BC Hydro Power Smart Program
TMP Program
Industrial Energy Manager Program
British Columbia Ban on Exports of Logs and Wood Residue
Retention of Accumulated Tax Loss to Carry Forward
Loan Guarantee Program (LGP)
Government of New Brunswick (GNB) Funds for J.D. Irving
British Columbia Municipality Payments to Catalyst
EcoEnergy Efficiency for Industry
Industrial Energy Efficiency Project Implementation Stimulus Program (IEEPIS)
British Columbia Smart Power Program
BC Bioenergy Network Grants
Loan from the Government of New Brunswick
Efficiency New Brunswick Grant
Grants Under the Federal Forestry Industry Transformation Program
Federal Atlantic Innovation Program
Environmental Testing at Crofton Mill
Port Alberni Property and Road Agreement
Transport Canada Marine Security Contribution Program
BC Hydro Power Smart Program – E-Points
BC Hydro Power Smart Program – Payments for Studies and Projects
BC Hydro Power Smart Program – Load Curtailment
BC Hydro Power Smart Program – Commercial Lighting Improvement
British Columbia Provision of Stumpage for LTAR
British Columbia Provision of Wood Products for LTAR
New Brunswick Research and Development Subsidies
The Federal Transformative Technologies Pilot Scale Demonstrative Program

BC Ministry of Forests, Mines and Land Program
BC Bioenergy Network Grants
British Columbia Training Tax Credits
GNS Grants for the Promotion of Forest Management and Sustainable Harvesting Grants
GNS Subsidized Biomass Plant Supplying Steam
Government of Ontario Loan Guarantee Program
Government of Quebec Support for the Forest Industry Program

## Resolute

### *Programs Preliminarily Determined Not To Provide Countervailable Benefits to Resolute During the POR*

<b>Program Name</b>
Scientific Research and Development Tax Credit
ecoENERGY for Renewable Power
Cooperative Education Tax Credit
Chemical Engineer Intern Placement
Quebec Financial Aid for the Development of Private Woodlots
Tax Credits for Investments Relating to Manufacturing and Processing Equipment
Rexforet
Formabois
MFFP Educational Grant
Innovation and Development for the Region of Manicouagan
Refund of Fuel Tax Paid on Fuel Used - Certain Purposes
Tax Incentives for Private Forest Producers - Property Tax Refund for Forest Producers on Private Woodlands in Quebec
Fees and Dues Paid to a Research Consortium
Waste Management Training
GOQ Beta Test Pilot Study
Government of Quebec Support for the Forest Industry Program

### *Programs Preliminarily Determined Not To Be Used by Resolute During the POR*

<b>Program Name</b>
Financial Assistance to Industry Program (FAIP)
GNS Loans for Working Capital
Loans to Improve Productivity and Efficiency (Nova Scotia)
PWCC Indemnity Loan
Atlantic Investment Tax Credit
Accelerated Capital Cost Allowance for Class 29 Assets
New Brunswick Research and Development Tax Credit (NB R&D Tax Credit)
Gasoline and Fuel Tax Exemptions and Refunds
Workforce Expansion – One Job Pledge
New Brunswick Large Industrial Renewable Energy Purchase Program
New Brunswick Silviculture Grants
License Management Fee
GNS Grants for Maintaining Hot Idle Status
Forestry Infrastructure Fund

GNS Grants for the Sustainable Forest Management and Outreach Agreement
GNS Provision of Worker Training and Marketing
New Brunswick Provision of Stumpage to Irving for Less than Adequate Remuneration
Government of Nova Scotia Provision of Stumpage and Biomass Material for Less Than Adequate Remuneration
GNS Preferential Electricity Rate for Port Hawkesbury
NB Energy Rebate Fund/ High Energy Use Property Tax Rebate
Canada – New Brunswick Job Grant Program
New Brunswick Workforce Expansion Program – Youth Employment Fund
Atlantic Canada Opportunities Agency Loan (ACOA) – Atlantic Innovation Fund
ACOA – Business Development Program
GOC NSERC Industrial Undergraduate Student Research Awards (IUSRA)
SERG International
Canada Summer Jobs Program
Apprenticeship Job Creation Tax Credit
Province of Nova Scotia: Efficiency Nova Scotia
JDIL's Reported Grants
Grants from the Total Development Fund to J.D. Irving
Northern New Brunswick Economic Development and Innovation Fund
Government of Canada National Research Council – Industrial Research Assistance Program (IRAP)
Investment in Forest Industry Transformation Program (IFIT)
Forest Workforce Training Grants
New Brunswick Climate Action Fund Grant
Efficiency New Brunswick Industrial Program
Efficiency Commercial Energy Smart Program (New Brunswick)
Nova Scotia Manufacturing and Processing Investment Credit
Province of New Brunswick Forestry Industry Remission Program
Richmond County (Nova Scotia) Promissory Note for Property Taxes
New Brunswick Renewable Energy Purchase Program
Powell River City Revitalization Tax Exemption Program
BC Hydro Power Smart Program
TMP Program
Industrial Energy Manager Program
British Columbia Ban on Exports of Logs and Wood Residue
Retention of Accumulated Tax Loss to Carry Forward
Loan Guarantee Program (LGP)
Government of New Brunswick (GNB) Funds for J.D. Irving
British Columbia Municipality Payments to Catalyst

EcoEnergy Efficiency for Industry
Industrial Energy Efficiency Project Implementation Stimulus Program (IEEPIS)
British Columbia Smart Power Program
BC Bioenergy Network Grants
Loan from the Government of New Brunswick
Efficiency New Brunswick Grant
Grants Under the Federal Forestry Industry Transformation Program
Federal Atlantic Innovation Program
Environmental Testing at Crofton Mill
Port Alberni Property and Road Agreement
Transport Canada Marine Security Contribution Program
BC Hydro Power Smart Program – E-Points
BC Hydro Power Smart Program – Payments for Studies and Projects
BC Hydro Power Smart Program – Load Curtailment
BC Hydro Power Smart Program – Commercial Lighting Improvement
British Columbia Provision of Stumpage for LTAR
British Columbia Provision of Wood Products for LTAR
New Brunswick Research and Development Subsidies
The Federal Transformative Technologies Pilot Scale Demonstrative Program
Retention of Accumulated Tax Loss to Carry Forward
BC Ministry of Forests, Mines and Land Program
BC Bioenergy Network Grants
British Columbia Training Tax Credits
GNS Grants for the Promotion of Forest Management and Sustainable Harvesting Grants
GNS Subsidized Biomass Plant Supplying Steam
GNS Provision of Land for More than Adequate Remuneration (MTAR)
Government of Ontario Loan Guarantee Program

## Irving

*Programs Preliminarily Determined Not To Provide Countervailable Benefits to Irving During the POR*

<b>Program Name</b>
Atlantic Canada Opportunities Agency Loan (ACOA) – Atlantic Innovation Fund
ACOA – Business Development Program
GOC NSERC Industrial Undergraduate Student Research Awards (IUSRA)
SERG International
Canada Summer Jobs Program
Apprenticeship Job Creation Tax Credit
Province of Nova Scotia: Efficiency Nova Scotia
JDIL's Reported Grants

*Programs Preliminarily Determined Not To Be Used by Irving During the POR*

<b>Program Name</b>
GNS Loans for Working Capital
Loans to Improve Productivity and Efficiency (Nova Scotia)
PWCC Indemnity Loan
GNS Grants for Maintaining Hot Idle Status
Forestry Infrastructure Fund
GNS Grants for the Sustainable Forest Management and Outreach Agreement
GNS Provision of Worker Training and Marketing
Ontario Northern Industrial Electricity Rate Program
Ontario Forest Sector Prosperity Fund (FSPF)
Government of Nova Scotia Provision of Stumpage and Biomass Material for Less Than Adequate Remuneration
GNS Preferential Electricity Rate for Port Hawkesbury
Grants from the Total Development Fund to J.D. Irving
Northern New Brunswick Economic Development and Innovation Fund
Government of Canada National Research Council – Industrial Research Assistance Program (IRAP)
GOC National Sciences and Engineering Research Council (NSERC) Industrial R&D Fellowship
Investment in Forest Industry Transformation Program (IFIT)
Forest Workforce Training Grants
New Brunswick Climate Action Fund Grant
Efficiency New Brunswick Industrial Program
Efficiency Commercial Energy Smart Program (New Brunswick)

Nova Scotia Manufacturing and Processing Investment Credit
Province of New Brunswick Forestry Industry Remission Program
Richmond County (Nova Scotia) Promissory Note for Property Taxes
New Brunswick Renewable Energy Purchase Program
Powell River City Revitalization Tax Exemption Program
BC Hydro Power Smart Program
TMP Program
Industrial Energy Manager Program
British Columbia Ban on Exports of Logs and Wood Residue
Retention of Accumulated Tax Loss to Carry Forward
Loan Guarantee Program (LGP)
Government of New Brunswick (GNB) Funds for J.D. Irving
British Columbia Municipality Payments to Catalyst
EcoEnergy Efficiency for Industry
Industrial Energy Efficiency Project Implementation Stimulus Program (IEEPIS)
British Columbia Smart Power Program
BC Bioenergy Network Grants
Loan from the Government of New Brunswick
Efficiency New Brunswick Grant
Grants Under the Federal Forestry Industry Transformation Program
Federal Atlantic Innovation Program
Environmental Testing at Crofton Mill
Port Alberni Property and Road Agreement
Transport Canada Marine Security Contribution Program
BC Hydro Power Smart Program – E-Points
BC Hydro Power Smart Program – Payments for Studies and Projects
BC Hydro Power Smart Program – Load Curtailment
BC Hydro Power Smart Program – Commercial Lighting Improvement
British Columbia Provision of Stumpage for LTAR
British Columbia Provision of Wood Products for LTAR
New Brunswick Research and Development Subsidies
The Federal Transformative Technologies Pilot Scale Demonstrative Program
Retention of Accumulated Tax Loss to Carry Forward
BC Ministry of Forests, Mines and Land Program
BC Bioenergy Network Grants
British Columbia Training Tax Credits
GNS Grants for the Promotion of Forest Management and Sustainable Harvesting Grants
GNS Subsidized Biomass Plant Supplying Steam
GNS Provision of Land for More than Adequate Remuneration (MTAR)

Government of Ontario Loan Guarantee Program
Government of Quebec Support for the Forest Industry Program