

# GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

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Committee on Subsidies and  
Countervailing Measures

REQUEST FOR CONCILIATION UNDER ARTICLE 17  
OF THE AGREEMENT

Communication from Canada

The following communication dated 15 February 1983 has been received from the Permanent Mission of Canada.

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On 27 October, 1982, the U.S. Department of Commerce initiated countervailing duties investigations against imports from Canada of softwood lumber, shakes and shingles and fencing following receipt of a petition submitted by the U.S. Coalition for Fair Canadian Lumber Imports representing certain U.S. producers. The petitioner's complaint alleges in particular that provincial stumpage practices in Canada convey a subsidy to Canadian producers in the order of 60 - 65 per cent. The Canadian authorities reject these allegations as unfounded.

Consultations last October with the United States failed to have the complaint dismissed by Department of Commerce officials. The Canadian representative at the October 27 meeting of the Committee on Subsidies and Countervailing Duties also signalled the seriousness of the issue and indicated Canada's intention to pursue the matter further as necessary. Further bilateral consultations with the U.S. under Article 3 of the Code did not resolve the basic differences of view between the two governments. The U.S. is scheduled to make a preliminary subsidy determination by March 7.

Canadian lumber exports to the U.S. are valued at almost two billion dollars per annum and represent Canada's third largest export to that country. The forest industries in Canada are already heavily affected by the current recession, suffering from high unemployment, financial losses and sharply reduced production and exports. Various provincial economies are closely tied to their forest industries.

In view of the critical importance to Canada of its wood product exports and the possibility that the U.S. will make a positive preliminary determination of subsidization regarding provincial stumpage practices which could have a severe effect on Canada's economic well-being, Canadian authorities request conciliation pursuant to Article 17 of the Code on the issue of Canadian stumpage practices. In order that signatories may have an understanding of the facts involved, the Canadian authorities have annexed a copy of a Note sent to the United States on 7 January 1983.

NOTE

The Embassy of Canada presents its compliments to the Department of State and wishes to express its serious concern over the countervailing duty action which has been brought by certain members of the U.S. softwood products industry against imports of softwood lumber, shakes, shingles and fencing from Canada.

The petition submitted by the United States Coalition for Fair Canadian Lumber Imports alleges that the federal and provincial governments in Canada subsidize, directly and indirectly, the Canadian softwood lumber, shakes and shingles and fencing industries through a variety of programs and practices. It is further claimed that these alleged subsidies are causing injury to U.S. producers of the products in question. In the view of the Canadian authorities, these allegations have neither substance nor merit.

Particular emphasis has been laid by the petitioners on provincial stumpage charges. As the U.S. authorities will be aware, there is no international norm governing charges for stumpage nor is there any international stumpage market. Practices vary widely from country to country, and even within countries, depending on the ownership of the timber, its type and quality, its accessibility, the obligations required of the harvester and a broad range of other factors. This is the case as between Canada and the United States and as among individual states and provinces.

In Canada, the methods used by provincial governments to assess charges for crown stumpage have generally been determined within the contractual conditions of long-term forest tenure arrangements entered into between the provinces and private companies. These arrangements usually confer on the applicant the right to harvest a particular forest area within sustainable annual limits in return for the applicant's acceptance of specified forest management obligations and the payment of stumpage when these cutting rights are exercised. As already noted, arrangements may vary widely among provinces and even within provinces to reflect differences in timber quality, harvesting conditions and other considerations. In all cases, however, the underlying objectives are similar. They are to generate revenue from the sale of timber, to ensure the maintenance of an effective system of forest management, and to encourage the long-term and integrated development of industries based on these resources.

In seeking the imposition of countervailing duties, the petitioners propose that such duties should include the difference between the stumpage price actually paid by Canadian mills and its alleged true market value. In a North American market, they suggest,

this value should be the price established by the auctioning of timber on certain public lands in the United States. The Canadian authorities can see no grounds whatsoever for this position. In many cases, the values so established in the United States have been based on little more than speculation regarding the level of future demand and of future prices. They have also been subject, in some instances, as was pointed out in the U.S. International Trade Commission's report to the Senate Finance Committee last spring, to non-commercial considerations such as the effect of high stumpage prices on the rate of tax payable. The U.S. forest industry itself has acknowledged that the auction system over the past several years has resulted in prices far above what might be considered economic in today's depressed market and it is noteworthy that current bids are considerably lower. The situation has already caused serious problems and pressure is being brought to bear in Congress for appropriate legislative changes. In view of this, and of the fact that the auction system is only one of many methods used to establish stumpage in the United States, it scarcely seems reasonable to suggest that such a system should be applied in Canada as well or that the difference between Canadian prices and U.S. auction prices should be used as a measure of subsidization.

In general terms, there are four main reasons why Canadian stumpage practices cannot be held to constitute a subsidy:

1. Unlike the United States, the overwhelming proportion of forest resources in Canada is owned by the governments of the provinces in which they are located. Where forest lands are held privately, they are generally not available for stumpage sale. In offering these resources, the government is accordingly not providing the operator with timber which might otherwise have been supplied by private owners or at prices lower than some presumed market value.
2. The resources are available to all potential operators on a similar basis, regardless of whether the industry concerned is producing softwood lumber, hardwood lumber, pulp and paper, shingles and shakes, wood chips, fencing, veneer or any other products, and regardless of whether it is producing for domestic consumption or for export.
3. The fees collected by provincial governments in the form of stumpage together with the downstream benefits of forest management - environmental, recreational or otherwise - more than compensate for any costs incurred in acquiring and maintaining these resources.
4. Although these fees are established by provincial governments, they are periodically adjusted to reflect changing commercial conditions.

In addition to stumpage, a broad range of other federal and provincial programs have been the subject of complaint by the petitioners. In a number of cases, the facts presented are quite erroneous and show a complete misunderstanding of the situation described. With regard to the remaining programs, it might be noted that the greater proportion are not designed to benefit any particular industry but are generally available to qualified enterprises of every kind. Those few which deal specifically with the forest products sector are largely concerned with the efficient management and regeneration of the resource, being comparable in this respect with the activities of a number of U.S. federal and state agencies.

With regard to the allegations that imports from Canada are injuring those U.S. industries producing softwood lumber, shingles, shingles and fencing, it should be noted that, under the GATT Code on Subsidies and Countervailing Duties, such injury must be material and must be causally linked to the subsidized imports. The Canadian authorities recognize that the various forest products industries in the United States, as in Canada, are currently facing serious difficulties. In both countries, however, the main reason for these difficulties is the steep decline in housing starts. Canadian production of softwood lumber, for example, was some 12 percent less in volume terms in 1981 than that in the previous year and fell a further 7 percent during the first eight months of 1982. Much the same situation applies to the other forest industries and many mills across Canada have already had to close or substantially cut back their operations.

Although Canadian supplies have gained a slightly larger share of the U.S. market in recent years, this has been entirely due to such competitive factors as the decline in the value of the Canadian dollar and the fact that, in certain areas of the U.S. market, uneconomic stumpage prices were bid in the late 1970's in expectation of a growth in demand and a rate of inflation that failed to materialize. It should be noted that, in volume terms, Canadian shipments to the United States have actually declined, with exports during the first nine months of 1982 at a level roughly one-third below that reached just three years previously.

Forest products have for many years been among the most important items of trade between Canada and the United States. Traditionally the United States has been a net importer, due in large part to the fact that U.S. domestic demand often exceeds available U.S. supply. In Canada, by contrast, supplies of economically harvestable timber significantly exceed domestic demand. Exports have accordingly accounted for a large share of Canadian production. Most of these have gone to the United States where, among other things, they have made a major contribution to the U.S. housing and construction industries which, under normal market conditions, rely on Canadian imports to fill the gap and to maintain a reasonable level of costs when the domestic product is in tight supply.

Despite the falling market, Canada's exports to the United States of softwood lumber alone were valued last year at nearly \$2 billion, a figure exceeded in our cross-border trade only by automotive products and pulp and paper. Any restrictions on a trade of this magnitude would obviously have to be considered as a very serious matter. The forest products industries in Canada are of vital importance to hundreds of communities across the country, many of which have no other source of income or employment and would find it difficult to survive without them. The sale of their products in the United States, furthermore, has helped for many years to fill demands in that country that, in normal circumstances, could not otherwise be met. Such supplies are likely to be of even greater importance to the United States in the future.

The Canadian authorities would hope that, in carrying out their investigation, the U.S. authorities will bear in mind these broader implications, as well as the extremely serious effect that any disruption of so important a segment of our trade would inevitably have on the mutually beneficial relationship that has existed so long between our two countries. Consideration should also be given to the precedent which would be established if all regulated prices for raw materials and other production inputs were to be vulnerable per se to charges of government subsidization. U.S. exports could well be affected by such a precedent. For example, exports of petrochemicals would be put at risk through the regulation of natural gas prices, agricultural products through the pricing of water and grazing rights, and manufactured goods of all description through regulated utility rates.

Should the need arise in the course of the investigation, the Canadian authorities would be pleased to consult or to provide whatever further information might be considered useful.