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July 25, 2003

Mr. Grant D. Aldonas  
Under Secretary for International Trade  
Central Records Unit  
Room 1870  
U.S. Department of Commerce  
Pennsylvania Avenue and 14<sup>th</sup> Street, NW  
Washington, DC 20230

Attn: Softwood Lumber Policy Bulletin.

Re: Policies Regarding the Conduct of Changed Circumstance Reviews of the Countervailing  
Duty Order on Softwood Lumber From Canada (C-122-839)

Dear Mr. Secretary:

The following comments to the Department's Softwood Lumber Policy Bulletin are filed on  
behalf of the following four labor unions and two labor federations from the United States and Canada:

Paper, Allied-Industrial, Chemical & Energy Workers (PACE) International Union,  
3340 Perimeter Hill Drive or P.O. Box 1475  
Nashville, TN 37211 Nashville, TN 37202  
Attn: Keith Romig 615-834-8590

Communications, Energy and Paperworkers Union of Canada (CEP)  
301 Laurier Ave W.  
Ottawa, ON  
K 1P 6M6  
Canada  
Attn: Fred Wilson 613-230-5200

International Association of Machinists and Aerospace Workers (IAMAW)  
Woodworkers Department  
9000 Machinists Place

Upper Marlboro, MD 20772  
Attn: Rod Kelty 301-967-4555

Industrial, Wood and Allied Workers Union of Canada (IWA)  
300-3920 Norland Avenue  
Burnaby, BC  
V 5G 4K7  
Canada  
Attn: Scott Lunny 604-683-1117

Canadian Labour Congress (CLC)  
2841 Riverside Drive  
Ottawa, ON  
K 1V 8X7  
Canada  
Attn: Cliff Andstein or Jean Wolff 613-526-7405

American Federation of Labor-Congress of Industrial Organizations (AFL-CIO)  
Public Policy Department  
815-16th Street, NW  
Washington, DC 20006  
Attn: Thea Lee 202-637-3907

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Dear Mr. Secretary:

The following comments are made jointly by the four labor unions and two labor federations  
from the United States and Canada listed below:

Paper, Allied-Industrial, Chemical & Energy Workers (PACE) International Union,  
3340 Perimeter Hill Drive      or      P.O. Box 1475  
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American Federation of Labor-Congress of Industrial Organizations (AFL-CIO)  
Public Policy Department  
815-16th Street, NW  
Washington, DC 20006

If you have any questions concerning these comments please contact the undersigned or the individual organizations.

Respectfully submitted,

Philip H. Potter  
Counsel for PACE and the  
Cross-Border Union Coalition

## ***Exhibit B***

### **EMBARGOED FOR RELEASE:**

**5:00 PM ET, JANUARY 27, 2003**

#### ***UNION CONTACTS:***

CEP – Fred Wilson 613-230-5200

IWA – Scott Lunny 604-683-1117

CLC – Cliff Andstein 613-526-7405

IAMAW – Rod Kelty 301-967-4555

PACE – Keith Romig 615-834-8590

AFL-CIO – Thea Lee 202-637-3907

### **Labor Organizations Create a Joint Labor Proposal to Resolve U.S. – Canadian Dispute over Softwood Lumber**

The following statement is from the Communications, Energy and Paperworkers Union of Canada (CEP); Industrial, Wood and Allied Workers Union of Canada (IWA); Canadian Labour Congress (CLC); International Association of Machinists and Aerospace Workers (IAMAW); Paper, Allied-Industrial, Chemical & Energy Workers (PACE) International Union; and the American Federation of Labor-Congress of Industrial Organizations (AFL-CIO).

**Nashville, Tenn.—January 27, 2003**—Four labor unions and two labor federations from the U.S. and Canada developed a plan to help resolve the Softwood Lumber dispute.

Representing tens of thousands of workers in logging and lumber mills in Canada and the U.S., the unions and their national federations developed a Joint Labor Proposal that presented a clear set of principles on which to resolve this dispute. It represents the only multi-party, cross-border agreement on a solution by any of the principal parties to the dispute.

The unions and labor federations that developed the proposal are the Communications, Energy and Paperworkers Union of Canada (CEP); Industrial, Wood and Allied Workers Union of Canada (IWA); Canadian Labour Congress (CLC); International Association of Machinists and Aerospace Workers (IAMAW); Paper, Allied-Industrial, Chemical & Energy Workers (PACE) International Union; and the American Federation of Labor-Congress of Industrial Organizations (AFL-CIO).

In the eight months since the U.S. imposed subsidy and dumping duties against Canadian lumber, none of the federal or provincial governments nor the industry representatives have yet found a way to resolve the Softwood Lumber dispute, and thousands of workers – union and non-union – have continued to lose their jobs on both sides of the border. The duties are not working to anyone's benefit. Workers are being asked to sacrifice jobs at one plant to save jobs at another – a beggar-thy-neighbor process that is inflicting hardship on workers, their families, their communities and the companies they work for.

Not all of the members of these unions and their leaders agree on the appropriateness of the subsidy cases, or whether the duties were right or wrong. However, they agree the dispute is costing jobs on both sides of the border, that the debate over who is right and wrong must end, and that the job losses must be stopped and stabilized before more harm is done. Foreign countries are moving in to take

advantage of this impasse and to increase their exports to the U.S., which will take more jobs away from North American workers. Action must be taken quickly.

The objective of the Joint Labor Proposal is to stabilize the North American timber market with graduated export taxes to increase production when lumber prices get too high and reduce it when prices get too low. Provinces may, at their option, modify timber fees as a substitute for all or part of the export tax. This should reduce volatility and stabilize jobs in both Canada and the U.S.

The Joint Labor Proposal allows each Canadian province the option to make changes or not in its timber programs, so long as there is a mandatory graduated Canadian federal export tax that replaces the U.S. duties, or a voluntary provincial timber fee put in place that would have the equivalent effect of the tax. This will allow the provinces to manage their timber resources to meet social as well as economic objectives as they choose, and allow Canadian and U.S. companies to compete fairly on lumber sales.

As proposed by Under Secretary of Commerce Grant Aldonas, the only way to end U.S. duties is to require Canadian provinces to hold substantial timber auctions and export logs. The Aldonas proposal is textbook free-market theory, but is not a realistic solution to this trade dilemma. It would take years at best to achieve. Mr. Aldonas stated to the press that the U.S. is willing to accept an export tax as a substitute for the subsidy duties, until the provinces comply with the required changes in their timber programs, but offers no practical means to achieve that result.

The unions believe the Joint Labor Proposal offers a way to reach a lasting solution and stop the pain of job loss now. The proposal expands on the export tax approach and offers more flexible and realistic options to the Canadian provinces to resolve the dispute and end the duties. The provinces may voluntarily change the timber fees or the fee structures, which would be a basis for replacement, modification or termination of the export tax. The Joint Labor Proposal also recognizes the need to make adjustments in export taxes or timber fees if there are significant changes in exchange rates.

The unions recognize that the governments must negotiate the exact range of tax rates and brackets for the export tax. The parties are not so far apart on the numbers, and if the principles in the Joint Labor Proposal are adopted, labor believes an agreement could be reached rather quickly. The unions have not tried to set those numbers in advance. They also propose a bilateral commission of government, industry and labor representatives to develop joint marketing proposals for North American wood products to increase North American markets and develop new markets overseas. This commission could address other issues as well.

If these Canadian and U.S. unions can set aside their differences to come together to develop a realistic solution, surely the governments and industry interests can do the same. Labor believes most of the parties truly want a solution. The unions are prepared to work with the governments and industry groups from both countries to find a fair and prompt solution to this dispute, and they believe the Joint Labor Proposal provides a strong base to start that process.

***Exhibit A***  
**PRINCIPLES FOR JOINT LABOR PROPOSAL TO  
RESOLVE THE SOFTWOOD LUMBER DISPUTE**

The current softwood lumber duties and the previous softwood lumber quota agreement, do not provide a satisfactory long-term solution for workers on either side of the border;

The workers, consumers and the communities dependent on these jobs, have a strong interest in reaching a mutually agreeable long-term solution;

The undersigned unions from the U.S. and Canada, whose members' jobs are being lost due to this trade dispute, propose that the respective governments negotiate an agreement based on the following measures:

1. A mandatory, graduated export tax, collected by Canada, that decreases as the price of lumber increases, in lieu of current subsidy and anti-dumping duties assessed by the United States. In the event of significant changes in currency values, the export tax would be modified to incorporate these value shifts.
2. The tax would remain in place unless or until modified or terminated by mutual agreement of the United States and Canada. In the event that Canadian provinces determine, at their option and by their own decisions, to change timber fees and/or timber fee structures to develop a more stable and sustainable North American market, this would be a basis for replacement, modification or termination of the tax.
3. Creation of a U.S. – Canada bilateral panel consisting of representatives of governments, industry and labour with the purpose of developing plans to jointly market North American wood products to:
  - a) Increase the size of the North American market for wood products, and;
  - b) Increase exports and develop new markets for North American wood product exports.

Communications, Energy and Paperworkers  
Union of Canada

International Association of Machinists and  
Aerospace Workers

Industrial, Wood and Allied Workers  
Union of Canada

PACE International Union (Paper, Allied-  
Industrial, Chemical and Energy Workers)

Canadian Labour Congress

American Federation of Labor-Congress of  
Industrial Organizations

## **“I. Standard for a Market-Based Timber Sales System”**

Summary of the Comments: Abrupt, or even timely, elimination of enumerated provincial practices and policies as a pre-requisite to a changed circumstances review for each province will cause substantial disruption for mills, workers and affected communities on both sides of the border.

It is probable that some provinces will not qualify for changed circumstances, with the result that some provinces could be free from CVD orders and export taxes, while others are not; and such asymmetrical results will create unintended distortions and trade shifts that will cause more disruption and hardship which must be addressed as part of any resolution of this dispute.

The Policy Bulletin now provides the U.S. and Canadian governments with the elements to develop an interim reference pricing model for the provinces to use in the near term to adjust their prices for timber sales, ensure that they receive adequate remuneration, and resolve this dispute long term.

### Comments to “I. Standard for a Market-Based Timber Sales System”:

The standards set for establishment of a market-based timber sales system require elimination of enumerated provincial practices and policies as a pre-requisite to a changed circumstances review and revocation of CVD orders separately for each province. Abrupt, or even timely, elimination of all of these programs by each and every province will cause substantial disruption for mills, workers and affected communities on both sides of the border. It is probable that some provinces will not qualify for changed circumstances, with the result that some provinces could be free from CVD orders and export taxes, while others are not. Such asymmetrical results will create distortions and trade shifts that will cause more disruption and hardship. Such losses from the solution may be as bad or worse than those now being caused by the dispute.

The resulting mill closures, job losses and community hardships will generate sufficient political opposition so that it is unlikely that the enumerated practices and policies will be eliminated or adequately modified by all the provinces within a reasonable time to meet the standards set out in the Bulletin. Thus, there would be no changed circumstances review for all the provinces, and thus no resolution of the dispute.

The unintended consequences of these disruptions must be addressed as part of any solution. If the two federal governments do not manage this solution to avoid or minimize these losses, then it is probable that some provinces will opt out of the solution and take half-measures that cause less disruption, but do not ultimately qualify for changed circumstances review and revocation of CVD.

There is a distinct possibility that setting the standards for elimination of these programs as a pre-requisite to changed circumstances review will cause the whole approach to fail. There are alternative reference pricing measures presented in the Policy Bulletin that can be developed by the two



governments to be used by the provinces to adequately price timber sales. An agreement to that effect by the two governments could be administered and enforced and would not require changed circumstances reviews for all provinces as the only means to resolve the dispute.

The U.S. and Canadian unions filing this joint statement note that while litigation continues, there are more job losses on both sides of the border. This cross-border coalition of unions are convinced and agree that continued litigation offers no effective resolution of the dispute, and the losses are likely to continue unless the dispute is resolved in a way that is acceptable on both sides of the border. Likewise, the solution proposed by the DOC Policy bulletin offers no way to achieve it, runs a high risk of becoming self-defeating, and thus will not resolve the dispute. This cross-border union coalition has previously proposed a more certain and achievable way to resolve the dispute.

Last January, this cross-border union coalition issued a joint proposal to resolve this dispute based on a set of principles. Those principles and the accompanying press release are attached as Exhibit A and B, respectively, to these comments. It proposed a mandatory, graduated export tax that decreases as the price of lumber increases. It could be adjusted for significant changes in exchange rates. This is still a better approach than quotas, or a tariff rate quota type tax with limits on market share, which is now being proposed. It is less susceptible to distortions over time. It also proposed that the provinces, at their option, could raise their timber fees, which is the core of the dispute, which would be a basis for replacement, modification or termination of the tax.

The Policy Bulletin now provides the means to develop a reference pricing model for the provinces to use on an interim basis to adjust their prices for timber sales to ensure that they receive adequate remuneration. We are proposing that this reference pricing model be established as an interim step, and that the two federal governments agree on a process to review such prices to ensure that they reflect adequate remuneration to the provinces. These prices could be phased in and offset the export tax on a pro rata basis, to minimize the inevitable disruption from such taxes, particularly if they are based on quotas.

With adequate timber pricing systems in place, provinces should be allowed to address any changes in other timber programs, as and when they determine. Both governments could cooperate to establish more market alternatives for reference prices, and to ensure that the timber prices “equilibrate” timber valuations on a North American basis. We also proposed creation of a U.S. – Canadian bilateral panel to develop joint marketing plans for North American wood products to increase the size of the North American market, and to develop new markets to increase exports of North American wood products. We believe this would provide a sustainable, and long-term resolution to this dispute. It provides the basis for a specific and enforceable bilateral trade agreement between the U.S. and Canada.

## **“General Statement of Policy”**

Summary of the Comments: The only solution offered by the DOC Policy Bulletin is a changed circumstances review to revoke the CVD order, which review must meet specific standards and which standards are unlikely to be met, leaving the parties with no resolution of the dispute.

Inadequate provincial pricing of timber sales is the gravamen of this dispute, is unlikely to be resolved adequately, or in a consistent and timely manner, by each province creating reference pricing markets as proposed, and, therefore, an agreement to establish interim reference pricing programs for timber sales by each province should be developed, administered and enforced by the two governments in the near term to assist in resolving the dispute.

Asymmetrical revocation of CVD and termination of the export tax will cause shifts in trade and distortions and disruptions to mills, workers and communities on both sides of the border, which should be avoided and minimized.

### Comments to “General Statement of Policy”:

DOC has proposed a single solution to resolve this dispute province-by-province, which solution is unlikely to be achieved by each and every province. It sets the pre-requisite that each Canadian province change its timber pricing, policies and practices “to move to market-based systems of timber sales that ensure that the provinces receive adequate remuneration for their sales of standing timber to Canadian producers of softwood lumber”. That requires that the provinces (1) eliminate enumerated timber policies and practices that inhibit such change, and (2) price standing timber on provincial lands by reference to prices established in “an open and competitive, independently functioning market for sales of standing timber or logs”, which, by definition, does not now appear to adequately exist. (See “I. Standard for a Market-Based Timber Sales System” below.)

The ultimate test of any solution to resolve this dispute is whether the solution is achievable. At best, the approach proposed by the Policy Bulletin will take many years and be done in a very uneven and distorted manner. The gravamen of this dispute is the provincial pricing of timber sales. DOC wants to “equilibrate” those prices in the North American market. The Policy Bulletin offers only one way to achieve such pricing. It requires each Canadian provincial government to create additional market conditions to replace government administered programs. The Bulletin describes several forms of market-based reference prices which are to be used to set provincial administered prices. This process is to be done with no participation by either the Canadian or U.S. federal governments to assure that a consistent and timely pricing result is achieved in the near term. It will be reviewed only after the fact by the U.S. government, and that may not come for years.

Given the political opposition to these cases and the scope of the required changes to long-standing timber programs, it is highly unlikely that all of the provinces will achieve the required reforms,

much less with any consistency or on a timely basis. The U.S. and Canadian federal governments should, therefore, assist in resolving the dispute in the near term by agreeing to develop, administer and enforce interim reference pricing programs by the provinces.

The elements for an interim reference pricing program are presented in the Policy Bulletin. An agreement to establish such pricing programs by each province can be developed, administered and enforced by the two governments. We recognize there will be resistance to the governments developing the methodology for the provinces to administer such reference prices, and for the two federal governments to review those prices to assure they provide adequate remuneration to the provinces for their timber sales. However, without such an interim program, there is almost no possibility that this dispute can be resolved any time soon. We will all be relegated to interminable litigation, and on behalf of both union and non-union workers, we find such a result unacceptable.

There is another serious problem likely to arise under the approach proposed by the Policy Bulletin that is not addressed. If one or more provinces eliminate these programs, in whole or in part, sufficient to earn the changed circumstances review and revocation of CVD by the DOC, but others do not, then distortions in trade and pricing will set in. The tariff rate quota export tax system being proposed will become more distorted as some provinces are released from the CVD and the quota system. If an overall market share for all of Canada is imposed as part of the export tax, as is being discussed, then those provinces which are unrestrained by the CVD or the export tax can expand market share at the expense of those provinces that remain covered.

Perhaps the DOC assumes this will create competition between the provinces to get out from under the CVD and export tax restraints. If that occurs, it is unlikely to do so uniformly or concurrently, and will create even more disruption and hardship on some mills, workers and communities. Both governments have a duty to administer a resolution of the dispute in a manner that avoids or minimizes such disruptions and losses. The two governments should not put workers in the position of sacrificing jobs on one side of the border to save jobs on the other side.

The cross-border union coalition urges that the solution be focused on the core of the dispute – provincial pricing of timber sales for less than adequate remuneration. The governments should assist in establishing adequate timber pricing and reference pricing models, in addition to an interim graduated lumber export tax based on prices, rather than quotas or market share. The mechanism should allow higher timber prices to be phased in to offset export taxes on a pro rata basis. Provinces should be allowed to modify their timber programs as they see fit, and not have elimination of all such programs linked to the reference pricing mechanism as a pre-requisite to any relief or resolution of this dispute.

## **“Purpose of the Policy Bulletin”**

Summary of the Comments: Assuming the two governments agree to an interim measure for some form of export tax with an overall market share for Canadian lumber, the Policy Bulletin still does not provide a process or an adequate incentive to achieve the purpose stated, i.e. to move the Canadian provinces to market-based timber sales based on “reference prices” that ensure “adequate remuneration” – there is no way proposed to get there from here.

The requirement to first eliminate enumerated provincial practices and policies, in addition to meeting the pricing standard for timber sales, in order to fulfill the changed circumstances standards, if done abruptly or even on a timely basis before a quota-based export tax breaks down, will create the unintended consequences of substantial hardship and disruption for mills, workers and affected communities on both sides of the border, and such disruptions should be avoided or minimized.

There must be a transition process – such as using just the proposed reference pricing model for provincial timber sales on an interim basis – to gradually allow timber valuations in the North American market to “equilibrate” which will resolve the core dispute, and each province must be allowed to address its timber management practices and policies separately over time as it sees fit, without use of actionable subsidies, in order to minimize disruption and job losses.

### Comments to “Purpose of the Policy Bulletin”:

There is no realistic way proposed to achieve the stated Purpose of the Policy Bulletin, i.e. to move the Canadian provinces to market-based timber sales based on “reference prices” that ensure “adequate remuneration” and which “equilibrate” timber valuations in a North American market. This cross-border union coalition does not object to that purpose per se, but the Policy Bulletin provides no realistic way to achieve it. Since most of the standing timber will continue to be owned and sold by the provinces, alternate markets with adequate reference prices are unlikely to develop on their own. The British Columbia government’s current attempt to withdraw 20 percent of tenure in order to create timber auction markets that meet the Policy Bulletin standard is proving to be very complicated with no decisive actions possible for at least two years. Other Canadian provinces have been very careful to make few public commitments, and no other Canadian jurisdictions have made any statement suggesting significant policy changes.

The DOC Policy Bulletin requires that all provincial programs must be eliminated and markets for adequate reference prices established before DOC will terminate the countervailing duty orders under a changed circumstances review. (See “General Statement of Policy” and “I. Standard for a Market-Based Timber Sales System” below.) This is the only solution offered to resolve this dispute. Reliance on some form of political and economic osmosis in the Canadian provinces to establish adequate markets and acceptable reference prices, and to eliminate specified provincial timber practices, with no direct participation by the U.S. or Canadian governments, may take too long to be of

any practical value in resolving this dispute.

Both the U.S. and Canadian governments need to consider alternative measures to assist provinces in pricing timber sales against “reference prices” to “equilibrate” timber valuations on an interim basis, and thereby, phase out the export tax pro rata. This would also allow each province to address changes to its other timber programs in its own way, and remove a major obstacle to resolving this dispute.

The core of this dispute is the determination by the U.S. Department of Commerce (DOC) that the Canadian provinces provide a subsidy to their lumber producers by selling timber for less than adequate remuneration. It is, therefore, the provincial pricing of timber sales that must be addressed decisively to resolve this dispute.

The DOC objective is to “equilibrate” such prices for timber sales on both sides of the border. To do that, there must be a pricing methodology adopted and enforced by both governments. That methodology is available and contained in the “reference pricing” approach proposed in the DOC Policy Bulletin. There will have to be a transition program in which the governments review and approve such pricing until there are sufficient reference markets operating on their own. How those markets are developed in both Canada and the U.S. is a matter to be pursued separately by each government. How provincial, state and federal government timber management programs are operated should be determined separately by each government, and elimination of existing provincial timber programs, in and of themselves, should not be a prerequisite to resolving this dispute. Such a prerequisite means the dispute will never be resolved.