

**JAN CHRISTIANSEN**  
**700, 550 Victoria Street**  
**Prince George, British Columbia**  
**V2L 2K1, Canada**  
**Telephone (250) 565-8000**  
**janchr1@telus.net**

August 19, 2003

**VIA LOOMIS COURIER**

**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, USA

**ATTENTION:** Softwood Lumber Policy Bulletin

Dear Sir:

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

**Rebuttal to comments by the Petitioners**

I am writing in rebuttal to the comments by the Petitioners on the proposed policies for conduct of changed circumstances reviews. My comments reflect my personal views.

The Petitioners' comments<sup>1</sup> contain a number of inconsistent arguments and positions which strongly suggests that the Petitioners do not have a principled, coherent, position to take on the issues. In the end the Petitioners seem to be saying that B.C. should nationalize most of its forest industry, seizing tenure and compensating the existing companies only for the remaining un-depreciated cost of capital

---

<sup>1</sup> All citations will be to the comments by the Petitioners as posted on the Web.

improvements on the particular areas taken back<sup>2</sup>, and then auction the allowable cut off in small volume, short term, timber sales. Such a program of nationalization would be contrary to the basic principles of any country that believes in free markets and the rule of law.

### **Minimum harvest**

The Petitioners object to, among other policies, minimum cut requirements.<sup>3</sup> They demand “that regulatory mechanisms that inhibit the industry’s ability to respond to changes in the marketplace”<sup>4</sup> must be eliminated “as a **prerequisite** for entry to the CCR process”.<sup>5</sup> (emphasis added)

The Petitioners then, inconsistently, complain that BC “maintained generous harvest bands: companies were required to maintain harvesting of at least 50% and up to 150% of their annual allowable cut (‘AAC’) in any given year and within 90-110% band over five years.”<sup>6</sup>

Finally the Petitioners suggest that the Provinces should significantly restrict “short-term harvests above AAC”<sup>7</sup>; that is, that British Columbia should further inhibit the ability of the holders of long term tenures to respond to changes in the marketplace.

If the industry is to be given flexibility to respond to market conditions then that must include both the right to cut less than AAC at some times and the right to cut more than AAC at others.

### **Transfer Restrictions**

The Petitioners object to restrictions on the transfer of long term tenures.<sup>8</sup> Then the Petitioners turn around and express concern about the effects of allowing transfers and demand a significant government involvement in investigating and restricting the

---

<sup>2</sup> Page 42

<sup>3</sup> Pages 1, 2 and 6 and Footnote 2

<sup>4</sup> Page 6

<sup>5</sup> Page 6

<sup>6</sup> Page 16

<sup>7</sup> Page 27

<sup>8</sup> Pages 6

terms of any transfers.<sup>9</sup> Finally, the Petitioners state that the long time policy of British Columbia of taking back 5% of any tenure transferred (which was the main substantive restriction on transfer in British Columbia) had positive impacts on diversity and competition.<sup>10</sup>

### **Long term tenures**

The Petitioners object to the existence of long term tenures.<sup>11</sup> They say that long term tenures are part of a system that collectively amounts to subsidization. The Petitioners say that the Provinces will have to engage in “substantial tenure takeback.”<sup>12</sup> to satisfy them. The Petitioners say that a “substantial majority”<sup>13</sup> of the timber should be sold at auction. Those auction sales would necessarily have to be small to allow a reasonable number of market participants to be able to bid on each sale.

The Petitioners then turn around and say that “long term, guaranteed access to supply lowers input costs and the cost of capital.”<sup>14</sup> If the forest industry can reduce its costs, the residual value of the timber goes up and the potential amount of stumpage the Province can collect goes up. Rather than act as a subsidy reducing the price of timber, the granting of long term tenures provides the Province with an opportunity to increase the price of timber by matching the terms of sale to the needs of the buyers.

The Petitioners recognize that there are costs associated with auctions including the cost of bid preparation.<sup>15</sup> It is implicit in an auction system that most bids are unsuccessful so the total cost of bidding as a cost of doing business could become significant. The costs of bid preparation will also reduce the residual value, further reducing the potential stumpage.

In effect the Petitioners are saying that Canadian provinces have to sell a substantial majority of their timber under circumstances where they have to sacrifice the extra stumpage potentially available under long term tenures just to establish a more perfect

---

<sup>9</sup> Pages 12-14.

<sup>10</sup> Page 37

<sup>11</sup> Pages 2, 6, 12 and 13

<sup>12</sup> Page 13

<sup>13</sup> Page 24

<sup>14</sup> Page 15

<sup>15</sup> Page 26

pricing mechanism for the minority of the timber that remains. The Petitioners then spend pages talking about the practical difficulties and the administrative burdens of making auctions work.

## **Market Prices**

Ultimately, the issue is how to ensure that timber is being sold at a market price. The Department of Commerce proposal suggests using auctions. The Petitioners' comments point out the numerous difficulties of using auctions to set the price. There is another way to test whether a market price is being charged.

A market price is that price at which supply and demand are in balance as a result of market decisions and not as the result of a regulatory limitation. The way in which long term tenures operate in British Columbia can establish a market equilibrium between supply and demand. The adequacy of stumpage can be tested by examining the behaviour of long term tenure holders in response to stumpage levels over time.

Most of the revenue from the forest is economic rent. So long as B.C. is recovering more in stumpage than the incremental cost to the Province of permitting the logging B.C. is profiting directly through stumpage collections. B.C. can schedule how much timber it plans on putting on the market over time taking into account:

1. The time value of money;
2. The difficulty or impossibility of predicting future timber values;
3. The biological growth of the forest;
4. The risks to the forest from fire, weather or infestation;
5. The long term advantage to the Province of replacing slow growing mature or decadent forests with younger stands of timber.

Through political processes the harvest in B.C. has been restricted to accommodate other, non-commercial, values and uses. A pure stumpage maximizing approach would result in higher harvests. Liquidation of decadent or diseased timber can be consistent with market principles. The Annual Allowable Cut is always only a fraction of the timber in the Province. The scope of the countervail proceedings must be limited to questions of whether the timber which is being sold is attracting a market price. The domestic political decision of how much timber to sell is beyond the purview of the treaty obligations between Canada and the United States.

In setting the AAC the Province decides how much timber it is willing to sell. British Columbia from time to time sets stumpage rates<sup>16</sup> at which the timber is available for harvest. The practical effect is that the Province is offering timber for sale to tenure

---

<sup>16</sup> I agree that minimum stumpage generally needs to be set at a level which covers the incremental cost to the Province of the harvest of that stand of timber.

holders. The volume of a tenure establishes the amount of timber that will be offered to a particular tenure holder. Within “generous harvest bands”<sup>17</sup> the tenure holders decide which prices (stumpage rates) they want to accept by deciding when or if and how much they want to cut. The consequence of undercutting (refusing the repeated offers over an extended time) can be the loss of a present volume or, in more serious cases, the loss of future volumes: that is the loss of the right to receive further offers. There are penalties for exceeding the upper limits of the harvest bands.

The Petitioners point out that “in almost all Provinces harvest levels are below AAC”<sup>18</sup> More to the point during the Period of Investigation the harvest levels relative to AAC were:<sup>19</sup>

BC	94.8%
Quebec	90.9%
Ontario	92.4%
Alberta	112.6%

I will focus on British Columbia but the same considerations apply to Quebec and Ontario. Alberta may or may not be different.

- The fact that tenure holders harvested less than they were allowed to in BC and more than they, in any sense, were required to means that there was a market equilibrium between supply and demand determined by price and not by a statutory mandate.

The volume which was accepted by the industry was less than the volume the Province made available for sale; that is, the companies thought that the prices being asked through stumpage were too high for them to want to purchase the total volume available. Individual companies may have harvested the maximums or adhered to different harvesting schedules but that would simply be examples of the difference in buyer motivation which is common to all markets. Markets are an aggregate phenomenon made up of different individual choices.

If stumpage was below a fair market price given the conditions prevailing in British Columbia then tenure holders would have harvested the maximums permitted. Conversely, if the stumpage was above a fair market price the tenure holders would have harvested the minimum required.

---

<sup>17</sup> Page 16

<sup>18</sup> Page 28

<sup>19</sup> Page 28, Footnote 44

- The fact that the actual harvest seems to float comfortably between the regulatory limits strongly suggests, and may on further examination conclusively prove, that on aggregate the stumpage charges during the POI in British Columbia represented a fair market value.

The Petitioners' comments invite the Department of Commerce and the Provinces to engage in ongoing micro-analysis of supply and demand and prices for timber and micro-management of the sale process. The abject failure of planned economies around the world suggests that such micro-analysis and micro-management have a low probability of success. From an administrative point of view it would be much easier to monitor where aggregate cutting rates are relative to harvest bands than to audit hundreds or thousands of individual auctions every year. From an economic point of view aggregate cutting rates relative to harvest bands are likely to be a more accurate indicator. Relying on the relationship between harvest bands and cutting rates also avoids the difficulty of adjusting for the differences in conditions of sale between small short term auction sales and large long term tenures.

Yours truly,

**JAN CHRISTIANSEN**  
encl.