

FREMONT

Fremont Forest Group Corporation – Marubeni

Whittier-Penn Building
13215 East Penn Street – Suite 319
Whittier, CA 90602-1722

Telephone: (562) 945-2911 Fax: (562) 696-8574 Cellular: (360) 901-
E-mail: beizai@aol.com

October 9, 2003

The Honorable Jim Jochum
Assistant Secretary, Import Administration
Central Records Unit, Room 1870
U.S. Department of Commerce
Pennsylvania Ave. & 14th Street, NW
Washington, D.C. 20230

RECEIVED
OCT 15 2003
DEPT. OF COMMERCE
ITA
IMPORT ADMINISTRATION

Attn: Treatment of Section 201 Duties and Countervailing Duties

Dear Mr. Jochum:

Fremont Forest Group Corporation – **Marubeni** (FFGC) hereby submits its comments regarding the proposed Federal Register notice on September 9, 2003 requesting comments as to whether Section 201 duties and countervail duties should be deducted from the “gross unit price used in anti-dumping calculations.” FFGC is a small company handling Canadian softwood lumber products through an Ocean Terminal in Long Beach, CA & a member of ACAH, which represents thousands of individual home builders, lumber dealers, lumber consumers, and American housing the construction and remodeling businesses. ACAH, members account for at least **95 percent** of the domestic consumption of lumber in the U.S. ACAH & FFGC, therefore, has a strong interest in how duty calculations can impact U.S. consumers of softwood lumber.

We urge the Department to prepare an analysis of the financial impact this proposed rule on U.S. consumers of softwood lumber. And, finally, this proposal must take into all steps necessary to implement the decisions of the World Trade Organization (“WTO”) and North American Free Trade Agreement (“NAFTA”) dispute resolution panels that have ruled on this dispute.

Financial Impact Analysis – Impact of this Proposal on Consumers

In May 2001, the United States imposed an average countervail and antidumping duty of 27 percent on Canadian softwood lumber imports. These, duties were based on findings, by the Commerce Department, that the Canadian industry was dumping lumber and receiving subsidies from its government, and a determination by the International Trade Commission (“ITC”) that imports from Canada posed a **“threat of injury,”** to the United States industry. The Department’s findings have since been called **into question** by

WTO and NAFTA panel decisions and the ITC's determination was similarly be remanded by both WTO and NAFTA panels.

The continued imposition of antidumping and countervailing duties on Canadian lumber is especially troubling for the U.S. housing sector & FFGC, which handles the majority of Canadian Lumber in the LA Basin. Currently the housing sector represents one of the only strong segments of the U.S. economy. However, it is dependent on Canadian lumber imports to meet demand. Indeed, the United States must secure more than one-third of its lumber for housing construction from imported lumber. The demand *cannot* be met through domestic production.

U.S. consumers and lumber-dependent industries are already experiencing the harmful effect of these trade restrictions. The lumber tariffs have resulted in increased price volatility in the market, forcing U.S. purchasers to make provisions to incorporate what amounts to a **27.2 percent tax**. It is estimated that these tariffs could add as much as **\$1,000** to the price of a new home, thus excluding as many as **300,000** U.S. households from mortgage eligibility. This is especially problematic for senior citizens and first-time homebuyers. FFGC has lost over **\$1,000,000** in revenue over the last two years because of the Duties on Canadian Lumber..

We urge the Department to undertake and make public a careful analysis of the *impact* on American consumers from the continued imposition of the 27.2 percent duties on Canadian lumber and to quantify the impact from continued delay in reaching a resolution to the dispute that is consistent with U.S. law and international obligations as articulated by the WTO and NAFTA panels. The same analysis should be done of any "interim agreement" that the Department may be contemplating *before* such as agreement harms U.S. consumers & U.S. Business's that handle Canadian Lumber. Similarly, the Department's consideration of the proposed change in calculation of export price must consider and take into account the impact of the Department's proposal on U.S. consumers & Business's.

Implementing Decisions of Dispute Resolution Panels

In implementing these policy bulletins and carrying out any changed circumstances review or undertaking any other policy with respect to Canadian Softwood Lumber imports, we expect the Department to take all responsible and required actions, necessary to comply with decisions of WTO and NAFTA dispute resolution panels. To date the decisions rendered by those panels have *ruled illegal* many of the actions taken by the Department in imposing antidumping and countervailing duties on Canadian Softwood Lumber.

Specifically, with respect to both the preliminary and final countervailing duty determinations of the Department, WTO panels ruled that methodology used to calculate the countervailing duties was contrary to U.S. international obligations under the Agreement on Subsidies and Countervailing Measures. The WTO panels both found that that the Department *improperly* relied on U.S. prices to determine the "benefit" to

Canadian producers from alleged subsidies. Furthermore, the Panels determined that the U.S. *improperly* assumed that subsidies were passed on to downstream producers. Both of these errors resulted in an *overestimation* of the countervailing duty amount and have caused serious harm to U.S. consumers. Similarly, a recent NAFTA panel ruled that the Department's calculation of antidumping duties *overestimated* those duties and therefore overcharges American consumers.¹

We anticipate that future decisions of WTO and NAFTA dispute panels will find similar *flaws* in the duties and expect the Department to make every effort to comply with future decisions as well. The antidumping and countervailing duties currently imposed on Canadian Softwood lumber are not only *inconsistent* with U.S. international obligations and U.S. law but also impose an *unfair burden* on U.S. consumers. In imposing these duties the Department has in effect imposed a *27.2 percent hidden sales tax* on lumber that harms U.S. consumers, specifically new homebuyers, U.S. business and U.S. homeowners.

* * *

We urge you and your colleagues in the Administration to remember the interests of U.S. consumers and lumber-dependent industries that employ seven million workers and find a long-term solution that does not harm U.S. lumber consumers and housing affordability.

Respectfully submitted,

R. Lynn Forsberg

R. Lynn Forsberg, Chief Operating Officer
Fremont Forest Group Corporation - **Marubeni**

¹ We also note that the WTO appellate body recently ruled that the U.S. Continued Dumping and Subsidy Offset Act of 2000 is contrary to U.S. international obligations. Accordingly, the Department should avoid any resolution of the lumber dispute that transfers any portion of the improperly collected AD/CVD duties to U.S. lumber producers. Any transfer of duties to U.S. lumber producers amounts to nothing more than picking the pockets of U.S. consumers and transferring the gains to protectionist U.S. industry.