



November 6, 2003

The Honorable James J. Jochum
Assistant Secretary for Import Administration
U.S. Department of Commerce
Central Records Unit
Room 1870
Pennsylvania Avenue and 14th Street, N.W.
Washington, DC 20230

Attention: Treatment of Section 201 Duties and Countervailing Duties

Re: Proposal Regarding Treatment of Section 201 Duties and Countervailing Duties
in Antidumping Proceedings

Dear Assistant Secretary Jochum:

As the Vice President of its Commodity Lumber Division, I am writing on behalf of Lumbermen's Merchandising Corporation ("LMC") to oppose the proposal to deduct CVD and safeguard 201 duties from U.S. price in calculating antidumping margins.

LMC is made up of a group of 305 independent lumber dealers with 1100 outlets in 46 states. We have over \$2 billion in annual sales to our members. We purchase lumber from both U.S. and Canadian mills and arrange for that lumber to be delivered directly to our members, who in turn service mainly professional builders. Those builders use different species of wood for different uses, which is why we purchase lumber from various sources to meet the different segments of the builders' demand. Not all lumber is the same and there is a very distinct demand for Canadian lumber that cannot be met by U.S. supply. That is one of the reasons why Canadian lumber has provided over one third of the supply consumed in the U.S. for at least a decade

Canadian softwood lumber is currently subject to a combined duty of 27%. If the Department embraced the proposal regarding the calculation of antidumping margins, the duty on Canadian softwood lumber could nearly double. The current 27% duties are patently unfair. An increase to close to 50% would be indefensible and reckless.

Such an increase would be indefensible because the increase would flow from a reversal of longstanding Department practice and result in a double remedy for the U.S. softwood lumber industry and just as clear of a double penalty for U.S. lumber consumers. Where U.S. industries are wronged by unfair trade practices, they are entitled to a remedy. But, they are not entitled to a double remedy which places a double burden on U.S. consumers. That rule of fundamental fairness applies even more acutely here, where the current remedy is of dubious legitimacy given

the findings of NAFTA and WTO Panels, which have raised serious questions regarding the countervailing duty, antidumping and threat of injury findings against Canadian lumber. Plainly, the penalties in place now on softwood lumber are, at best significantly excessive. Doubling those penalties would be outrageous.

It would also be reckless. Housing has been a key factor in keeping the recent recession from being deeper. And, housing should be an important part of the recovery we all hope is now underway. We are proud of the role we play in the construction sector, assisting over 300 independent businesses supply thousands of builders around the country. But, if duties on Canadian lumber are dramatically and unfairly increased, our job will get much harder. And, the impact will be directly felt by our member's customers -- the builders and their employees. The Department must be mindful that if it takes the precipitous action contemplated by the current proposal and reverses its longstanding practice in this area, the impact will be felt in the housing sector. The Department cannot expect to double the already unjustifiably excess penalty on one-third of the lumber consumed in the United States and not expect that action to have a large and harmful effect on housing starts and job growth.

The law does not justify the proposed change. As the Department has acknowledged, logic does not justify a "double penalty." And, common sense counsels against making such a change given its potential to contribute to choking off the incipient positive indications of economic recovery. The Department should reject the proposal and continue to apply its time-tested, fair approach on this issue. Doing so, would be consistent with the Department's responsibility to apply the trade laws fairly and consistently in a manner that both provides reasonable protection to U.S. industries victimized unfair trade practices and promotes free and open trade. It would also be the best way to foster as opposed to poisoning the prospects of continued economic recovery.

Sincerely,



Andy Toombs
VP-Commodity Lumber Division
Lumbermen's Merchandising Corporation

