

EXECUTIVE OFFICE OF THE PRESIDENT
THE UNITED STATES TRADE REPRESENTATIVE
WASHINGTON, D.C. 20508

March 30, 2007

The Honorable David Emerson
Minister for International Trade
Lester B. Pearson Building
125 Sussex Drive
Ottawa, Ontario K1A 0G2

Dear Minister Emerson:

Pursuant to paragraph 4 of Article XIV of the Softwood Lumber Agreement between the Government of the United States of America and the Government of Canada done at Ottawa on September 12, 2006, as amended ("the Agreement" or "SLA 2006"), I am writing to request formal consultations with the Government of Canada on several matters, as described below.

A. The Annex 7D, Paragraph 14 Adjustment to Expected U.S. Consumption

Expected U.S. Consumption, a proxy for the size of the U.S. market for softwood lumber, is to be calculated each month in accordance with Annex 7D of the Agreement. Paragraph 14 of Annex 7D of the Agreement provides that if the difference between actual and Expected U.S. Consumption in any Quarter is greater than five percent, an adjustment will be made to Expected U.S. Consumption in the subsequent Quarter in which quotas are being determined.

Canada appears to have failed to make the adjustments required by the Agreement to account for the differences between Expected U.S. Consumption and actual U.S. Consumption. For instance, during the third Quarter of 2006, the difference between actual U.S. Consumption and Expected U.S. Consumption was greater than five percent. Pursuant to Article VII of the Agreement, Export Measures are applied when the Prevailing Monthly Price of lumber is below US\$355/MBF. In the first Quarter of 2007, Export Measures, including quotas, were to be determined because the Prevailing Monthly Price of lumber was below US\$355/MBF. Thus, Expected U.S. Consumption in first Quarter 2007 was to be adjusted downward by the amount of the difference between actual and Expected U.S. Consumption in third Quarter 2006.

Further, Canada appears not to have adjusted all regional Volume Restraints and all regional Trigger Volumes and consequently appears not to have applied the correct Export Charge to exports of Softwood Lumber Products. Pursuant to Article VII and Annexes 7B and 8 of the Agreement, Expected U.S. Consumption is one element in the calculation of monthly regional Trigger Volumes under Option A and monthly regional Volume Restraints under Option B. For example, as a result of the adjustment to Expected U.S. Consumption, B.C. Interior, an Option A

Region, appears to have exceeded its Trigger Volume by more than one percent for the month of January 2007. Consequently, as provided under paragraph 1(b) of Article VIII, Canada must apply retroactively to all exports of Softwood Lumber Products from B.C. Interior to the United States in January an additional Export Charge of 7.5 percent *ad valorem*. To date, Canada has not done so. In addition, Ontario, an Option B Region, exceeded its Volume Restraint in February 2007.

Accordingly, the United States wishes to consult on Canada's application of Export Charges and Volume Restraints, including as a result of:

- Canada's failure to adjust Expected U.S. Consumption, as required by paragraph 21 of Article XXI and paragraph 14 of Annex 7D of the Agreement;
- Canada's resultant failure to adjust all regional Volume Restraints and all regional Trigger Volumes, in breach of Articles VII and VIII and Annexes 7B, 7D, and 8 of the Agreement;
- Canada's resultant failure to assess retroactively additional Export Charges on all exports of Softwood Lumber Products from B.C. Interior to the United States, in breach of Articles VI and VIII of the Agreement;
- Canada's resultant breach of Articles VI and VII and Annex 7B of the Agreement, in that Ontario exceeded its regional Volume Restraint; and
- Canada's application of the paragraph 14 adjustment to Expected U.S. Consumption to all Quarters in which quotas have been or will be determined. In this respect, the United States wishes to note that during the fourth Quarter of 2006, actual U.S. Consumption was more than five percent less than Expected U.S. Consumption. Accordingly, Canada is required under the Agreement to adjust Expected U.S. Consumption in the second Quarter of 2007, as well as all regional Volume Restraints and all regional Trigger Volumes.

B. Certain Provincial and Federal Assistance Programs

Additionally, the United States wishes to consult on the following provincial and Federal actions and/or programs, each of which may constitute a breach of paragraph 1 and the chapeau of paragraph 2 of Article XVII of the Agreement, and which is not covered by any of the exceptions enumerated in paragraph 2.

1. Ontario

- (a) the Forest Sector Loan Guarantee Program¹ (FSLGP)
- (b) the Forest Sector Prosperity Fund² (FSPF)
- (c) the C\$75 million in annual funding for the construction and maintenance of primary and secondary forest access roads³
- (d) the Northern Ontario Grow Bonds Pilot Program⁴
- (e) the Ontario Wood Promotion Program⁵

¹A description of this program can be found at http://ontariosforests.mnr.gov.on.ca/spectrasites/viewers/showArticle.cfm?objectid=633B70EE-0DD1-4D7E-BACB4707C6B36A11&method=DISPLAYFULLNOBARNOTITLE_R&id=633B70EE-0DD1-4D7E-BACB4707C6B36A11 (as of March 30, 2007).

²A description of this program can be found at http://ontariosforests.mnr.gov.on.ca/spectrasites/viewers/showArticle.cfm?objectid=8D3CA09E-6A51-4018-B21BF85D61027CBD&method=DISPLAYFULLNOBARNOTITLE_R&id=8D3CA09E-6A51-4018-B21BF85D61027CBD (as of March 30, 2007).

³A description of this program can be found at http://www.mnr.gov.on.ca/MNR/Csb/news/2006/feb22bgp_06.html (as of March 30, 2007).

⁴A description of this program can be found at http://www.mndm.gov.on.ca/growbonds/Default_e.asp (as of March 30, 2007).

⁵A brief description of this program can be found at http://www.mnr.gov.on.ca/MNR/Csb/news/2006/feb22bgp_06.html (as of March 30, 2007).

2. Quebec

Programs announced in March 2006⁶

- (a) the C\$436 million for “reduction in the cost of operations and silvicultural investments,”⁷ which include C\$210 million “to reduce the cost of operations and silvicultural investments;” C\$100 million for a “refundable tax credit of 40% for construction of and major repairs to forest access roads and bridges;” C\$120 million for a “15% capital tax credit on investments made until 2009 by primary wood processing companies,” plus the C\$45 million extension of this program through December 31, 2012 that was announced on February 20, 2007; and C\$6 million for “income averaging for operators of private woodlots”
- (b) programs providing “support for regional development,”⁸ which include C\$75 million for “funding of priority measures for forest management;” a C\$30 million fund providing “support for single-industry towns experiencing economic difficulties;” C\$10 million in “support for workers in forest-based communities;” and an “extension of tax credits for processing activities in the resource regions”
- (c) the C\$44 million program “in support intended specifically for forest workers”

⁶A description of these programs can be found at <http://www.budget.finances.gouv.qc.ca/budget/2006-2007/en/Discours/communique4a.pdf> (as of March 30, 2007). *See also* <http://www.budget.finances.gouv.qc.ca/budget/2006-2007/en/pdf/Highlights.pdf> and <http://www.investquebec.com/en/index.aspx?page=2027> (as of March 30, 2007).

⁷These programs are listed at <http://www.budget.finances.gouv.qc.ca/budget/2006-2007/en/pdf/BudgetBrief.pdf> (at page 16) and <http://www.budget.finances.gouv.qc.ca/budget/2007-2008/en/pdf/BudgetDiscours.pdf> (at p. 26) (as of March 30, 2007).

⁸A description of these programs can be found at <http://www.budget.finances.gouv.qc.ca/budget/2005-2006/en/pdf/BudgetPlan.pdf> (at pages 56-70) (as of March 30, 2007).

- (d) the C\$425 million “loan envelope to support and accelerate the modernization of businesses”

Programs announced on October 20, 2006⁹

- (e) the loan program “maintained for business modernization projects with certain adjustments, particularly removal of the requirement that countervailing duties be provided as a guarantee”
- (f) the C\$197 million program for “a new approach to forestry management”
- (g) the C\$45 million program “in support for communities affected by the forestry crisis,” which “adds to an existing budget of C\$30 million forecast for supporting single-industry towns and regions, bringing the total up to C\$75 million”
- (h) the C\$54.8 million program “in support for forestry workers”

3. Federal

On February 8, 2007, the Government of Canada announced a two-year, C\$127.5 million program entitled the “Forest Industry Long-Term Competitiveness Initiative.”¹⁰ The United States wishes to consult on two components of this program, specifically:

- (a) the C\$70 million for “promoting the forest sector innovation and investment that is needed to position the sector for the future;” and
- (b) a C\$40 million fund for “expanding market opportunities for Canadian wood-product producers.”

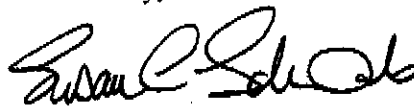
The provincial and Federal actions and/or programs listed above include any amendments or extensions, and any related or implementing measures.

⁹A description of these programs can be found at <http://www.mrnf.gouv.qc.ca/english/press/press-release-detail.jsp?id=5843> (as of March 30, 2007).

¹⁰A description of these programs can be found at http://www.nrcan.gc.ca/media/newsreleases/2007/200712a_e.htm (as of March 30, 2007).

I look forward to your prompt response so that we may arrange a mutually agreeable time and place for the consultations. The United States hopes that the two governments are able to reach a satisfactory resolution of these matters during the consultations.

Sincerely,

A handwritten signature in black ink, appearing to read "Susan C. Schwab". The signature is written in a cursive style with a large, looping initial "S".

Susan C. Schwab