

UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigations Nos. 701-TA-414 and 731-TA-928 (Section 129 Consistency Determination)

SOFTWOOD LUMBER FROM CANADA

AGENCY: United States International Trade Commission.

ACTION: Institution of a proceeding under section 129(a)(4) of the Uruguay Round Agreements Act (URAA) (19 U.S.C. § 3538(a)(4)).

SUMMARY: The Commission hereby gives notice that it has instituted this proceeding following receipt on July 27, 2004, of a request from the United States Trade Representative (USTR) for a determination under section 129(a)(4) of the URAA that would render the Commission's action in connection with Investigations Nos. 701-TA-414 and 731-TA-928 not inconsistent with the findings of the dispute settlement panel of the World Trade Organization (WTO) in its report entitled, "United States – Investigation of the International Trade Commission in Softwood Lumber From Canada," WT/DS277/R. A schedule for this proceeding will be established and announced at a later date. For further information concerning the conduct of this proceeding and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subpart A (19 CFR part 207).

EFFECTIVE DATE: **DATE OF PUBLICATION IN *FEDERAL REGISTER*.**

FOR FURTHER INFORMATION CONTACT: Jim McClure (202-205-3191), Office of Investigations, or Robin L. Turner (202-205-3103), Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000. General information concerning the Commission may also be obtained by accessing its internet server (<http://www.usitc.gov>). The public record of investigations Nos. 701-TA-414 and 731-TA-928 may be viewed on the Commission's electronic docket (EDIS) at <http://edis.usitc.gov>.

SUPPLEMENTARY INFORMATION:

Background.--On May 16, 2002, the Commission determined that an industry in the United States is threatened with material injury by reason of imports from Canada of softwood lumber found to be subsidized and sold in the United States at less than fair value (LTFV) (investigations Nos. 701-TA-414 and 731-TA-928, *Softwood Lumber from Canada*, USITC Pub. 3509 (May 2002). The Government of Canada subsequently requested review under the WTO *Understanding on Rules and Procedures Governing the Settlement of Disputes*. A WTO dispute settlement panel issued its final report, and found, *inter alia*, that action by the Commission in connection with its *Softwood Lumber* investigations under Title VII of the Tariff Act of 1930, ITC Investigations Nos. 701-TA-414 and 731-TA-928, is not in conformity with the obligations of the United States under the WTO *Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994* and the WTO *Agreement on Subsidies and Countervailing Measures*. The panel's findings in this regard are set out in paragraphs 7.87 to 7.96 and 7.122 of the panel report. Its conclusions based on these findings are set out in paragraphs 8.1 and 8.2 of the report. The panel report was adopted by the WTO Dispute Settlement Body on April 26, 2004. The USTR transmitted his request for this determination following receipt from the Commission on July 14, 2004, of an advisory report under section 129(a)(1) stating that the Commission has concluded that

Title VII of the Tariff Act of 1930 permits it to take steps in connection with its action in *Softwood Lumber from Canada*, Investigations Nos. 701-TA-414 and 731-TA-928, that would render its action in that proceeding not inconsistent with the findings of the dispute settlement panel.

Participation in the investigation and public service list.— Only those persons who were interested parties to the original investigations (i.e., persons listed on the Commission Secretary’s service list) may participate in this proceeding. Such persons wishing to participate in this proceeding as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission’s rules, no later than 21 days after publication of this notice in the *Federal Register*. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to this proceeding.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and APO service list.—Pursuant to section 207.7(a) of the Commission’s rules, the Secretary will make BPI submitted in this proceeding available to authorized applicants under the APO issued in this proceeding, provided that the application is made no later than 21 days after publication of this notice in the *Federal Register*. Authorized applicants must represent interested parties, as defined in 19 U.S.C. § 1677(9), who are parties to this proceeding. Parties that received BPI under the APO in the original investigations that are also subject to the APO in the related NAFTA proceeding must file a new application to receive any information obtained and released during this proceeding. Pursuant to section 207.7(a) of the Commission’s rules, the Secretary will make BPI gathered in the original investigations and in this proceeding available to additional authorized applicants, that are not subject to the APO in the related NAFTA proceeding (i.e., returned or destroyed all BPI received under the APO in the original investigations) or not covered under the original APO, provided that an application is made in this proceeding. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

By order of the Commission.

Marilyn R. Abbott
Secretary to the Commission

Issued: July 30, 2004