# COALITION FOR FAIR LUMBER IMPORTS

December 6, 2010

**PUBLIC DOCUMENT**

**BY HAND DELIVERY**

The Honorable Gary Locke
Secretary of Commerce
Attn: James Terpstra
Import Administration
Room 7043
U.S. Department of Commerce
Fourteenth Street and Constitution Avenue, NW
Washington, DC 20230

**Subject: Softwood Lumber Subsidies Bi-Annual Report: Request for Comment**

Dear Secretary Locke:

The Coalition for Fair Lumber Imports ("Coalition") is providing the attached comments to the U.S. Department of Commerce (the "Department") on subsidies provided by Canada, the major country exporting softwood lumber and softwood lumber products to the United States. These comments are submitted in response to the Department's request for comments published in the Federal Register on November 5, 2010. Subsidy Programs Provided by Countries Exporting Softwood Lumber and Softwood Lumber Products to the United States; Request for Comment, 75 Fed. Reg. 68328 (Dep't Commerce Nov. 5, 2010).

Canada has heavily subsidized its softwood lumber industry for many years through a variety of programs administered by Canadian federal and provincial governments. These Canadian subsidies repeatedly have forced the U.S. domestic industry to petition the Department for countervailing duty orders to offset the net countervailable subsidy determined to exist. The most recent countervailing duty order was issued in 2002 and subsequently revoked by the Department in 2006 when the 2006 Softwood Lumber Agreement ("SLA") came into effect.

The essence of the SLA is that Canada can continue to provide the subsidies that were in existence as of July 1, 2006 if it applies certain export measures on softwood lumber exports to the United States and no new subsidy programs are added to those already in existence. Regrettably, securing Canadian compliance with the SLA has been a continuing struggle for four years. On two occasions, the United States has been required to seek arbitration under the SLA's dispute resolution procedures in an effort to address Canadian circumvention of the SLA, and another such arbitration proceeding is likely in the near future.

The Coalition supports the SLA as long as it is enforced effectively against Canadian federal or provincial efforts to circumvent the Agreement. Without an effectively-enforced SLA in place, the injury to the U.S. softwood lumber industry from unfair Canadian subsidy programs will become intolerable. The only recourse in that situation would be a return to the bitter and costly countervailing duty and antidumping duty litigation that ended in 2006 with the SLA. The Coalition would prefer to avoid another round of lumber trade litigation, but should that course become necessary, the subsidy programs identified in this submission would likely be prominent in our countervailing duty petition. These subsidy programs are also widespread – they exist from British Columbia on the west coast to the Maritime Provinces on the east coast.

The attached comments describe known Canadian subsidy programs, including the names of the programs if available, and identify whether the subsidy is provided by the Canadian federal government or one of the Canadian provincial governments. The attachment does not purport to comment on every Canadian softwood lumber subsidy program that may exist or that might be alleged in a future countervailing duty petition. New benefit programs for the Canadian forest industry, some of which are possibly countervailable subsidies to Canadian softwood lumber producers, seem to be announced on a frequent basis. As the Coalition develops a reasonable basis to identify such programs as new subsidies, they will be included in future submissions to the Department.

Please contact me at (202) 567-6035, or David Yocis of Picard Kentz & Rowe LLP at (202) 331-5042, if you require clarification of any aspect of this submission. An electronic copy of this submission has been e-mailed to *webmaster-support@ita.doc.gov*.

Respectfully submitted,

David A. Bentley
General Counsel

Attachment

# SUBSIDIES TO SOFTWOOD LUMBER PRODUCTION

Comments of the Coalition for Fair Lumber Imports

Submitted Pursuant to Section 805 of the Softwood Lumber Act of 2008


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December 6, 2010

# SUBSIDIES TO SOFTWOOD LUMBER PRODUCTION

Submission of the Coalition for Fair Lumber Imports to the Department of Commerce
Pursuant to Section 805 of the Softwood Lumber Act of 2008
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## I. CANADA

### A. Provincial Stumpage Programs

The large majority of timber used in the production of softwood lumber in Canada is harvested from "Crown lands" owned and managed by the several Canadian provincial governments. This timber is provided by the provincial governments to lumber producers (or, relatively rarely, to logging contractors who in turn sell the harvested logs to lumber producers) under a variety of contractual arrangements. While the details vary from one province to another, all of these provincial systems set an administered price for most, if not all, Crown timber at levels that are demonstrably well below market prices. Further, the provincial systems are structured so that the government's administered price for Crown timber suppresses market pricing mechanisms for private timber (and, in some provinces, a small share of Crown timber sold competitively). Domestic processing requirements ensure that the benefit of this below-market timber is provided exclusively to softwood lumber producers in Canada.

As the Department has previously established, the provision of Crown timber by provincial governments constitutes the government provision of goods and therefore a financial contribution within the meaning of Section 771(5)(D) of the Tariff Act of 1930, as amended (19 U.S.C. § 1677(5)(D) (2006)) (the "Act"). Further, the Department has repeatedly found that because the number of industries making use of Crown timber is limited, the provision of timber is specific within the meaning of Section 771(5A)(D)(iii) of the Act. The WTO Dispute Settlement Body has confirmed that both of these findings are consistent with U.S. international obligations, and a binational panel under the North American Free Trade Agreement (NAFTA) concluded that both findings are consistent with U.S. law as well. Therefore, the provision of Crown timber to softwood lumber producers is a countervailable subsidy if it confers a benefit – that is, if the provision is made for "less than adequate remuneration" as set forth in Section 771(5)(E)(iv) of the Act and the Department's implementing regulations.

***British Columbia (BC)***. The BC Government provides Crown timber under a wide variety of arrangements. The province sells a small portion of this timber in auctions, but participation in these auctions is limited, and the ultimate price that bidders are willing to pay is determined by the virtually unlimited amounts of timber available to BC lumber mills at administered prices. Most of the Crown timber is sold at prices set on the basis of a complex statistical modeling exercise deemed to produce the "estimated winning bid" for a given timber stand. Average prices are one-third or less of the market price for identical species just south of the BC border, where all timber is sold competitively.

Recent data show that the degree of underpricing – and therefore the amount of the subsidy benefit – is significantly greater than in the periods examined in the Department's most recent countervailing duty proceedings. As in those proceedings, data on log prices is more readily available from public sources than are data on timber prices, but these show large price gaps that cannot be explained by factors other than the failure of the BC Government to charge market rates for timber. For example, the BC Government reports that the average price of Red Cedar logs on the Coast in September 2010 was C$95.92/$m^3$, which is the equivalent of US$521/MBF.[1] In the Puget Sound region of Washington state, directly across the U.S.-Canada border from the BC Coast, Red Cedar logs sold for between $600/MBF and $1320/MBF, averaging $905/MBF during the same period[2] – nearly 74 percent higher than the BC price.

Similar gaps are observed in the BC Interior, where most of the harvest is "SPF" timber comprised of Lodgepole Pine and Engelmann Spruce. In the third quarter of 2010, sawlog-quality SPF logs were sold in the BC Interior for an average price of C$39.14/$m^3$, which is the equivalent of US$181/MBF.[3] In the regions of Washington, Idaho, and Montana that border the B.C. Interior, prices for Lodgepole Pine and Engelmann Spruce logs in that quarter ranged from $200/MBF to $330/MBF.[4] The midpoint of this range is more than 46 percent higher than the BC price. Moreover, while much of the Lodgepole Pine harvest in BC is affected by the mountain pine beetle, the beetle outbreak affects Lodgepole Pine south of the border as well – and the *average* BC SPF sawlog price is below the *lowest* quoted U.S. prices for the identical species.

***Alberta, Saskatchewan, Manitoba, Ontario, Quebec.*** In these provinces, virtually all Crown timber is provided to softwood lumber producers at fixed rates. In Alberta, regulations prescribe that holders of Forest Management Agreement (FMA) and Coniferous Timber Quota licenses pay a flat fee of C$1.90/$m^3$ for all softwood timber harvested, regardless of species, end use, or almost all market conditions, and just C$0.95/$m^3$ for certain low-quality timber.[5] According to recent testimony before Canada's Senate Committee on Agriculture and Forestry, however, "large companies are purchasing wood for 54 cents a cubic metre."[6] In Ontario,

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[1] "Coast Selling Price System – Average Log Prices," *at* http://www.for.gov.bc.ca/ftp/hva/external/!publish/web/logreports/coast/2010/1m_Sep10.pdf. Conversion based on the Department's Coast conversion factor of 5.66 $m^3$/MBF and a September 2010 exchange rate of C$1.0187 = US$1.

[2] RISI, Log Lines (Oct. 2010) at 3.

[3] "B.C. Interior Log Market – Report for the 3 month period July 1, 2010 to September 30, 2010," at http://www.for.gov.bc.ca/ftp/hva/external/!publish/web/logreports/interior/2010/3m_Sep10.pdf. Conversion based on the Department's Interior conversion factor of 4.81 $m^3$/MBF and a third quarter 2010 exchange rate of C$1.0385 = US$1.

[4] Northwest Management, Inc. "Log Market Report," *available at* http://www.consulting-foresters.com/?id=market (areas 1, 3, and 4). These prices are "offer" prices by regional sawmills, which the compiler reports are often substantially lower than the actual prices paid by sawmills when marketed competitively. *Id.* Thus, these prices actually understate the true price gap between the BC Interior and the U.S. border regions.

[5] Alberta Timber Management Regulation §§ 80-81, *available at* http://www.canlii.org.

[6] Hearing Before the Standing Senate Committee on Agriculture and Forestry, Nov. 2, 2010 (testimony of Bob Austman, First Vice-President, Canadian Federation of Woodlot Owners), *at* http://www.parl.gc.ca/40/3/parlbus/commbus/senate/Com-e/agri-e/48419-e.htm?Language=E&Parl=40&Ses=3&comm_id=2 ("Nov. 2 Senate Hearing").

sawmills currently pay C$4.48/m$^3$ to harvest most Crown softwood timber.[7] In Quebec, Crown timber prices are set by district using a complex modeling methodology that yielded a provincial average price of C$8.20/m$^3$ in 2009.[8]

Most of the softwood timber in these provinces is "SPF" timber, which is also found in the U.S.-Canada border regions of Minnesota and Maine, where it is always sold competitively. The most recently available data for Minnesota are for 2008, where sawtimber prices for SPF species were $72.75/MBF (C$16.14/m$^3$) for Balsam Fir, $81.57/MBF (C$18.09/m$^3$) for Spruce, and $109.95/MBF (C$24.39/m$^3$) for Jack Pine.[9] For Maine, recently released 2009 data show an average price of $121/MBF (C$28.71/m$^3$) for Spruce and Fir sawlogs.[10] These market-determined prices are many multiples of the administered stumpage rates charged in these provinces.

Although Crown timber harvesters often assume responsibilities for road construction and tree replanting ("silviculture") that are not reflected in typical market-determined prices for otherwise comparable timber in U.S. border regions, the costs incurred are generally a few dollars per cubic meter, leaving a large gap between the administered stumpage prices in these Canadian provinces and average market-based prices for comparable timber in jurisdictions where market forces are allowed to operate. Further, the provincial governments in Ontario and Quebec assumed many of the responsibilities previously borne by tenure holders, after the conclusion of the Department's most recent CVD proceedings on softwood lumber from Canada. These programs, including the Ontario Forest Access Road Construction and Maintenance Program and the Quebec Forest Management Measures, are the subject of ongoing arbitration between the United States and Canada under the Softwood Lumber Agreement 2006.

***New Brunswick.*** Crown timber plays a much smaller role in New Brunswick than in the six Canadian provinces mentioned above, accounting for just over half of the harvest; the other half of the timber harvest is divided roughly equally between industrial freehold land owned by major lumber producers and private woodlots owned by thousands of small holders. Crown prices are derived from periodic surveys of timber prices obtained by small woodlot owners. However, many in New Brunswick – including the woodlot owners themselves – believe that the terms of access to Crown timber by lumber producers actually forces private timber prices to conform to the administered price of Crown timber, rather than the reverse.[11] A 2009 report by

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[7] "Ontario Crown Timber Charges (Stumpage)," Nov. 2010, *at* http://www.web2.mnr.gov.on.ca/mnr/forests/businessweb/stumpage/2010/stumpage_1011_8.html.

[8] Disclosures under Article XV(17) of the Softwood Lumber Agreement 2006.

[9] Minnesota Department of Natural Resources, "Minnesota's Forest Resources 2009," at 62, *at* http://files.dnr.state.mn.us/forestry/um/forestresourcesreport_09.pdf. Conversion based on the Department's conversion factor of 4.81 m$^3$/MBF and a 2008 exchange rate of C$1.0668 = US$1.

[10] Maine Forest Service, "2009 Stumpage Prices by Maine County," issued Nov. 10, 2010. Conversion based on the Department's conversion factor of 4.81 m$^3$/MBF and a 2009 exchange rate of C$1.1414 = US$1.

[11] *See* Nov. 2 Senate Hearing, *supra* note 6 (testimony of Andrew Clark, President, New Brunswick Federation of Woodlot Owners):

the provincial Auditor General concluded: "The fact that the [lumber] mills directly or indirectly control so much of the source of timber supply in New Brunswick means that the [timber] market is not truly an open market. In such a situation it is not possible to be confident that the prices paid in the market are in fact fair market value."[12] Accordingly, it is possible that the provision of Crown timber in New Brunswick is also made for less than adequate remuneration.

***Future Plans.*** In April 2010, Quebec enacted a new Sustainable Forest Development Act, under which existing tenures will be withdrawn and replaced with new "timber supply guarantees" as of April 2013. Timber prices will be set by a new Timber Marketing Board, which may also sell Crown timber directly at auction. According to David Paterson, CEO of AbitibiBowater, a major Quebec lumber producer, "there will be more of a free market component to wood in Quebec under the governmental plan."[13] Few details about the new system have been made public. Therefore, even with "more of a free market component" in the Quebec Crown timber pricing system, it remains to be seen whether these steps will reduce the level of the subsidy provided to Quebec softwood lumber producers.

Ontario is also in the process of considering reforms to its system for providing Crown timber. In April 2010, Ontario released a proposal for public comment for the issuance of tenures to new government-owned Local Forest Management Corporations ("LFMCs") that would manage Crown forests and sell timber and/or logs to lumber producers. According to the proposal, selling all provincial Crown timber through LFMCs could result in market pricing:

> In a truly competitive market, all timber sales would occur at market prices. Consuming mills (both existing and future) would compete for Crown timber instead of relying on government commitments. Access to Crown timber would be provided through competitive sales by the LFMCs.[14]

Unfortunately, the actual proposal does not contemplate that all or even most Crown timber would be sold competitively through LFMCs. Rather, upon full implementation, it is envisioned

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> We had rules in place that said, basically, the annual allowable cut at one time from the private woodlot sector had to be purchased before industry's access to Crown wood. In the last few years, that has become reversed. In the 1982 act, it was envisioned that the Crown would become the residual supplier. Now it is the private woodlot owners that are becoming the residual suppliers; they are cutting all of their Crown land, and we are working diligently to try to get that corrected.
>
> There is an initiative under way. Last year, we harvested only 600,000 cubic metres out of 2.5 million available cubic [metres], and this year we have a target of 1.1 [million] cubic metres, which the provincial government is supporting by cutting back some Crown availability. Yes, we do have a problem there that needs to be corrected.

[12] Province of New Brunswick, "Report of the Auditor General 2008," para. 5.36.

[13] Hearing Before the House of Commons Standing Committee on Industry, Science and Technology, Sept. 10, 2010 (testimony of Mr. David Paterson, President and CEO of AbitibiBowater, Inc.), *available at* http://www2.parl.gc.ca/HousePublications/Publication.aspx?DocId=4652345&Language=E&Mode=1&Parl=40&Ses=3.

[14] Ontario Ministry of Northern Development, Mines, and Forestry, "Putting Ontario's Wood to Work," Apr. 30, 2010, at 16, available at http://foresttenure.mndmf.gov.on.ca/pdfs/proposed.pdf.

that no more than 25 percent of timber would be sold competitively, and that these prices would "guide" the pricing of the large majority of timber sales, which would continue to be non-competitive, administered price sales. In its current form, therefore, this proposal is unlikely to produce the "truly competitive market" it describes, and thus is unlikely to result in actual market pricing of timber.

### B. Federal and Provincial Log Export Restrictions

All Canadian provinces prohibit the export of unprocessed logs harvested from Crown timber. These prohibitions may take the form of direct restrictions on log export or a domestic processing requirement imposed as a condition on harvesters of Crown timber. In either case, exceptions are granted rarely, usually as a result of exceptional conditions such as a large amount of timber damaged by fire or disease. The Canadian federal government also restricts exports of logs harvested from most private land in British Columbia.

Section 127 of the BC Forest Act requires that timber harvested from (1) Crown land, (2) private land granted by the province after March 12, 1906, or (3) private land in a tree farm license area, regardless of the date granted must be either used or manufactured in British Columbia. Section 128(3) of that Act provides that exemptions from this requirement may only be given if the province is satisfied that (a) the timber is surplus to the requirements of BC mills, (b) the timber cannot be processed economically in the vicinity of the harvest or elsewhere in BC, and (c) the exemption would prevent waste of or improve the utilization of Crown timber.

As a practical matter, persons wishing to export logs in BC must first advertise the logs or the standing timber. Any BC processor wishing to bid for the logs may do so. If no bid is received, an export permit may be issued – but if a bid is received that the province deems to be an acceptable price (even if it is well below the export price that is otherwise available), the export permit will be denied. The timber or log owner then has the option of selling domestically or not harvesting the timber at all. Logs exported from Crown land are subject to a fee in lieu of provincial manufacture, which may be as high as 100 percent of the difference between the domestic and the export price.

Professor David Haley of the University of British Columbia describes the BC log export regime as amounting to "a transfer of wealth from timber owners, both the Crown and private sector, to forest products manufacturing companies. In other words, manufacturers receive a subsidy at the expense of timber growers."[15] The result, he explains, is that:

> By lowering domestic log prices, restrictions on log exports reduce the revenue flowing to British Columbians from stumpage sales on public forestland and also the returns to those who harvest timber on public land and sell their logs in domestic markets. . . . The benefits of log export restrictions on private land are

[15] David Haley, "Are Log Export Restrictions on Private Forestland Good Public Policy? An Analysis of the Situation in British Columbia" (2002), at 10. In response to a recent media inquiry about the applicability of his 2002 paper to the present situation of log exports from BC Crown land, Professor Haley stated: "The arguments used in 2002 are equally applicable today and while this paper focuses on private land most of the arguments are equally applicable to public lands." Ian MacNeill, "Log Export," Truck Logger BC, Fall 2010, at 16, 19.

reaped by the timber products processing sector, which enjoys lower raw material costs than it would experience in the absence of such restrictions.[16]

Other provincial government policies amount to at least a *de facto* restriction on the export of logs in other provinces as well. For example, there is a substantial amount of private forestland in Quebec along the U.S. border, and domestic log prices in Quebec are significantly lower than just across the border in Maine, New Hampshire, Vermont, and New York. This price differential would lead one to expect that, absent government restrictions, Quebec would export logs from private lands into the United States – but such exports do not actually occur. The sale of private logs in Quebec is governed by a number of regional marketing boards or "syndicates," which develop marketing plans that must be approved by a Quebec governmental agency. These marketing boards also facilitate the registration of private landowners in Quebec as "forestry producers" (*producteurs forestiers*), which gives private landowners access to four governmental subsidy programs: (1) the Private Forest Development Assistance Program (*Le programme d'aide à la mise en valeur des forêts privées*); (2) the Virginia Deer Damage Management Assistance Program (*Le programme d'aide à l'aménagement des ravages de cerfs de Virginie*); (3) the Property Tax Rebate Program (*Le programme de remboursement de taxes foncières*); and (4) the Forestry Finance Program (*Le programme de financement forestier*).[17] Thus, the marketing boards have the power to prevent, or at least to discourage, the export of logs from Quebec private lands.

These export restrictions and prohibitions are countervailable subsidies to Canadian softwood lumber producers, as the Department has found in prior lumber CVD investigations as well as in other CVD determinations.[18] Through these policies, the provincial and federal governments either directly provide timber, or entrust or direct harvesting companies to provide timber, to domestic producers, thus providing a financial contribution. Because this timber is provided to domestic processors at below-market prices, a benefit is conferred. And because this timber is provided only to domestic processing industries, the log export restrictions are *de jure* specific.[19]

### C. <u>Other Subsidy Programs</u>

Additional subsidy programs also provide benefits to softwood lumber producers in Canada.

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[16] Haley, *supra* note 15, at 15.

[17] Syndicat des Producteurs de Bois de l'Estrie, "Frequently Asked Questions," *at* http://www.spbestrie.qc.ca/fr/faq/ (last visited Dec. 3, 2010).

[18] *E.g.*., <u>Certain Coated Paper Suitable for High-Quality Print Graphics Using Sheet-Fed Presses from Indonesia</u>, 75 Fed. Reg. 59,209 (Dep't Commerce Sept. 27, 2010) (final affirmative CVD determ.), Issues & Decision Memorandum at 12-14.

[19] *Id.*, Issues & Decision Memorandum at 12.

### 1. Preferential Tax Schemes

In past softwood lumber CVD proceedings, the Department found that the British Columbia Private Forest Property Tax Program provided countervailable subsidies. Under this program, BC imposes differential tax rates on the two classes of forest land: Class 3, "unmanaged forest land," and Class 7, "managed forest land." Property tax rates for Class 7 land are generally lower than for Class 3 land. To qualify for the lower Class 7 rates, land must be "used for the production and harvesting of timber."

In addition, a new Quebec Capital Tax Credit Program provides tax credits of 15 percent of eligible expenses related to the acquisition of capital equipment used in the processing of forest products and acquired before January 1, 2013. The Quebec provincial government estimated that the program would reduce the taxes paid by Quebec forest products producers by C$120 million over four years. This program is the subject of an ongoing arbitration between the United States and Canada under the Softwood Lumber Agreement 2006.

Other tax programs that appear to provide subsidies have been identified in prior Coalition submissions to the Department, which are incorporated herein by reference.

### 2. Unearned Compensation for Tenure Rights

The principal form of Crown timber harvesting rights in most Canadian provinces involves some type of long-term arrangement. Guaranteed long-term access to timber assists lumber producers in obtaining financing for capital investments to improve efficiencies, as industry observers have long recognized.[20] In recent years when provinces have withdrawn these rights prior to the expiration of the tenure arrangement, significant compensation has been paid to the tenure holder. Such payments provide substantial benefits to the former tenure holders, who paid little or nothing to obtain the long-term harvesting rights in the first place. The payments also demonstrate the high value of the tenure rights that continue to be enjoyed by the vast majority of tenure holders whose rights have not been taken back by the governments.

In British Columbia, the Department has previously found countervailable compensation paid for tenure takebacks under the Protected Areas Forest Compensation Act and the Forest Revitalization Act. The Forest Revitalization Act remains in effect, and compensation continues to be paid (although details are usually not made public).

In Newfoundland and Labrador, the provincial expropriation of a pulp and paper mill, together with its associated tenure rights, was the subject of a claim under Chapter 11 of the North American Free Trade Agreement. In August 2010, the federal Canadian government agreed to settle these claims for C$130 million, one of the largest payments ever made in a Chapter 11 dispute.

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[20] *E.g.*, Halifax Global, Inc., "Newfoundland Forest Sector Strategy," Nov. 2008, at 13 n.2 (report commissioned by the Newfoundland & Labrador Department of Natural Resources).

In Alberta, holders of major tenures (Forest Management Agreement or FMA) are routinely compensated when timber on land associated with the tenure is removed as a result of activities by energy and mining companies. This is because FMA holders receive property rights against third parties (but not the Crown) in standing timber on their tenures – property rights that they do not pay for, but nonetheless receive as part of their tenure. This amounts to ongoing compensation for lost harvesting rights on a continuous basis – essentially, compensation for tenure takebacks in another form.

To the extent that tenure reform being planned in Quebec and under consideration in Ontario lead to modifications of existing long-term tenure arrangements in those provinces, it is possible that any compensation paid by those provinces will constitute further tenure compensation subsidies to their softwood lumber producers.

### 3. Grants, Loans, and Loan Guarantees

Prior submissions by the Coalition address a number of programs by which the federal and provincial Canadian governments provide grants, loans, loan guarantees, and other support, directly and indirectly, to Canadian softwood lumber producers. These submissions are incorporated herein by reference.

As detailed in those submissions, the Department has found a number of these programs to be countervailable in prior softwood lumber proceedings. Further, the Ontario Forest Sector Prosperity Fund, the Ontario Forest Sector Loan Guarantee Program, and the Quebec Forest Industry Support Program have provided benefits that are currently the subject of ongoing arbitration between the United States and Canada under the Softwood Lumber Agreement 2006.

With respect to new programs, it is not always clear from publicly available information whether programs that provide benefits to the "forest industry" or the "forest products industry" necessarily provide benefits to softwood lumber producers. The prohibitions in the SLA 2006 on new subsidy programs benefitting softwood lumber producers appear to have restrained somewhat, but certainly not eliminated, the provision of benefits to softwood lumber producers under these programs. In addition to those previously identified programs, the Coalition notes the following additional information regarding programs that may be providing benefits to softwood lumber producers.

**Export Development Canada.** On November 5, 2010, the Honorable Denis Lebel, Minister of State (Economic Development Agency of Canada for the Regions of Quebec) stated in the federal House of Commons that "as of October 31, 2010, Export Development Canada had helped Quebec's forest industry by providing credit support, accounts receivable insurance and loan guarantees totaling [C]$7.6 billion."[21]

**Pulp and Paper Green Transformation Program**. Over C$1 billion in grants has been made available under this program for capital investments in pulp and paper mills to promote

[21] Hansard, Nov. 5, 2010 (12:05 p.m.).

energy efficiency. Many of these mills are affiliated with, or co-located with, softwood lumber producers.

**Abitibi-Bowater Restructuring.** The Government of Quebec announced on September 14, 2010 that it would allow Abitibi-Bowater, a major Quebec softwood lumber producer now emerging from bankruptcy protection, to make reduced pension contributions in return for ensuring that the company's headquarters remain in Montreal and that a certain percentage of the company's activities remain in Quebec.

**Provincial Grant Programs.** Many provinces provide subsidies to softwood lumber production through a number of business incentive programs. For example, a significant portion of loans and loan guarantees provided by the Nova Scotia Industrial Expansion Fund are directed to forest products industries,[22] including payments to softwood lumber producers identified in prior Coalition submissions as well as more recently announced payments.[23]

## II. CHILE

Most of Chile's softwood lumber exports to the United States are of radiata pine from timber plantations. These plantations were largely developed through the use of massive subsidies, including a "wildly successful" 75 percent subsidy for plantation establishment and tree care costs enacted in Decree Law 701 of 1974.[24] Although these subsidies were discontinued in 1995, given typical rotation schedules it is very likely that the plantations established with the assistance of these subsidies are the source of much of the timber used to manufacture the softwood lumber that Chile is presently exporting to the United States. However, the Coalition is not aware of any other subsidies being provided that would significantly distort the harvesting or pricing of softwood timber in Chile.

[22] Nova Scotia Industrial Expansion Fund Annual Report 2010 at 20, *at* http://www.gov.ns.ca/econ/ief/IEFreport/docs/IEF_Report_2010.pdf.

[23] "Province Loans $750K to Queens Lumber Mill," The Chronicle Herald (Halifax, N.S.), Dec. 4, 2010.

[24] Roger A. Clapp, "Creating Comparative Advantage: Forest Policy as Industrial Policy in Chile," 71 Economic Geography 273 (1995).