The Honorable Max Baucus
Chairman
Committee on Finance
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

Enclosed, pursuant to Section 809(b) of Title VII of the Tariff Act of 1930 (the Softwood Lumber Act of 2008), is the Administration's Semiannual Softwood Lumber Subsidies Report.

If you have any questions or would like additional information, please contact me or Peter Kaldes, Director of the Office of Legislative and Intergovernmental Affairs, at (202) 482-3015.

Sincerely,

Paul Piquado
Acting Deputy Assistant Secretary
for Import Administration

The Honorable Sander M. Levin
Chairman
Committee on Ways and Means
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

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Sincerely,

Paul Piquado
Acting Deputy Assistant Secretary
for Import Administration

The Honorable Charles E. Grassley
Ranking Member
Committee on Finance
United States Senate
Washington, DC 20510

Dear Senator Grassley:

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Sincerely,

Paul Piquado
Acting Deputy Assistant Secretary
for Import Administration

The Honorable Dave Camp
Ranking Member
Committee on Ways and Means
U.S. House of Representatives
Washington, DC 20515

Dear Representative Camp:

Enclosed, pursuant to Section 809(b) of Title VII of the Tariff Act of 1930 (the Softwood Lumber Act of 2008), is the Administration's Semiannual Softwood Lumber Subsidies Report.

If you have any questions or would like additional information, please contact me or Peter Kaldes, Director of the Office of Legislative and Intergovernmental Affairs, at (202) 482-3015.

Sincerely,

Paul Piquado
Acting Deputy Assistant Secretary
for Import Administration

SOFTWOOD LUMBER SUBSIDIES REPORT TO THE CONGRESS

U.S. Department of Commerce

December 2010

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I. Background and Reporting Methodology

As an initial matter, given the large number of countries that export softwood lumber and softwood lumber products to the United States, we concluded that it was untenable to find subsidy information for every country that exports softwood lumber or softwood lumber products to the United States.[1] Instead, in order to provide a report that reflects subsidies which have a significant impact on the U.S. softwood lumber industry, we analyzed U.S. imports of softwood lumber and softwood lumber products to determine which countries were the largest exporters of such products to the United States. As a result, based on data published by the United States International Trade Commission Tariff and Trade DataWeb, we include in this report subsidies provided by Canada and Chile, the two countries with exports accounting for at least one percent of total U.S. imports of softwood lumber by quantity, as classified under Harmonized Tariff Schedule code 4407.1001,[2] during the period January 1 through June 30, 2010.

As in past reports, for this, the fifth Softwood Lumber Subsidies Report to Congress, we are relying on a six-month period to identify the countries subject to review. We will rely on U.S. imports of softwood lumber and softwood lumber products during the period July 1 through December 31, 2010, to select the countries subject to the next report.

Under U.S. countervailing duty (CVD) law, a subsidy is defined as when a government authority: (i) provides a financial contribution, (ii) provides any form of income or price support within the meaning of Article XVI of the GATT 1994, or (iii) makes a payment to a funding mechanism to provide a financial contribution to a person, or entrusts or directs a private entity to make a financial contribution, if providing the contribution would normally be vested in the government and the practice does not differ in substance from practices normally followed by governments, and a benefit is thereby conferred. *See* section 771(5)(B) of the Tariff Act of 1930, as amended.

[1] For the period January 1 through June 30, 2010, 36 countries had exports of softwood lumber to the United States.
[2] Imports classified under Harmonized Tariff Schedule code 4407.1001 account for the vast majority of imports of softwood lumber and softwood lumber products.

II. Identification of Subsidies

The U.S. Government investigates and monitors the provision of subsidies by other countries through various means, including the enforcement of U.S. trade laws, participation at the World Trade Organization (WTO), and the implementation of bilateral trade agreements. Therefore, we examined subsidies identified in those areas, specifically: 1) CVD investigations and reviews; 2) WTO reporting by member countries; and 3) subsidies identified in the course of enforcing bilateral agreements regarding softwood lumber and softwood lumber products.

A. Countervailing Duty Proceedings

To identify subsidies on softwood lumber or softwood lumber products provided by Canada and Chile, we analyzed the most recently completed CVD proceedings involving exports to the United States of softwood lumber or softwood lumber products from Canada and have included in this report any subsidies identified in relevant proceedings. The Department of Commerce (the Department) has not conducted CVD proceedings involving imports of softwood lumber and softwood lumber products from Chile.

In 2006, the United States and Canada signed the Softwood Lumber Agreement (SLA), a bilateral accord between the United States and Canada, which resulted in the U.S. government terminating the most recent CVD order on imports of Canadian softwood lumber. The CVD order had been established in 2002, pursuant to U.S. government determinations that federal and provincial governments in Canada were unfairly subsidizing Canadian producers, and that imports of the subsidized Canadian lumber threatened to injure the U.S. industry. We included in our first four reports subsidies identified in the last administrative review of the CVD order on softwood lumber from Canada which was completed prior to the termination of the order pursuant to the SLA. That administrative review covered the period April 2003 through March 2004.

B. WTO Reporting

We identified two sources of information from the WTO -- Subsidies Notifications and Trade Policy Reviews (TPR). The Subsidies Notification is the primary source of information under the WTO framework for each member country's subsidy programs. WTO member countries are required to notify the WTO of specific subsidies, in accordance with Article 25 of the Agreement on Subsidies and Countervailing Measures (SCM Agreement). This portion of the SCM Agreement requires that members notify all specific subsidies, at all levels of government and covering all goods sectors, to the SCM Committee. New and full notifications are due every two years; members may also submit update notifications at any time, but those have been de-emphasized by the SCM Committee. These documents are available from the WTO Secretariat and may be accessed through the WTO's website.[3]

[3] http://www.wto.org/english/tratop_e/scm_e/scm_e.htm

Pursuant to the WTO's Trade Policy Review (TPR) Mechanism, each WTO member country's national trade policies are subject to periodic review by the WTO Secretariat, which then publishes a report. Information on subsidy programs is also found in the TPR of each member country. The frequency of each country's TPR varies according to its share of world trade: Canada is subject to review every four years, and Chile is subject every six years. The TPR reports for each country are available from the WTO Secretariat and may be accessed through the WTO's website.[4]

C. Monitoring and Enforcement Related to Bilateral Trade Agreements

We have also included in this report subsidies identified in the course of administering and enforcing the SLA.[5] On September 12, 2006, the United States and Canada signed the 2006 Softwood Lumber Agreement to settle outstanding disputes regarding the importation of softwood lumber from Canada into the United States. Per the agreement, the United States terminated antidumping and countervailing duty orders on softwood lumber from Canada, refunded cash deposits, and agreed not to impose other trade remedies. In exchange, Canada agreed to impose export measures and not to take any action having the effect of reducing or offsetting the export measures.

D. Public Comment

On November 5, 2010, the Department published a notice in the *Federal Register* soliciting public comment on subsidies provided by Canada and Chile on softwood lumber or softwood lumber products for inclusion in this report.[6] The comments received are attached as Appendix I and Appendix II of this report.

[4] http://www.wto.org/english/tratop_e/tpr_e/tp_rep_e.htm#bycountry

[5] The SLA is particular to Canada. The United States does not have in place a similar agreement involving softwood lumber or softwood lumber products with Chile.

[6] *See Subsidy Programs Provided by Countries Exporting Softwood Lumber and Softwood Lumber Products to the United States; Request for Comment*, 75 FR 68328 (November 5, 2010).

III. Subsidies Provided

In the First Report, we listed all known subsidies, identified using the methodology described above, provided by Brazil, Canada, Chile, and Germany on softwood lumber or softwood lumber products exported to the United States. In the Second Report, we listed all known subsidies, identified using the methodology described above, provided by Canada, Chile, and Germany. In the Third Report, we listed all known subsidies, identified using the methodology described above, provided for by Brazil, Canada, Chile, Germany, and Sweden. In the Fourth Report, we listed all known subsidies, identified using the methodology described above, provided for by Canada and Chile.[7]

For the period January 1 through June 30, 2010, in this report we have applied the methodology described above with regard to Canada and Chile. No new subsidies were identified for Chile, and one new subsidy was identified for Canada. The subsidies identified for Canada and for Chile are as follows.

Canada

We identified subsidies provided by Canada on softwood lumber and softwood lumber products through an examination of the most recently completed CVD administrative review, WTO notifications, and the implementation and enforcement of the SLA.

Subsidies Identified in CVD Proceedings

The Department determined that the following programs benefited Canadian softwood lumber producers in the second administrative review of imports under the CVD order, which was the last review completed before the order was terminated. The second administrative review investigated Canadian subsidy programs in effect between April 2003 and March 2004.[8]

[7] Our December 15, 2008, June 15, 2009, December 18, 2009, and June 11, 2010, reports are posted on our website at www.trade.gov/IA under the "Highlights and the "Softwood Lumber Export Charges" links. *See* http://ia.ita.doc.gov/lumber/softwood-lumber-subsidies-report-121508.pdf, http://ia.ita.doc.gov/lumber/softwood-lumber-subsidies-report-061509.pdf and http://ia.ita.doc.gov/sla2008/reports/softwood-lumber-subsidies-report-121809.pdf. http://ia.ita.doc.gov/sla2008/reports/softwood-lumber-subsidies-report-061110.pdf

[8] During the conduct of the investigation and three different administrative reviews, the Department investigated a large number of programs, not all of which were in use, or evaluated, during the second administrative review. Because the second administrative review was the most recently completed review with a final determination, we have used it as the most accurate and current measure of our findings.

A. Provincial Stumpage Programs (provision of lumber for less than adequate remuneration)

1. Alberta
2. British Columbia
3. Manitoba
4. Ontario
5. Quebec
6. Saskatchewan

In Canada, the vast majority of standing timber used by softwood lumber producers originates from lands owned by the Crown. Each of the Canadian provinces reviewed in the last administrative review completed under the most recent CVD order, *i.e.*, Alberta, British Columbia, Manitoba, Ontario, Quebec, and Saskatchewan, has established programs through which it charges certain license holders "stumpage" fees for standing timber harvested from Crown lands. In the underlying investigation of the most recent CVD order and in subsequent administrative reviews, the Department found that the provincial governments provided a countervailable subsidy to softwood lumber producers by selling the key input for softwood lumber production, timber, to the Canadian producers in each of the provinces listed above for less than adequate remuneration.

B. Non-Stumpage Programs Determined To Confer Subsidies

Programs Administered by the Government of Canada

1. Western Economic Diversification Program (WDP): Grants and Conditionally Repayable Contributions

Introduced in 1987, the Western Economic Diversification Program (WDP) is administered by the Government of Canada's (GOC's) Department of Western Economic Diversification headquartered in Edmonton, Alberta, whose jurisdiction encompasses the four western provinces of Alberta, British Columbia, Manitoba, and Saskatchewan. The program supports commercial and non-commercial projects that promote economic development and diversification in the region.

During the 2003-2004 period covered by the most recently completed administrative review of the CVD order, the WDP provided grants to softwood lumber producers or associations under two "sub-programs," *i.e.*, the International Trade Personnel Program (ITPP) and "Other WDP Projects." Under the ITPP and "Other WDP Projects," companies were reimbursed for certain salary expenses in Alberta, British Columbia, Manitoba, and Saskatchewan.

2. Natural Resources Canada (NRCAN) Softwood Marketing Subsidies

In 2002, the GOC approved a total of C$75 million in grants to target new and existing export markets for wood products and to provide increased research and development to supplement innovation in the forest products sector. This total was allocated to three sub-programs: Canada Wood Export Program (Canada Wood), Value to Wood Program (VWP), and the National Research Institutes Initiative (NRII). The programs were placed under the administration of NRCAN, a part of the Canadian Forest Service.

The VWP is a five-year research and technology transfer initiative supporting the value-added wood sector through partnerships with academic and private non-profit entities. In particular, during the 2003-2004 period of review, NRCAN entered into research contribution agreements with Forintek Canada Corp. (Forintek) to do research on efficient resource use, manufacturing process improvements, product development, and product access improvement. The VWP is still available.

The NRII is a two-year program that provides salary support to three national research institutes: the Forest Engineering Research Institute of Canada (FERIC), Forintek, and the Pulp & Paper Research Institute of Canada. In the 2003-2004 administrative review, the Department found that research undertaken by FERIC constitutes a government financial contribution to commercial users of Canada's forests. Further, the Department found that FERIC's research covers harvesting, processing, and transportation of forest products, silviculture operations, and small-scale operations and, thus, the Department determined that government-funded R&D by FERIC benefits, *inter alia*, producers of softwood lumber. Similarly, the Department found that Forintek's operations, done in collaboration with the GOC under NRII, which pertain to resource utilization, tree and wood quality, and wood physics,[9] also constitute a government financial contribution. The Department also reconfirmed its earlier determination that because grants offered under the NRII are limited to Forintek and FERIC, institutions that conducted research related to the forestry and logging industry, the wood products manufacturing industry, and the paper manufacturing industry, the program is specific to that industry. The NRII is periodically reinstituted and is currently in effect.

Programs Administered by the Government of British Columbia

1. Forestry Innovation Investment Program (FIIP)

The Forestry Innovation Investment Program came into effect on April 1, 2002. On March 31, 2003, FIIP was incorporated as Forestry Innovation Investment Ltd. (FII). FII funds are used to support the activities of universities, research and educational organizations, and industry associations producing a wide range of wood products. FII's strategic objectives are implemented through three sub-programs addressing: research, product development and international marketing.

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[9] The area of wood science concerned with the physical and mechanical properties of wood and the factors which affect them.

The Department reconfirmed its earlier finding that the FII grants are provided to support product development and international marketing for Canadian softwood lumber producers.

2. British Columbia Private Forest Property Tax Program

British Columbia's property tax system has two classes of private forest land -- Class 3, "unmanaged forest land," and Class 7, "managed forest land" -- that incurred different tax rates in the 1990s through the 2003-2004 period of review. In the second administrative review, the Department reaffirmed its earlier finding that property tax rates for Class 7 were generally lower than for Class 3 land at all levels of tax authority for most, though not all, taxes. The Department further reaffirmed its finding that the various municipal and district (a.k.a. regional) level authorities imposed generally lower rates for Class 7 than for Class 3 land. The tax program is codified in several laws, of which the most salient is the 1996 Assessment Act (and subsequent amendments). Section 24(1) of the Assessment Act contains forest land classification language expressly requiring that, *inter alia*, Class 7 land be "used for the production and harvesting of timber." Additionally, Section 24(3) or 24(4) of the Assessment Act, depending on the edition of the statute, requires the assessor to declassify all or part of Class 7 land if "the assessor is not satisfied. . . that the land meets all requirements" for managed forest land classification. Amendments to the provision, enacted from 1996 through 2003, retained the same language stating these two conditions. Thus, the law as published during the 2003-2004 period of review required that for private forest land to be classified, and remain classified, as managed forest land, it had to be "used for the production and harvesting of timber."

The Department also found that because the British Columbia tax authorities impose two different tax rates on private forest land, the governments are foregoing revenue when they collect taxes at the lower rate, and the program thus provides a government financial contribution to the British Columbia lumber industry. Further, the Department determined that because the Assessment Act expressly requires that Class 7 land be "used for the production and harvesting of timber," and additionally requires the assessor to declassify any Class 7 land not meeting all the Class 7 conditions (of which timber use was one), the British Columbia private forest land tax program is specific to the industry as a matter of law. The Department considered the sum of the tax savings enjoyed by Class 7 sawmill landowners at the provincial, regional, and sub-provincial (or local) levels of tax authority in British Columbia to represent the value of this subsidy.

Programs Administered by the Government of Quebec

1. Private Forest Development Program

The Private Forest Development Program (PFDP) involves the provision of certain grants to private forest landowners. These grants provide incentives to private land owners to grow more trees, which increase the supply of wood available to softwood lumber producers. In addition, some of the sawmill operators also own private land and receive these incentives. The system is set up so that every holder of a wood processing plant operating permit in Quebec must pay the Government of Quebec a fee of C$1.20 for every cubic meter of timber acquired from a private forest. These fees fund, in part, the PFDP.

<u>Subsidies Identified in Connection with the SLA upon which Arbitration has been Requested</u>

The following subsidy programs were identified in connection with arbitration pursuant to Article XIV of the SLA:

1. Ontario Forest Sector Loan Guarantee Program

This program was announced in 2005 to make available C$350 million in loan guarantees over five years to stimulate and leverage investment in the forest industry. These loan guarantees could be for a term of two to five years and generally range from C$500,000 to a maximum of C$25 million.

2. Ontario Forest Sector Prosperity Fund

This grant program was announced in 2005 to provide grants to the forest sector that would support and leverage new capital investment programs.

3. Ontario Forest Access Road Construction and Maintenance Program

This program was announced in 2006 to make available C$75 million to reimburse forest companies for costs incurred for constructing and maintaining primary and secondary forest access roads.

4. Forest Industry Support Program

This program was announced in 2006 to make available C$425 million in financing to foster investment and modernization projects to improve the productivity and competitiveness of Quebec’s forest products industry.

5. 15% Capital Tax Credit

This program was announced in 2006 to provide a 15% tax credit to Quebec's forest products industry on investments in manufacturing and processing equipment through 2009.

6. Forest Management Measures

This program was announced in 2006 and allowed the Government of Quebec to incur costs previously borne by the forest products industry. The program includes C$210 million in measures to reduce the cost of operations and silvicultural investments and C$100 million for a refundable tax credit of 40% for the construction of and major repairs to access roads and bridges.

7. British Columbia Sales of Grade 4 Timber

On October 25, 2010, United States Trade Representative (USTR) and Department officials held consultations with their Canadian counterparts under the SLA on another matter, timber pricing in the Interior of British Columbia. Approximately 40 percent of the timber harvested from the Interior region of British Columbia is being sold by the Canadian government at a price much lower than in recent years (C$.025/cubic meter). Although classified by administrators as "Grade 4" timber (salvage timber), in fact, evidence shows that much of this timber should be properly graded as saw logs. Thus, much of this timber apparently is sold at unreasonably low prices, resulting in a huge windfall to Canadian lumber producers which may constitute a violation of the SLA.

Additional Subsidies Identified in Connection with the SLA

1. Wood Promotion Program

The Government of Ontario provides C$1 million per year in funding to the forest products industry to enhance value-added manufacturing.

2. North Ontario Grow Bonds Program

The Government of Ontario provided approximately C$13 million in bonds to new and growing businesses in the North. For example, in September 2006, a C$250,000 loan to the Manitou Forest Products Limited for expansion of its sawmill was among the projects funded.

3. Forest Industry Long-Term Competitiveness Initiative

This program provides government funding for research and development that benefits the forest products industry.

Pulp and Paper Green Transformation Program

On June 17, 2009, Canada announced a new $1 billion Pulp and Paper Green Transformation Program (PAPGTP) to support its pulp and paper producers. This program provides a $0.16 per liter credit for black liquor produced by Canadian pulp and paper mills. The stated purpose of this credit is to improve energy efficiency and renewable energy production technologies. (Source: http://www.nrcan-rncan.gc.ca/media/newcom/2009/200961a-eng.php).

As of April 2010, 38 pulp and paper mills across Canada, representing 24 companies, generated credits under the Pulp and Paper Green Transformation Program based on their 2009 production levels of black liquor. Qualified companies are required to submit project proposals for their facilities and have until March 31, 2012, to apply the credits to environmental improvement projects. The program is scheduled to expire on December 31, 2012.

Chile

We identified subsidies provided by Chile that potentially benefit softwood lumber and softwood lumber products through an examination of Chile's TPRs.

Forestry Programs

- The Government of Chile has encouraged forestry activities by offering subsidies and favorable tax treatment. The National Forest Corporation (CONAF), which is responsible for the conservation and sustainable use of woodland and forest resources, offers rebates of between 75 and 90 percent of the net costs of reforestation and sustainable forest management activities, especially those carried out by small woodland owners. In 2009, it was planned to budget Ch$24,600 million (about US$42 million) for CONAF forest management, woodland area protection and fire control programs.[10]

- The Law on Indigenous Forests (populated by native species) was approved in 2008 and provides rebates to help meet the cost of reclaiming, protecting and improving indigenous forests. In 2009, Ch$5,629 million (about US$9.6 million) was budgeted for the implementation of this law.[11]

[10] See Trade Policy Review of Chile, Report by the Secretariat, WT/TPR/S/220/R1, dated November 5, 2009, Part 4, para.49.

[11] See Trade Policy Review of Chile, Report by the Secretariat, WT/TPR/S/220/R1, dated November 5, 2009, Part 4, para.50.

IV. <u>Conclusion</u>

This report reflects the best publicly available information related to subsidies on softwood lumber or softwood lumber products provided by countries of export that were the largest suppliers of these products to the United States. We note that this report covers all subsidies identified following the reporting methodology described above and does not constitute a finding regarding the countervailability of the listed subsidies under U.S. law or their status under the SLA or the WTO SCM Agreement. We also note that this report only includes subsidies identified pursuant to the described reporting methodology. A subsidy's presence in or absence from this report is not an indication of whether the subsidy is countervailable under U.S. law, is in accordance with the relevant WTO agreements, or is actionable under any other international agreement.

Appendix I

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

Andrew W. Kentz
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(202) 331-4040

Counsel to the Coalition for Fair Lumber Imports

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
December 6, 2010

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

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[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.

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[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).

Appendix II

IDAHO TIMBER CORPORATION
1299 N. Orchard, Suite #300
P.O. Box 67 (83707)
Boise, Idaho 83706
(208) 377-3000

Ted Ellis
President/CEO

Mr. James Terpstra
Import Administration
US Department of Commerce
Room 7043
14th Street and Constitution Avenue, NW
Washington, DC 200230

Re: Softwood Subsidies Bi-Annual Report: Request for Comment

Dear Mr. Terpstra:

In response to the Federal Register Notice dated November 5, 2010, please accept the following comments on behalf of Idaho Timber. It is our hope that they will provide additional insights regarding the ongoing inquiry into Canadian imports of softwood lumber.

As you may know, Idaho Timber is one of the ten largest producers of lumber in the United States with an estimated annual production of between 500 to 900 million board feet. We operate a primary Southern Yellow Pine sawmill in Arkansas and we also have a split rail mill in Troy, Idaho, which competes directly with similar Canadian mills. Additionally, we are the largest secondary manufacturer of lumber in the United States with approximately 400 employees working at our plants and mills in the following states: Idaho, Florida, Texas, New Mexico, North Carolina and Arkansas. Generally, at our seven secondary (remanufacturing) facilities, we sort, grade, defect trim, and defect split low-grade lumber/boards and make as much high-grade lumber/boards as possible from the low-grade inputs. We are not able to obtain sufficient types and grades of lumber from domestic producers, so we also rely on Canadian producers for a significant percentage of our supply. As a result of our remanufacturing operations, we are very sensitive to Canadian lumber pricing and export activity.

Based on our experience, it appears that since the grade 4 log volume reportedly began to escalate in 2007, British Columbia's export volumes to the United States have actually decreased at about the same rate or greater than Canadian exports excluding

British Columbia (see attached Exhibit A). From our research, it appears that an increasing percentage of lumber manufactured in British Columbia is actually being exported to China or other non-US markets. Therefore, it does not appear that Canadian government practices associated with the grade 4 log situation is causing an increased volume of lumber from British Columbia to affect the domestic market.

Additionally, the data we have been able to obtain does not support the claim that Canadian government practices are affecting the pricing level of lumber manufactured in British Columbia (see Exhibit B). Based on the attached chart, it appears that the average export price charged for lumber manufactured in British Columbia has not deviated from the historic norm and the prices of Canadian lumber in general. In summary, there is no objective evidence that grade 4 log imports have adversely affected the domestic lumber market.

Thank you for your time and consideration in this very important matter

Sincerely,

Ted Ellis
President & CEO
Idaho Timber

EXHIBIT A

Canadian exports to US by BC and all other provinces

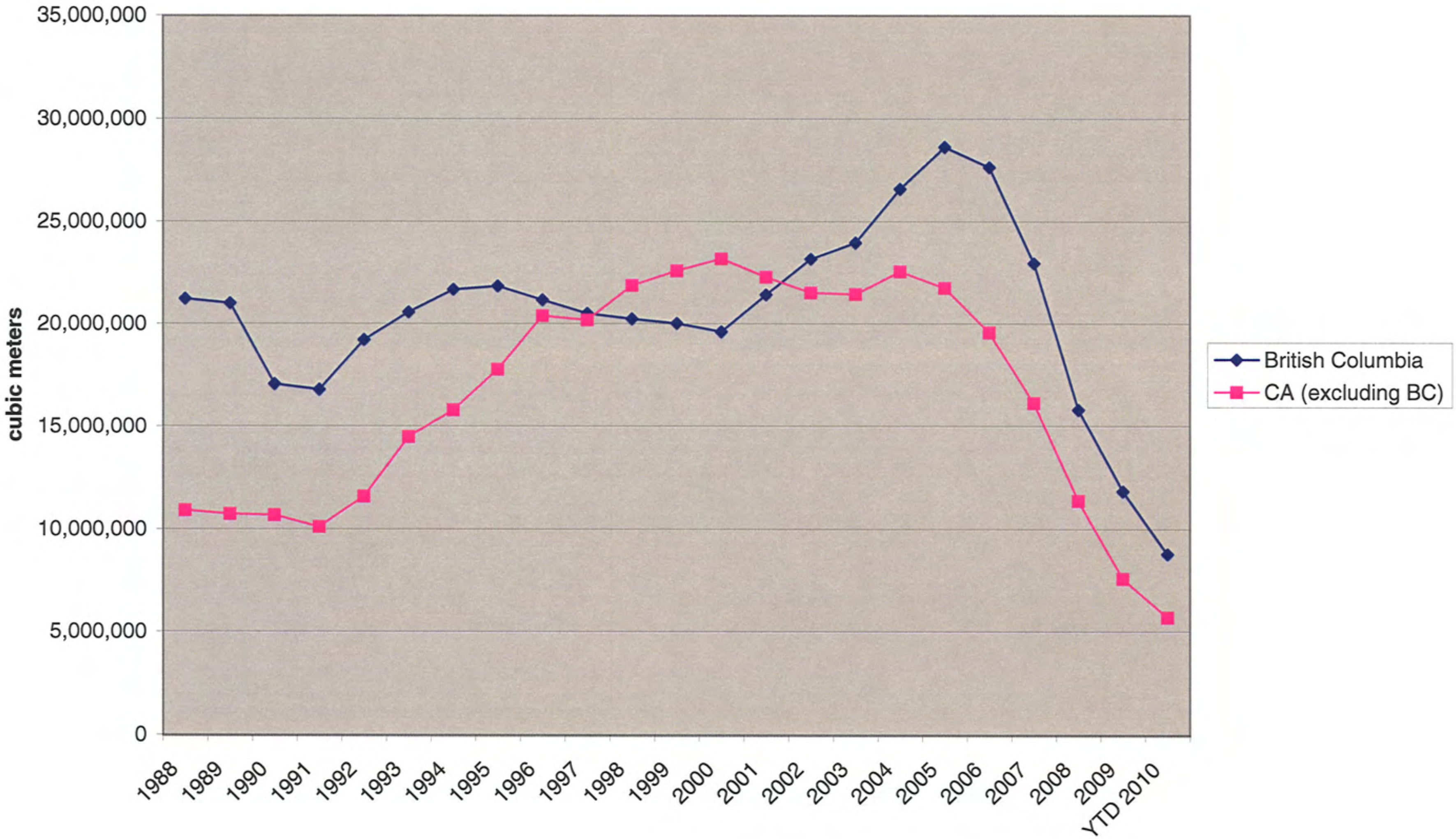
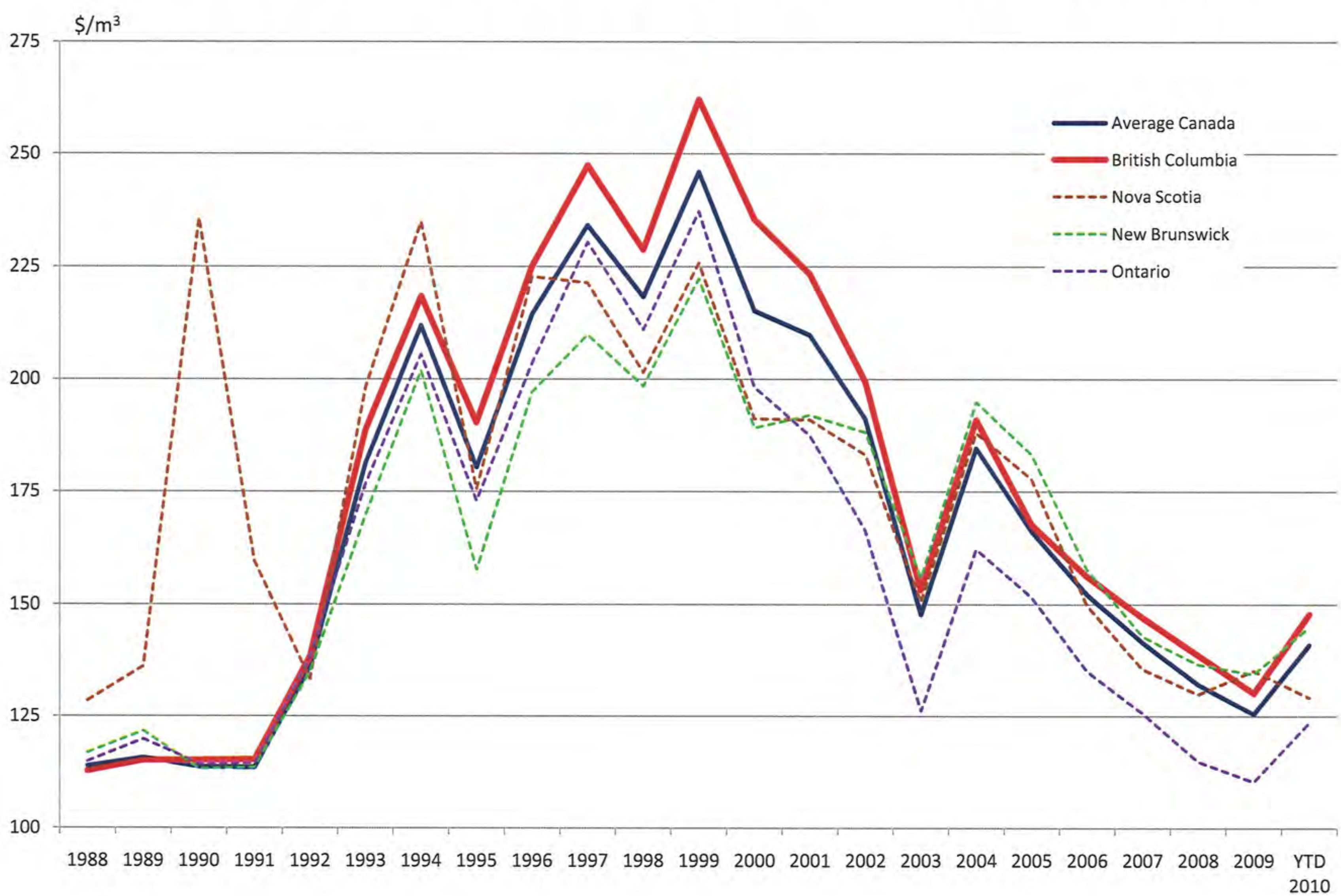


EXHIBIT B

Average Export Price of Lumber from Canadian States



	Average Canada	British Columbia	Nova Scotia	New Brunswick	Ontario	Quebec	Manitoba	Newfoundland & Labrador	Saskatchewan	Yukon	Prince Edward Is.	Alberta	Northwest Terr.	Nunavut
								$ per cubic metre						
1988	113.73	112.58	128.39	116.71	114.74	123.48	114.24	140.92	125.95	116.69	-	100.01	-	-
1989	115.59	115.01	136.04	121.60	119.73	118.72	119.81	97.90	117.32	194.44	-	103.40	-	-
1990	113.61	114.99	235.68	113.17	114.24	110.42	107.78	101.98	102.43	405.51	100.86	105.82	116.59	-
1991	113.40	115.17	159.58	113.49	114.34	108.39	101.90	-	100.51	-	114.43	103.84	-	-
1992	136.00	138.30	133.18	134.90	138.40	126.71	121.79	159.24	128.67	-	109.82	124.22	78.53	-
1993	181.32	188.61	198.16	169.80	176.66	164.59	179.61	-	180.23	1,247.19	136.53	159.87	166.38	-
1994	211.85	218.29	234.82	201.79	205.36	201.52	201.55	-	203.15	193.89	175.12	195.73	120.63	-
1995	180.34	190.27	175.50	157.68	172.86	166.07	175.81	-	150.45	130.73	160.75	169.19	167.58	-
1996	214.34	224.92	222.64	197.03	203.37	199.88	188.78	226.68	200.51	283.23	232.08	221.17	245.53	-
1997	234.12	247.38	221.27	209.77	230.32	218.58	216.51	201.04	197.20	257.77	209.55	232.80	234.56	-
1998	218.18	228.62	201.36	198.37	210.87	211.36	194.07	197.34	190.79	209.31	212.13	216.67	225.29	-
1999	245.94	262.10	225.65	222.21	237.15	233.31	207.35	216.53	202.70	233.30	232.77	247.48	227.77	307.23
2000	215.13	235.41	191.12	189.13	198.13	200.76	186.17	183.87	178.69	198.42	176.79	214.15	211.99	-
2001	209.70	223.20	190.89	191.95	187.37	204.04	180.28	188.18	178.77	198.58	170.85	203.67	171.96	-
2002	191.12	199.28	183.11	188.15	166.29	196.46	154.20	182.84	167.92	422.50	176.38	173.83	184.50	-
2003	147.71	153.10	150.59	155.91	126.15	148.32	123.69	161.73	133.00	317.07	147.07	135.86	-	-
2004	184.61	190.86	188.02	194.83	162.20	180.77	160.71	179.23	161.15	294.45	185.02	174.06	-	-
2005	166.22	167.66	177.75	183.21	151.50	170.84	141.13	180.50	148.70	-	169.46	153.65	-	-
2006	152.09	156.15	149.64	157.64	134.96	155.35	119.39	153.29	139.08	577.50	137.85	137.34	-	-
2007	141.48	146.94	135.44	142.79	125.55	142.42	114.89	126.14	137.79	-	127.22	122.81	179.74	-
2008	132.04	138.60	129.83	136.57	114.73	132.60	105.20	102.49	100.12	-	105.01	108.31	361.99	105.52
2009	125.42	130.05	135.09	134.31	110.25	127.99	102.42	109.57	73.98	229.49	-	100.61	439.91	103.13
YTD 2010	140.91	147.71	129.10	144.94	123.50	133.55	113.75	127.91	63.36	221.04	-	121.55	-	-