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DEPARTMENT OF COMMERCE

International Trade Administration

[A-122-857]

Certain Softwood Lumber Products from Canada: Preliminary Affirmative Determination of Sales at Less Than Fair Value

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce

SUMMARY: The Department of Commerce (the Department) preliminarily determines that certain softwood lumber products (softwood lumber) from Canada is being, or is likely to be, sold in the United States at less than fair value (LTFV). The period of investigation (POI) is October 1, 2015, through September 30, 2016.

DATES: Effective [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: Stephen Bailey or Thomas Martin, AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-0193 or (202) 482-3936, respectively.

SUPPLEMENTARY INFORMATION:

Background

This preliminary determination is made in accordance with section 733(b) of the Tariff Act of 1930, as amended (the Act). The Department published the notice of initiation of this investigation on December 22, 2016.¹ On April 14, 2017, the Department postponed the

¹ See *Certain Softwood Lumber Products from Canada: Initiation of Less-Than-Fair-Value Investigation*, 81 FR 93892 (December 22, 2016) (*Initiation Notice*).

preliminary determination of this investigation and the revised deadline is now June 23, 2017.² On April 13, 2017, the Department preliminarily determined that critical circumstances exist.³ For a complete description of the events that followed the initiation of this investigation, *see* the Preliminary Decision Memorandum.⁴ A list of topics included in the Preliminary Decision Memorandum is included as Appendix II to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>, and to all parties in the Central Records Unit, room B8024 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/>. The signed and the electronic versions of the Preliminary Decision Memorandum are identical in content.

Scope of the Investigation

The product covered by this investigation is softwood lumber from Canada. For a complete description of the scope of this investigation, *see* Appendix I.

Scope Comments

In accordance with the preamble to the Department's regulations,⁵ the *Initiation Notice* set aside a period of time for interested parties to raise issues regarding product coverage (*i.e.*, scope).⁶ Certain interested parties commented on the scope of the investigation as it appeared in

² *See Certain Softwood Lumber Products from Canada: Postponement of Preliminary Determination of Antidumping Duty Investigation*, 82 FR 18421 (April 19, 2017).

³ *See Antidumping and Countervailing Duty Investigations of Certain Softwood Lumber Products From Canada: Preliminary Determinations of Critical Circumstances*, 82 FR 19219 (April 26, 2017) (*Preliminary Critical Circumstances Determinations*).

⁴ *See Preliminary Decision Memorandum*.

⁵ *See Antidumping Duties; Countervailing Duties, Final Rule*, 62 FR 27296, 27323 (May 19, 1997).

⁶ *See Initiation Notice*.

the *Initiation Notice*. For a summary of the product coverage comments and rebuttal responses submitted to the record for this preliminary determination, and accompanying discussion and analysis of all comments timely received, *see* the Scope Decision.⁷ The Department is preliminarily modifying the scope language as it appeared in the *Initiation Notice*. *See* the revised scope in Appendix I to this notice. Furthermore, the Department has proposed additional changes to the scope language and has invited further input from the interested parties.⁸ Finally, the Department has responded to the Committee Overseeing Action for Lumber International Trade Investigations or Negotiations’ (the petitioner’s) request to amend the petition to exclude Atlantic Lumber Board (ALB)-certified lumber from the scope of the antidumping and countervailing duty (CVD) investigations.⁹

Particular Market Situation (PMS) Allegation

On May 15, 2017, the petitioner alleged that certain particular market situations exist within the Canadian lumber industry.¹⁰ The petitioner’s PMS allegation asserts that the Government of Canada (GOC) increased the demand for lumber byproducts by establishing and supporting bioenergy, electricity and stumpage programs. The petitioner alleges that the demand

⁷ *See* Memorandum, “Certain Softwood Lumber Products from Canada: Scope Decision,” dated concurrently with this preliminary determination (Scope Decision).

⁸ *Id.*

⁹ *See* Memorandum, “Decision Memorandum for Exclusion of Certain Softwood Lumber Products Certified By the Atlantic Lumber Board in the Antidumping Duty and Countervailing Duty Investigations of Certain Softwood Lumber Products from Canada,” dated June 23, 2017 (ALB Decision Memorandum) where the Department preliminarily excluded from the scope softwood lumber products certified by the ALB as being first produced in the Provinces of Newfoundland and Labrador, Nova Scotia, or Prince Edward Island from logs harvested in these three provinces. However, as noted in the ALB Decision Memorandum, U.S. Customs and Border Protection (CBP) has not yet begun collecting ALB certifications, and the Department needs assurance that CBP will have a system in place to collect the certifications before we permit these products to be excluded. Thus, CBP will continue to suspend liquidation of entries of merchandise subject to the CVD investigation, and we will instruct CBP to begin suspension of liquidation of merchandise subject to this investigation. If there are no changes to the preliminary decision to exclude this merchandise, at the final determination, the Department will instruct CBP to stop suspension of liquidation of the merchandise subject to the exclusion and to refund cash deposits.

¹⁰ *See* Letter from the petitioner to the Secretary, regarding “Certain Softwood Lumber Products from Canada: Particular Market Situation Regarding Respondents’ Cost of Production,” dated May 15, 2017 (PMS allegation).

created by these programs caused an increase in the production of byproducts, which, in turn, increased the production of lumber. The petitioner asserts that the only remedy for addressing the distortion to the cost of production (COP) caused by the GOC's interventions is to deny the byproduct offset to COP claimed by the respondents.

Specifically, regarding bioenergy programs, the petitioner alleges that the GOC has increased the demand for lumber byproducts by encouraging the development of energy from biomass, including wood chips from lumber. Regarding electricity, the petitioner alleges that the GOC has instituted certain energy initiatives that allow sawmills and consumers of lumber byproducts to either reduce or offset their electricity costs. The petitioner alleges these actions have decreased the electricity costs associated with producing lumber and lumber byproducts, which, in turn, distorts the COP of lumber producers. For stumpage, the petitioner alleges that lumber producers are able to obtain a steady supply of subsidized logs, which then enables them to meet the increased demand for byproducts.

The Department finds that the petitioner's presentation and discussion of the bioenergy, electricity and stumpage programs promoted by the GOC, substantiates the petitioner's allegations that such interventions and subsidies may have distorted the byproduct market and consequently the COP of lumber producers. The Department intends to further investigate and analyze the alleged distortions to COP raised by the petitioner in its PMS allegation. We intend to issue a schedule to provide deadlines for interested parties to submit further factual information related to the PMS allegation. We also intend to issue a supplemental questionnaire to all interested parties to obtain additional information to aid us in the analysis of the petitioner's PMS allegation. For further discussion of this matter, refer to the PMS Allegation

Memorandum.¹¹

Methodology

The Department is conducting this investigation in accordance with section 731 of the Act. The Department has calculated export prices in accordance with section 772(a) of the Act. Constructed export prices have been calculated in accordance with section 772(b) of the Act. Normal value (NV) is calculated in accordance with section 773 of the Act. For a full description of the methodology underlying the preliminary determination, *see* the Preliminary Decision Memorandum.

Preliminary Affirmative Determination of Critical Circumstances, in Part

As explained above, on April 13, 2017, the Department preliminarily determined that critical circumstances exist for all-others and do not exist for Canfor, Resolute, Tolko, and West Fraser. For a full description of the methodology and results of the Department's critical circumstances analysis, *see* the *Preliminary Critical Circumstances Determinations*.

All-Others Rate

Sections 733(d)(1)(ii) and 735(c)(5)(A) of the Act provide that in the preliminary determination the Department shall determine an estimated all-others rate for all exporters and producers not individually examined. This rate shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero and *de minimis* margins, and any margins determined entirely under section 776 of the Act.

¹¹ *See* Memorandum, "Less-Than-Fair-Value Investigation of Certain Softwood Lumber Products from Canada: Particular Market Situation Allegation," dated concurrently with this memorandum (PMS Allegation Memorandum).

In this investigation, the Department calculated estimated weighted-average dumping margins for Canfor, Resolute, Tolko, and West Fraser, none of which are zero, *de minimis*, or based entirely on facts otherwise available. The Department calculated the all-others' rate using a weighted-average of the estimated weighted-average dumping margins calculated for the examined respondents using each company's business proprietary data for the merchandise under consideration.¹²

Preliminary Determination

The Department preliminarily determines that the following estimated weighted-average dumping margins exist:

Exporter/Producer	Estimated Weighted-Average Dumping Margins (percent)
Canfor Corporation, Canadian Forest Products Ltd., and Canfor Wood Products Marketing Ltd. ¹³	7.72
Resolute FP Canada Inc. ¹⁴	4.59
Tolko Marketing and Sales Ltd. and Tolko Industries Ltd. ¹⁵	7.53

¹² For a complete analysis of the data, please *see* the All-Others Calculation Memorandum dated concurrently with this notice.

¹³ The Department preliminarily determines that Canfor, Canadian Forest Products Ltd., and Canfor Wood Products Marketing Ltd. are a single entity. *See* Memorandum, “Antidumping Duty Investigation of Certain Softwood Lumber from Canada: Tolko Industries Ltd. and Tolko Marketing and Sales Ltd. Preliminary Affiliation and Collapsing Memorandum,” dated June 23, 2017.

¹⁴ The Department preliminarily determines that Resolute and Resolute Growth Canada Inc. (Resolute Growth), Abitibi-LP Engineered Wood Inc. (Abitibi-LP), Abitibi-LP Engineered Wood II Inc. (Abitibi-LP II), Forest Products Mauricie LP (Mauricie), Produits Forestiers Petit-Paris Inc. (Petit-Paris), Société en commandite Scierie Opitciwan (Opitciwan), 9265-7030 Québec Inc. (9265-7030 Inc.), are a single entity. *See* Memorandum, “Antidumping Duty Investigation of Certain Softwood Lumber from Canada: Resolute FP Canada Inc. Preliminary Affiliation and Collapsing Memorandum,” dated June 23, 2017.

¹⁵ The Department preliminarily determines that Tolko and Gilbert Smith Forest Products Ltd. are a single entity. *See* Memorandum, “Antidumping Duty Investigation of Certain Softwood Lumber from Canada: Tolko Industries Ltd. and Tolko Marketing and Sales Ltd. Preliminary Affiliation and Collapsing Memorandum,” dated June 23, 2017.

West Fraser Mills Ltd. ¹⁶	6.76
All-Others	6.87

Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, the Department will direct CBP to suspend liquidation of entries of subject merchandise, as described in Appendix I, entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the *Federal Register*. Further, pursuant to section 733(d)(1)(B) of the Act and 19 CFR 351.205(d), the Department will instruct CBP to require a cash deposit equal to the estimated weighted-average dumping margin or the estimated all-others rate, as follows: (1) The cash deposit rate for the respondents listed above will be equal to the company-specific estimated weighted-average dumping margins determined in this preliminary determination; (2) if the exporter is not a respondent identified above, but the producer is, then the cash deposit rate will be equal to the company-specific estimated weighted-average dumping margin established for that producer of the subject merchandise; and (3) the cash deposit rate for all other producers and exporters will be equal to the all-others estimated weighted-average dumping margin.

Section 733(e)(2) of the Act provides that, given an affirmative determination of critical circumstances, any suspension of liquidation shall apply to unliquidated entries of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the later of (a) the date which is 90 days before the date on which the suspension of liquidation was first

¹⁶ The Department preliminarily determines that West Fraser and Blue Ridge Lumber Inc. (Blue Ridge), Manning Forest Products Ltd. (Manning), and Sundre Forest Products Inc. (Sundre) are a single entity. See Memorandum, “Antidumping Duty Investigation of Certain Softwood Lumber from Canada: West Fraser Mills Ltd. Preliminary Affiliation and Collapsing Memorandum,” dated June 23, 2017.

ordered, or (b) the date on which notice of initiation of the investigation was published. As discussed in *Preliminary Critical Circumstances Determinations*, the Department preliminarily found that critical circumstances exist for imports of subject merchandise shipped by the companies subject to the all-others rate. In accordance with section 733(e)(2)(A) of the Act, the suspension of liquidation shall apply to unliquidated entries of shipments of subject merchandise from companies subject to the all-others rate that were entered, or withdrawn from warehouse, for consumption on or after the date which is 90 days before the publication of this notice.

Disclosure

The Department intends to disclose its calculations and analysis performed to interested parties in this preliminary determination within five days of any public announcement or, if there is no public announcement, within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

Verification

As provided in section 782(i)(1) of the Act, the Department intends to verify the information relied upon in making its final determination.

Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date on which the last verification report is issued in this investigation, unless the Secretary alters the time limit. Rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than five days after the deadline date for case briefs.¹⁷ Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this investigation are encouraged to submit with each

¹⁷ See 19 CFR 351.309; see also 19 CFR 351.303 (for general filing requirements).

argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, within 30 days after the date of publication of this notice. Requests should contain the party's name, address, and telephone number, the number of participants, whether any participant is a foreign national, and a list of the issues to be discussed. If a request for a hearing is made, the Department intends to hold the hearing at the U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230, at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

International Trade Commission Notification

In accordance with section 733(f) of the Act, the Department intends to notify the International Trade Commission (ITC) of its preliminary affirmative determination. If the final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after the final determination whether these imports are materially injuring, or threaten material injury to, the U.S. industry.

Notification to Interested Parties

We intend to issue and publish this notice in accordance with sections 733(f) and 777(i)(1) of the Act and 19 CFR 351.205(c).

Dated: June 23, 2017 _____

Ronald Lorentzen
Acting Assistant Secretary
for Enforcement and Compliance

Appendix I

Scope of the Investigation

The merchandise covered by this investigation is softwood lumber, siding, flooring and certain other coniferous wood (softwood lumber products). The scope includes:

- Coniferous wood, sawn, or chipped lengthwise, sliced or peeled, whether or not planed, whether or not sanded, or whether or not finger-jointed, of an actual thickness exceeding six millimeters.
- Coniferous wood siding, flooring, and other coniferous wood (other than moldings and dowel rods), including strips and friezes for parquet flooring, that is continuously shaped (including, but not limited to, tongued, grooved, rebated, chamfered, V-jointed, beaded, molded, rounded) along any of its edges, ends, or faces, whether or not planed, whether or not sanded, or whether or not end-jointed.
- Coniferous drilled and notched lumber and angle cut lumber.
- Coniferous lumber stacked on edge and fastened together with nails, whether or not with plywood sheathing.
- Components or parts of semi-finished or unassembled finished products made from subject merchandise that would otherwise meet the definition of the scope above.

Softwood lumber product imports are generally entered under Chapter 44 of the Harmonized Tariff Schedule of the United States (HTSUS).¹⁸ This chapter of the HTSUS covers “Wood and articles of wood.” Softwood lumber products that are subject to this investigation are currently classifiable under the following ten-digit HTSUS subheadings in Chapter 44:

4407.10.01.01; 4407.10.01.02; 4407.10.01.15; 4407.10.01.16; 4407.10.01.17; 4407.10.01.18; 4407.10.01.19; 4407.10.01.20; 4407.10.01.42; 4407.10.01.43; 4407.10.01.44; 4407.10.01.45; 4407.10.01.46; 4407.10.01.47; 4407.10.01.48; 4407.10.01.49; 4407.10.01.52; 4407.10.01.53; 4407.10.01.54; 4407.10.01.55; 4407.10.01.56; 4407.10.01.57; 4407.10.01.58; 4407.10.01.59; 4407.10.01.64; 4407.10.01.65; 4407.10.01.66; 4407.10.01.67; 4407.10.01.68; 4407.10.01.69; 4407.10.01.74; 4407.10.01.75; 4407.10.01.76; 4407.10.01.77; 4407.10.01.82; 4407.10.01.83; 4407.10.01.92; 4407.10.01.93; 4409.10.05.00; 4409.10.10.20; 4409.10.10.40; 4409.10.10.60; 4409.10.10.80; 4409.10.20.00; 4409.10.90.20; 4409.10.90.40; and 4418.99.10.00.

Subject merchandise as described above might be identified on entry documentation as stringers, square cut box-spring-frame components, fence pickets, truss components, pallet components, flooring, and door and window frame parts. Items so identified might be entered under the following ten-digit HTSUS subheadings in Chapter 44:

¹⁸ Throughout this document, all references to the HTSUS are based on the HTSUS as it exists at <https://hts.usitc.gov/current>.

4415.20.40.00; 4415.20.80.00; 4418.99.90.05; 4418.99.90.20; 4418.99.90.40; 4418.99.90.95; 4421.91.70.40; and 4421.91.97.80.

Although these HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of these investigations is dispositive.

The scope of the order excludes the following items:

U.S.-origin lumber shipped to Canada for processing and imported into the United States is excluded from the scope of the investigations if the processing occurring in Canada is limited to one or more of the following: (1) kiln drying; (2) planing to create smooth-to-size board; or (3) sanding.

Box-spring frame kits are excluded if they contain the following wooden pieces – two side rails, two end (or top) rails and varying numbers of slats. The side rails and the end rails must be radius-cut at both ends. The kits must be individually packaged and must contain the exact number of wooden components needed to make a particular box spring frame, with no further processing required. None of the components exceeds 1” in actual thickness or 83” in length.

Radius-cut box-spring-frame components, not exceeding 1” in actual thickness or 83” in length, ready for assembly without further processing are excluded. The radius cuts must be present on both ends of the boards and must be substantially cut so as to completely round one corner.

Appendix II

List of Topics Discussed in the Preliminary Decision Memorandum

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