



DEPARTMENT OF COMMERCE

International Trade Administration

[C-122-858]

Certain Softwood Lumber from Canada: Notice of Initiation of Changed Circumstances Review

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

SUMMARY: Based on a request from the Committee Overseeing Action for Lumber International Trade Investigations or Negotiations (the petitioner), the U.S. Department of Commerce (Commerce) is initiating a changed circumstances review (CCR) of the countervailing duty (CVD) order on certain softwood lumber from Canada.

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

FOR FURTHER INFORMATION CONTACT: Elizabeth Talbot Russ, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC, 20230; telephone: (202) 482-5516.

SUPPLEMENTARY INFORMATION:

Background

On January 3, 2018, Commerce published the CVD order on certain softwood lumber from Canada.¹ On May 10, 2024, the petitioner requested that Commerce initiate a CCR of the *Order*, pursuant to section 751(b)(1) of the Tariff Act of 1930, as amended (the Act), 19 CFR 351.216, and 19 CFR 251.221(c)(3).² Specifically, the petitioner requests that Commerce

¹ See *Certain Softwood Lumber Products from Canada: Amended Final Affirmative Countervailing Duty Determination and Countervailing Duty Order*, 83 FR 347 (January 3, 2018) (*Order*).

² See Petitioner's Letter, "Certain Softwood Lumber Products from Canada: Request for Changed Circumstances Review," dated May 10, 2024 (Petitioner's Request for CCR).

determine that Interfor Sales & Marketing Ltd. (ISM) is cross-owned with EACOM Timber Corporation (EACOM), Chaleur Forest Products Inc., and Chaleur Forest Products LP.³

Scope of the *Order*

The merchandise covered by this *Order* 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.

Finished products are not covered by the scope of this *Order*. For the purposes of this scope, finished products contain, or are comprised of, subject merchandise and have undergone sufficient processing such that they can no longer be considered intermediate products, and such products can be readily differentiated from merchandise subject to this *Order* at the time of importation. Such differentiation may, for example, be shown through marks of special adaptation as a particular product. The following products are illustrative of the type of

³ *Id.*

merchandise that is considered “finished,” for the purpose of this scope: I-joists; assembled pallets; cutting boards; assembled picture frames; garage doors.

The following items are excluded from the scope of this *Order*:

- Softwood lumber products certified by the Atlantic Lumber Board as being first produced in the Provinces of Newfoundland and Labrador, Nova Scotia, or Prince Edward Island from logs harvested in Newfoundland and Labrador, Nova Scotia, or Prince Edward Island.
- U.S.-origin lumber shipped to Canada for processing and imported into the United States 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 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. The radius cuts must be present on both ends of the boards and must be substantially cut so as to completely round one corner.

Softwood lumber product imports are generally entered under Chapter 44 of the HTSUS.

This chapter of the HTSUS covers “Wood and articles of wood.” Softwood lumber products that are subject to this *Order* are currently classifiable under the following ten-digit HTSUS subheadings in Chapter 44: 4406.11.00.00; 4406.91.00.00; 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;
4407.11.00.01; 4407.11.00.02; 4407.11.00.42; 4407.11.00.43; 4407.11.00.44; 4407.11.00.45;
4407.11.00.46; 4407.11.00.47; 4407.11.00.48; 4407.11.00.49; 4407.11.00.52; 4407.11.00.53;
4407.12.00.01; 4407.12.00.02; 4407.12.00.17; 4407.12.00.18; 4407.12.00.19; 4407.12.00.20;
4407.12.00.58; 4407.12.00.59; 4407.13.00.00; 4407.14.00.00; 4407.19.00.01; 4407.19.00.02;
4407.19.00.54; 4407.19.00.55; 4407.19.00.56; 4407.19.00.57; 4407.19.00.64; 4407.19.00.65;
4407.19.00.66; 4407.19.00.67; 4407.19.00.68; 4407.19.00.69; 4407.19.00.74; 4407.19.00.75;
4407.19.00.76; 4407.19.00.77; 4407.19.00.82; 4407.19.00.83; 4407.19.00.92; 4407.19.00.93;
4407.19.05.00; 4407.19.06.00; 4407.19.10.01; 4407.19.10.02; 4407.19.10.54; 4407.19.10.55;
4407.19.10.56; 4407.19.10.57; 4407.19.10.64; 4407.19.10.65; 4407.19.10.66; 4407.19.10.67;
4407.19.10.68; 4407.19.10.69; 4407.19.10.74; 4407.19.10.75; 4407.19.10.76; 4407.19.10.77;
4407.19.10.82; 4407.19.10.83; 4407.19.10.92; 4407.19.10.93; 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;
4418.30.01.00; 4418.50.00.10; 4418.50.00.30; 4418.50.0050; and 4418.99.10.00; 4418.99.91.05;
4418.99.91.20; 4418.99.91.40; 4418.99.91.95; 4421.99.98.80.⁴

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: 4415.20.40.00; 4415.20.80.00;

⁴ The following HTSUS numbers have been deleted, deactivated, replaced, or are invalid: 4407.10.0101, 4407.10.0102, 4407.10.0115, 4407.10.0116, 4407.10.0117, 4407.10.0118, 4407.10.0119, 4407.10.0120, 4407.10.0142, 4407.10.0143, 4407.10.0144, 4407.10.0145, 4407.10.0146, 4407.10.0147, 4407.10.0148, 4407.10.0149, 4407.10.0152, 4407.10.0153, 4407.10.0154, 4407.10.0155, 4407.10.0156, 4407.10.0157, 4407.10.0158, 4407.10.0159, 4407.10.0164, 4407.10.0165, 4407.10.0166, 4407.10.0167, 4407.10.0168, 4407.10.0169, 4407.10.0174, 4407.10.0175, 4407.10.0176, 4407.10.0177, 4407.10.0182, 4407.10.0183, 4407.10.0192, 4407.10.0193; and 4418.90.2500. These HTSUS numbers however have not been deactivated in CBP's ACE secure data portal, as they could be associated with entries of unliquidated subject merchandise.

4418.99.90.05; 4418.99.90.20; 4418.99.90.40; 4418.99.90.95; 4421.99.70.40; and 4421.99.97.80.

Although these HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this *Order* is dispositive.⁵

Initiation of Changed Circumstances Review

Pursuant to section 751(b) of the Act, Commerce will conduct a CCR upon receipt of a request from an interested party⁶ that shows changed circumstances sufficient to warrant a review of an order. In accordance with 19 CFR 351.216(d), Commerce determines that the Petitioner's Request for CCR constitutes a sufficient basis to conduct a CCR of the *Order*. Therefore, in accordance with section 751(b)(1)(A) of the Act and 19 CFR 351.216(d), we are initiating a CCR based upon the information contained in the Petitioner's Request for CCR.

Neither the Act, the Statement of Administrative Action Accompanying the Uruguay Round Agreements Act, nor Commerce's regulations offer a definition of the term "changed circumstances," nor do they explain what aspects of a determination may be reconsidered in light of such changed circumstances. Commerce has in the past conducted CCRs regarding a variety of issues.⁷

The petitioner has requested that Commerce initiate this CCR to investigate potential cross-ownership among four exporter/producers subject to the *Order* that have never been selected for individual examination: ISM, EACOM, Chaleur Forest Products Inc., and Chaleur Forest Products LP.⁸

⁵ See *Order*, 83 FR at 349.

⁶ The petitioner is an *ad hoc* association and the majority the members of the association are composed of interested parties as described in section 771(9)(C), (D), and (E) of the Act, with respect to a domestic like product.

⁷ See, e.g., *Aluminum Extrusions from the People's Republic of China: Initiation and Preliminary Results of Expedited Changed Circumstances Review*, 83 FR 34548 (July 20, 2018) (finding sufficient information to initiate a CCR to recalculate certain cash deposit rates); see also *Certain Steel Nails from Malaysia: Final Results of the Changed Circumstances Review*, 82 FR 34476 (July 25, 2017) (finding sufficient information and "good cause" to initiate a CCR to evaluate whether a company was properly utilizing the correct cash deposit rate).

⁸ We note that the nature of this CCR request is distinct from that of a CVD "successor-in-interest" (SII) CCR request that Commerce more commonly receives, which clarifies the appropriate cash deposit rate for an entity and which is governed by the practice laid out in *Certain Pasta from Turkey: Preliminary Results of Countervailing Duty Changed Circumstances Review*, 74 FR 47225 (September 15, 2009), unchanged in *Certain Pasta from Turkey: Final Results of Countervailing Duty Changed Circumstances Review*, 74 FR 54022 (October 21, 2009).

On March 12, 2024, Commerce issued the final results of a CCR in which it found that Interfor Corporation, EACOM, Chaleur Forest Products Inc., and Chaleur Forest Products LP are cross-owned entities in the context of the CVD *Order* on certain softwood lumber from Canada.⁹

As we explained in the initiation notice of *CCR – Interfor*, while Commerce does not generally initiate CCR requests in proceedings simply because there may be some indication of cross-ownership between two or more exporters, we find the circumstances of the instant CCR to be relatively unique. Specifically, similar to the circumstances noted in *CCR – Interfor*, a potential affirmative finding of cross-ownership regarding ISM, EACOM, Chaleur Forest Products Inc., and Chaleur Forest Products LP could result in a cross-owned entity that is large enough to be selected as a respondent in a future administrative review.¹⁰ Furthermore, this request arises in the context of a longstanding proceeding that is generally characterized by the relatively dominant position of a handful of large Canadian producers/exporters that routinely get selected as mandatory respondents within a broader field of dozens of much smaller producers/exporters. In addition, the petitioner has provided a sufficient factual basis to support initiation of this CCR.

For the reasons outlined above, Commerce determines that the issue raised by the petitioner of whether ISM, EACOM, Chaleur Forest Products Inc., and Chaleur Forest Products LP are cross-owned constitutes a sufficient basis to conduct a CCR of the *Order*. Accordingly, in accordance with section 751(b)(1)(A) of the Act and 19 CFR 351.216(d), we are initiating a CCR based upon the information contained in the petitioner’s submission.

In the event that Commerce determines an expedited action is warranted, 19 CFR 351.221(c)(3)(ii) permits Commerce to combine the notice of initiation of the review and the preliminary results of review into a single notice. However, we are not combining this notice of

⁹ See *Certain Softwood Lumber from Canada: Final Results of Countervailing Duty Changed Circumstances Review*, March 12, 2024 (89 FR 17811) (*CCR – Interfor*).

¹⁰ See *Certain Softwood Lumber from Canada: Notice of Initiation of Changed Circumstances Review*, 88 FR 48440 (July 27, 2023).

initiation with the preliminary results, pursuant to 19 CFR 351.221(c)(3)(ii), because Commerce has determined that it is necessary to issue a questionnaire to ISM and gather additional information regarding the company's corporate structure and ownership. After examining any properly filed comments and following up with any additional questionnaires as needed, we intend to issue the preliminary results of this CCR.

Preliminary and Final Results of the CCR

Commerce intends to publish in the *Federal Register* a notice of the preliminary results of this CCR in accordance with 19 CFR 351.221(b)(4) and (c)(3)(i). Commerce will set forth its preliminary factual and legal conclusions in that notice regarding the factual question of whether ISM, EACOM, Chaleur Forest Products Inc., and Chaleur Forest Products LP are cross-owned.¹¹ Unless extended, Commerce will issue the final results of this CCR in accordance with the time limits set forth in 19 CFR 351.216(e).

Notification to Interested Parties

This initiation notice is published in accordance with section 751(b)(1) of the Act, 19 CFR 351.216(d), and 19 CFR 351.221(b)(1).

Dated: June 24, 2024.

James Maeder,
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations.

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¹¹ Commerce does not intend to identify in this CCR the appropriate cash deposit rate in the event these parties are determined to be cross-owned, as that is the purpose of a SII CCR review.