

**DEPARTMENT OF COMMERCE****International Trade Administration**

[A-122-838]

**Notice of Final Determination of Sales at Less Than Fair Value: Certain Softwood Lumber Products from Canada**

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**DATES:** EFFECTIVE DATE: April 2, 2002.

**FOR FURTHER INFORMATION CONTACT:** Charles Riggle or Constance Handley, at (202) 482-0650 or (202) 482-0631, respectively; Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW, Washington, DC 20230.

**SUPPLEMENTARY INFORMATION:****The Applicable Statute and Regulations**

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to Department of Commerce (Department) regulations refer to the regulations codified at 19 CFR part 351 (2001).

**Final Determination**

We determine that certain softwood lumber products from Canada are being sold, or are likely to be sold, in the United States at less than fair value (LTFV), as provided in section 735 of the Act. The estimated margins of sales at LTFV are shown in the "Suspension of Liquidation" section of this notice.

**Case History**

The preliminary determination in this investigation was issued on October 31, 2001. See *Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Certain Softwood Lumber Products From Canada*, 66 FR 56062 (November 6, 2001). Since the publication of the preliminary determination, the following events have occurred:

In December 2001 and January – February 2002, the Department verified the responses submitted by the six respondents in the investigation: Abitibi-Consolidated Inc. (Abitibi); Canfor Corporation (Canfor); Slocan Forest Products Ltd. (Slocan); Tembec Inc. (Tembec); West Fraser Timber Co.

Ltd. (West Fraser); and Weyerhaeuser Company (Weyerhaeuser). Verification reports were issued in January and February 2002.

On February 12, 2002, we received case briefs from the petitioners<sup>1</sup>, the six respondents, and the Ontario Lumber Manufacturers Association (OLMA), Ontario Forest Industries Association (OFIA), Association of Consumers for Affordable Homes (ACAH), Bowater International, the Canadian Maritimes Provinces, the British Columbia Lumber Trade Council (BCLTC), Louisiana Pacific Corporation and Idaho Timber Corporation. On February 19, 2002, we received rebuttal briefs from the petitioners, respondents, OLMA, OFIA, BCLTC, the Government of Canada and the Government of Quebec. We held a public hearing on February 25, 2002.

A separate briefing schedule dealing with class or kind of merchandise and other scope issues was established. On March 15, 2002, we received case briefs from the petitioners, respondents Abitibi, Tembec and Weyerhaeuser, as well as from the Government of Canada, the Government of Quebec, OFIA and OLMA, the Quebec Lumber Manufacturers Association, the International Sleep Products Association, Sinclair Enterprises Inc., the U.S. Red Cedar Manufacturers Association, Lindal Cedar Homes, Fred Tebb & Sons, and the Natural Resources Defense Council pertaining to these issues.<sup>2</sup> Rebuttal briefs on these topics were submitted by the petitioners, Tembec, OFIA and OLMA and the QLMA on March 18, 2002. A public hearing limited to issues of scope and class or kind of merchandise was held on March 19, 2002.

**Scope of Investigation**

The products covered by this investigation are softwood lumber, flooring and siding (softwood lumber products). Softwood lumber products include all products classified under headings 4407.1000, 4409.1010, 4409.1090, and 4409.1020, respectively, of the Harmonized

Tariff Schedule of the United States (HTSUS), and any softwood lumber, flooring and siding described below. These softwood lumber products include:

(1) coniferous wood, sawn or chipped lengthwise, sliced or peeled,

whether or not planed, sanded or finger-jointed, of a thickness exceeding six millimeters;

(2) coniferous wood siding (including strips and friezes for parquet flooring, not assembled) continuously shaped (tongued, grooved, rabbeted, chamfered, V-jointed, beaded, molded, rounded or the like) along any of its edges or faces, whether or not planed, sanded or finger-jointed;

(3) other coniferous wood (including strips and friezes for parquet flooring, not assembled) continuously shaped (tongued, grooved, rabbeted, chamfered, V-jointed, beaded, molded, rounded or the like) along any of its edges or faces (other than wood mouldings and wood dowel rods) whether or not planed, sanded or finger-jointed; and

(4) coniferous wood flooring (including strips and friezes for parquet flooring, not assembled) continuously shaped (tongued, grooved, rabbeted, chamfered, V-jointed, beaded, molded, rounded or the like) along any of its edges or faces, whether or not planed, sanded or finger-jointed.

Although the HTSUS subheadings are provided for convenience and U.S. Customs purposes, the written description of the merchandise under investigation is dispositive.

A complete description of the scope of this investigation, including an itemized list of all product exclusions, is contained in the Issues and Decision Memorandum accompanying this notice.

**Period of Investigation**

The period of investigation is April 1, 2000, through March 31, 2001. This period corresponds to the four most recent fiscal quarters prior to the month of the filing of the petition (i.e., April 2001).

**Verification**

As provided in section 782(i) of the Act, we conducted verification of the cost and sales information submitted by the six respondents. We used standard verification procedures including examination of relevant accounting and production records, and original source documents provided by the respondent.

**Analysis of Comments Received**

All issues raised in the case and rebuttal briefs by parties to this investigation, as well as certain other findings by the Department which are summarized in this notice, are addressed in the "Issues and Decision Memorandum for the Final Determination in the Antidumping Duty Investigation of Certain Softwood Lumber Products from Canada"

<sup>1</sup> The petitioners are the coalition for Fair Lumber Imports Executive Committee; the United Brotherhood of Carpenters and Joiners; and the Paper, Allied-Industrial, Chemical and Energy Workers International Union.

<sup>2</sup> On March 6, 2002, Anderson Wholesale Inc. and North Pacific Trading filed a joint case brief on scope issues.

(Decision Memorandum), from Bernard Carreau, Deputy Assistant Secretary, Import Administration, to Faryar Shirzad, Assistant Secretary for Import Administration, dated March 21, 2002, which is hereby adopted by this notice. A list of issues which parties have raised and to which we have responded, all of which are in the Decision Memorandum, is attached to this notice as an Appendix. Parties can find a complete discussion of all issues raised in this investigation and the corresponding recommendations in this public memorandum which is on file in the Central Records Unit, Room B-099 of the main Department building and on the Web at: <http://ia.ita.doc.gov/>. The paper copy and electronic version of the Decision Memorandum are identical in content.

#### **Changes Since the Preliminary Determination**

From the outset of this investigation, a central issue has been the determination of the appropriate method by which to allocate joint production costs for the various lumber products produced. All of the respondents submitted data sets that allocated production costs on a per-unit volume (*i.e.*, per thousand board feet (MBF)) basis, which is consistent with their normal books and records. Four of the six respondents submitted an additional data set which allocated production costs using a value-based methodology. The petitioners have argued throughout the investigation that the joint lumber production costs should be allocated using a volume-based methodology. For the preliminary determination, the Department calculated cost of production (COP) and constructed value (CV) based on the volume-based cost allocation data sets submitted by each of the respondents.

The cost allocation issues raised in the context of this case are among the most complex that the Department has ever considered. Based on our analysis of comments received, we have reconsidered the appropriateness of the preliminary determination whereby we allocated costs on the basis of volume. After careful consideration, we believe it is appropriate to allocate wood and sawmill costs to particular grades of lumber using a value-based measure, because a volume-based allocation does not recognize the fact that there are separately identifiable grades of wood within a given log and that the producer factors their presence into the cost it is willing to incur to obtain those various grades.

In reaching this conclusion, we considered several factors, among them,

that grade differences pre-exist in the raw material, that these grade differences do not result from the production process, and that they can be so significant that they often alter a product's intended end use. We concluded that it is reasonable to assume that a lumber producer considers these factors when deciding on how much cost to incur to acquire the raw material (*i.e.*, logs).

We recognize that a value-based cost allocation method can be problematic in an antidumping context, and that it is appropriate in only very limited instances. After a great deal of deliberation in consideration of the comments made with regard to our preliminary determination, we believe that the facts of this case support the use of a value-based allocation method for wood and sawmill costs. This issue is discussed further in the Decision Memorandum.

Based on our analysis of comments received, we have made other changes in the margin calculations, as well. Furthermore, prior to the start of their respective verifications, all six respondents presented corrections to their questionnaire responses which resulted from their preparation for verification. In addition, based on the Department's verification findings, various other corrections have been made to the margin calculations of all six respondents. These changes are discussed in the relevant sections of the Decision Memorandum or in each company's analysis memorandum.

#### **Critical Circumstances**

Section 735(a)(3) of the Act provides that the Department will determine that critical circumstances exist if there is a reasonable basis to believe or suspect that: (A)(i) there is a history of dumping and material injury by reason of dumped imports in the United States or elsewhere of the subject merchandise, or (ii) the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the subject merchandise at less than its fair value and that there was likely to be material injury by reason of such sales, and (B) there have been massive imports of the subject merchandise over a relatively short period.

In the preliminary determination, the Department found for all mandatory respondents and the companies within the "all others" category that critical circumstances did not exist because the second prong of the statute regarding critical circumstances, *i.e.*, massive imports, had not been met. Since the preliminary critical circumstances

determination, we have received and verified the shipment data for the subject merchandise for all mandatory respondents.

In determining whether imports of the subject merchandise have been "massive," the Department normally will examine (i) the volume and value of the imports, (ii) seasonal trends, and (iii) the share of domestic consumption accounted for by the imports. Section 351.206(h)(2) of the Department's regulations provides that an increase in imports of 15 percent or more during a "relatively short period" may be considered "massive." In addition, section 351.206(i) of the Department's regulations defines "relatively short period" as generally the period beginning on the date the proceeding begins (*i.e.*, the date the petition is filed) and ending at least three months later. As a consequence, the Department compares import levels during at least the three-month period immediately after initiation with at least the three-month period immediately preceding initiation to determine whether there has been at least a 15-percent increase in imports of subject merchandise. Where information is available for longer periods, the Department will compare such data. *See, e.g., Preliminary Determinations of Critical Circumstances: Steel Concrete Reinforcing Bars From Ukraine and Moldova*, 65 FR 70696, 70697 (November 27, 2000).

In this case, because data were available for additional months, for purposes of the final determination, the Department compared import and shipment data during the six-month period immediately after initiation with the six-month period immediately preceding initiation to determine whether there has been at least a 15-percent increase in imports of subject merchandise. Based on this comparison, the Department found that there were no massive imports with respect to the mandatory respondents nor the companies in the "All Others" category. For further details, *see the Department's Final Determination of Critical Circumstances memorandum* from Gary Taverman to Bernard T. Carreau, (March 21, 2002). As discussed in the above-referenced memorandum, the Department's finding that massive imports did not exist for these companies is based on seasonal adjustments of the relevant shipment and import data. Because this prong of the statute regarding critical circumstances has not been met for any company, the Department determined that critical circumstances do not exist for any company.

**Suspension of Liquidation**

Pursuant to section 735(c)(1)(B) of the Act, we are instructing Customs to continue to suspend liquidation of all entries of certain softwood lumber products from Canada that are entered,

or withdrawn from warehouse, for consumption on or after November 6, 2001, the date of publication of the Preliminary Determination in the **Federal Register**. The Customs Service shall continue to require a cash deposit

or the posting of a bond based on the estimated weighted-average dumping margins shown below. The suspension of liquidation instructions will remain in effect until further notice.  
 $H \geq 1 \leq \text{Weighted-Average Margin}$

## Manufacturer/Exporter

Abitibi .....	14.60
(and its affiliates Produits Forestiers Petit Paris Inc., Produits Forestiers La Tuque Inc., Scieries Saguenay Ltee., Societe En Commandite Scierie Opticwan).]	
Canfor .....	5.96
(and its affiliates Lakeland Mills Ltd., The Pas Lumber Company Ltd., Howe Sound Pulp and Paper Limited Partnership).]	
Slocan .....	7.55
Tembec .....	12.04
(and its affiliates Marks Lumber Ltd., Excel Forest Products).]	
West Fraser .....	2.26
(and its affiliates West Fraser Forest Products Inc., Seehta Forest Products Ltd.).]	
Weyerhaeuser .....	15.83
(and its affiliates Monterra Lumber Mills Ltd., Weyerhaeuser Saskatchewan Ltd.).]	
All Others .....	9.67

**ITC Notification**

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (ITC) of our determination. As our final determination is affirmative, the ITC will determine, within 45 days, whether these imports are causing material injury, or are a threat of material injury, to an industry in the United States. If the ITC determines that material injury or threat of injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping order directing Customs officials to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: March 21, 2002

**Faryar Shirzad,**

*Assistant Secretary for Import Administration.*

**APPENDIX****I. General Issues**

*Comment 1:* Whether the Department should rescind the initiation and terminate the investigation  
*Comment 2:* Whether dumping exists  
*Comment 3:* Critical circumstances  
*Comment 4:* Value-based cost allocation methodology  
*Comment 5:* Fair comparisons in the application of the sales below cost test  
*Comment 6:* Constructed value profit  
*Comment 7:* Product matching  
*Comment 8:* Value-based difference in merchandise (difmer) adjustments  
*Comment 9:* Whether Softwood Lumber Agreement (SLA) export taxes should be deducted from U.S. price  
*Comment 10:* Treatment of trim ends/trim blocks  
*Comment 11:* By-product revenue offset  
*Comment 12:* Treatment of negative margins  
*Comment 13:* Exclusion of Maritime Provinces

**II. Company-Specific Issues**

## Issues Specific to Abitibi

*Comment 14:* Whether Scierie Saguenay Ltee. should be collapsed into the Abitibi Group  
*Comment 15:* Financial expense ratio  
*Comment 16:* General and administrative (G&A) expense ratio

## Issues Specific to Canfor

*Comment 17:* Canfor, Lakeland, and The Pas' product reporting  
*Comment 18:* Treatment of three U.S. sales  
*Comment 19:* G&A expenses for Canfor, Lakeland, and The Pas  
*Comment 20:* Canfor's packing cost

## Issues Specific to Slocan

*Comment 21:* Futures contracts  
*Comment 22:* Unreported freight expenses  
*Comment 23:* Unreported comparison market freight rebates  
*Comment 24:* Overstated freight rebates  
*Comment 25:* Donations  
*Comment 26:* Cost differences for precision end trimmed products  
*Comment 27:* Mackenzie Ospika Division Lathe and Precut  
*Comment 28:* Profits on log sales  
*Comment 29:* Depreciation expenses at the Plateau Sawmill  
*Comment 30:* Unreported foreign exchange losses  
*Comment 31:* Timber tenure amortization  
*Comment 32:* Startup adjustments

## Issues Specific to Tembec

*Comment 33:* G&A expense

## Issues Specific to West Fraser

*Comment 34:* Downstream sales  
*Comment 35:* Inventory carrying costs  
*Comment 36:* Log sales  
*Comment 37:* Prior period stumpage and silviculture

**Issues Specific to Weyerhaeuser**

*Comment 38:* Sales verification  
*Comment 39:* The petitioners received inadequate time to examine the Weyerhaeuser sales verification report  
*Comment 40:* Warehousing expenses for WBM inventory sales  
*Comment 41:* British Columbia Coastal's (BCC) warehousing expenses  
*Comment 42:* Early payment discounts  
*Comment 43:* CLB's SLA tax amounts  
*Comment 44:* CLB's quota-transfer sales  
*Comment 45:* Critical circumstances data for Monterra Lumber  
*Comment 46:* Log/wood costs  
*Comment 47:* Depletion expenses  
*Comment 48:* G&A expenses  
*Comment 49:* Interest expense

**III. Scope Issues**

*Comment 50:* Due process  
*Comment 51:* Authority to define the scope  
*Comment 52:* Class or kind of products  
*Comment 53:* Other scope issues  
*Comment 54:* Industry support  
*Comment 55:* Whether including certain products is harmful to U.S. industry  
*Comment 56:* Remanufactured products  
*Comment 57:* Scope exclusion requests  
 [FR Doc. 02-7848 Filed 4-1-02; 8:45 am]

BILLING CODE 3510-DS-S

**DEPARTMENT OF COMMERCE****International Trade Administration**

[A-201-822]

**Notice of Amended Final Results of Antidumping Duty Administrative Review: Stainless Steel Sheet and Strip in Coils from Mexico**

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**ACTION:** Notice of amended final results of antidumping duty administrative review of stainless steel sheet and strip from Mexico.

**EFFECTIVE DATE:** April 2, 2002.

**SUMMARY:** On February 12, 2002, the Department of Commerce (the Department) published in the Federal Register its notice of final results of the antidumping duty administrative review of stainless steel sheet and strip in coils from Mexico for the period January 4, 1999 through June 30, 2000. *See Stainless Steel Sheet and Strip in Coils from Mexico; Final Results of Antidumping Duty Administrative Review*, 67 FR 6490 (February 12, 2002). We are amending our final determination to correct ministerial errors alleged by respondent and petitioners.

**FOR FURTHER INFORMATION CONTACT:**

Deborah Scott or Robert James, AD/CVD Enforcement, Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230, telephone : (202) 482-2657 or (202) 482-0649, respectively.

**SUPPLEMENTARY INFORMATION:****Applicable Statute and Regulations**

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Tariff Act) are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act by the Uruguay Rounds Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations codified at 19 CFR Part 351 (2001).

**Scope of the Review**

For purposes of this administrative review, the products covered are certain stainless steel sheet and strip in coils. Stainless steel is an alloy steel containing, by weight, 1.2 percent or less of carbon and 10.5 percent or more of chromium, with or without other elements. The subject sheet and strip is a flat-rolled product in coils that is greater than 9.5 mm in width and less than 4.75 mm in thickness, and that is annealed or otherwise heat treated and pickled or otherwise descaled. The subject sheet and strip may also be further processed (e.g., cold-rolled, polished, aluminized, coated, etc.) provided that it maintains the specific dimensions of sheet and strip following such processing.

The merchandise subject to this order is classified in the Harmonized Tariff Schedule of the United States (HTS) at subheadings: 7219.13.00.31, 7219.13.00.51, 7219.13.00.71, 7219.13.00.81, 7219.14.00.30, 7219.14.00.65, 7219.14.00.90, 7219.32.00.05, 7219.32.00.20, 7219.32.00.25, 7219.32.00.35, 7219.32.00.36, 7219.32.00.38, 7219.32.00.42, 7219.32.00.44, 7219.33.00.05, 7219.33.00.20, 7219.33.00.25, 7219.33.00.35, 7219.33.00.36, 7219.33.00.38, 7219.33.00.42, 7219.33.00.44, 7219.34.00.05, 7219.34.00.20, 7219.34.00.25, 7219.34.00.30, 7219.34.00.35, 7219.35.00.05, 7219.35.00.15, 7219.35.00.30, 7219.35.00.35, 7219.90.00.10, 7219.90.00.20, 7219.90.00.25, 7219.90.00.60, 7219.90.00.80, 7220.12.10.00, 7220.12.50.00, 7220.20.10.10, 7220.20.10.15,

7220.20.10.60, 7220.20.10.80, 7220.20.60.05, 7220.20.60.10, 7220.20.60.15, 7220.20.60.60, 7220.20.60.80, 7220.20.70.05, 7220.20.70.10, 7220.20.70.15, 7220.20.70.60, 7220.20.70.80, 7220.20.80.00, 7220.20.90.30, 7220.20.90.60, 7220.90.00.10, 7220.90.00.15, 7220.90.00.60, and 7220.90.00.80. Although the HTS subheadings are provided for convenience and Customs purposes, the Department's written description of the merchandise under review is dispositive.

Excluded from the scope of this order are the following: (1) Sheet and strip that is not annealed or otherwise heat treated and pickled or otherwise descaled; (2) sheet and strip that is cut to length; (3) plate (*i.e.*, flat-rolled stainless steel products of a thickness of 4.75 mm or more); (4) flat wire (*i.e.*, cold-rolled sections, with a prepared edge, rectangular in shape, of a width of not more than 9.5 mm); and (5) razor blade steel. Razor blade steel is a flat-rolled product of stainless steel, not further worked than cold-rolled (cold-reduced), in coils, of a width of not more than 23 mm and a thickness of 0.266 mm or less, containing, by weight, 12.5 to 14.5 percent chromium, and certified at the time of entry to be used in the manufacture of razor blades. *See* Chapter 72 of the HTSUS, "Additional U.S. Note" 1(d).

In response to comments by interested parties the Department has determined that certain specialty stainless steel products are also excluded from the scope of this order. These excluded products are described below.

Flapper valve steel is defined as stainless steel strip in coils containing, by weight, between 0.37 and 0.43 percent carbon, between 1.15 and 1.35 percent molybdenum, and between 0.20 and 0.80 percent manganese. This steel also contains, by weight, phosphorus of 0.025 percent or less, silicon of between 0.20 and 0.50 percent, and sulfur of 0.020 percent or less. The product is manufactured by means of vacuum arc remelting, with inclusion controls for sulphide of no more than 0.04 percent and for oxide of no more than 0.05 percent. Flapper valve steel has a tensile strength of between 210 and 300 ksi, yield strength of between 170 and 270 ksi, plus or minus 8 ksi, and a hardness (Hv) of between 460 and 590. Flapper valve steel is most commonly used to produce specialty flapper valves for compressors.

Also excluded is a product referred to as suspension foil, a specialty steel product used in the manufacture of suspension assemblies for computer