Order Code RL30826

CRS Report for Congress
Received through the CRS Web

Softwood Lumber Imports From Canada: History and Analysis of the Dispute

February 2, 2001

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Summary

Softwood lumber imports from Canada have been of concern to U.S. lumber producers for many years because of questions about Canadian government timber pricing policies. In 1996, the United States and Canada reached a 5-year agreement on restrictions — a fee on lumber imports from four Canadian provinces in excess of the specified quota — that expires on March 31, 2001. Resolutions and bills have been introduced in recent Congresses that, had they been enacted, would have restricted lumber imports from Canada or eliminated the basis for restricting those imports. The 107th Congress may also consider legislation on this issue.

U.S. lumber producers argue that they have been injured by subsidies to their Canadian competitors. Stumpage fees (for the right to harvest trees) charged by the provinces are asserted to be subsidized (priced at less than their market value). In Canada, provincial government timberlands dominate the supply system, with long-term leases to private firms to assure stable timber supplies, and with timber priced administratively to assure financially feasible production. Private timberlands dominate the U.S. supply system, with competitive bidding to allocate and price most public timber. The use of administered prices by the provincial governments opens the possibility that the Canadian system results in transfers to the private sector at less than the fair market value. Major differences in tree species, sizes, and grades, in measurement systems, in requirements on harvesters, in environmental protection, and in other factors, however, make comparisons difficult, controversial, and generally inconclusive.

Canadian log export restrictions are also asserted to be subsidies, because the restrictions assure more supply (less competition for timber) for Canadian producers. Evidence from the U.S. Pacific Northwest, where private logs can be exported but public timber cannot, indicates a substantial price differential, with higher prices for exported logs. However, Canada has recently challenged as GATT violations the U.S. trade law provisions that include export restrictions as subsidies.

Injuries to U.S. lumber producers have also been difficult to establish decisively. Canada's share of the U.S. lumber market has risen substantially, from less than 7% in the early 1950s to more than 35% in the mid-1990s. Under the 1996 agreement, the quantity of imports has continued to rise, but the market share has been relatively stable. In the past two years, the dispute has also included whether certain softwood products are modified construction lumber subject to the 1996 restrictions (the U.S. view) or are specialty products outside the agreement (the Canadian view). The impact of import restrictions on domestic lumber prices is not easily estimated, but supply/demand theory suggests that restrictions would put upward pressure on U.S. lumber prices.

Other factors are also important. The persistence of the dispute may reflect tensions between increasingly free-trade U.S. policies and protection from imports available under U.S. trade law. Also, probable differences in environmental protection complicate cross-border comparisons.

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In April 1996, the United States and Canada reached a 5-year agreement to impose a fee on imports above a specified level of Canadian softwood lumber shipped to the United States. Despite hopes that this agreement would quiet a long-running dispute over increasing imports of softwood lumber from Canada, disagreements over the products covered and the price impacts of the agreement have persisted. The agreement is scheduled to terminate on March 31, 2001. Some interests would like to see the agreement renewed or modified, others would like to see it ended with alternative approaches to resolving the dispute, and still others would like to see no restrictions on imports of Canadian lumber. Legislation has been introduced in past Congresses both to restrict Canadian lumber imports and to end import restrictions. The 107th Congress may also consider legislation on this issue.

Tension between the United States and Canada over softwood lumber trade may be inevitable. Both countries have extensive forest resources, but vastly different population levels and development pressures. Vast stretches of Canada are still largely undeveloped, while relatively fewer areas in the United States (outside Alaska) have remained relatively pristine. These different situations have led to different forest policies. In Canada, the forests are largely owned by the provincial governments, which have allocated and priced the timber to encourage the development of the extensive timber reserves. In the United States, the majority of timberlands are privately owned; private markets dominate the allocation and pricing of timber, although U.S. federal and other government-owned forests are regionally important. The U.S. Forest Service used timber as a tool to foster western expansion in its early years, but rising population pressures and changing demands for the goods and services provided by forests have altered its approach to management of U.S. federal forests and general U.S. environmental policy as it affects public and private forest management. U.S. lumber producers view the Canadian policies as more favorable for timber production, and thus as an unfair competitive advantage in supplying the U.S. lumber market, especially when the market is weak. However, since the U.S. and Canadian governments influence timber production in different ways (because of different histories, purposes, and situations), comparing the relative competitiveness of U.S. and Canadian lumber producers is difficult, at best.

These uncertainties are exacerbated by the differing views of U.S. lumber producers and U.S. lumber consumers on lumber prices. Producers and consumers would probably agree that policies which raise lumber prices by increasing production costs (*e.g.*, by additional state forest practice regulations) were undesirable, because consumers could be harmed without benefitting producers. However, policies that might raise lumber prices without increasing lumber production costs, such as by restricting lumber imports, would generally be supported by producers and opposed by consumers. These different domestic views, combined with the problems in

comparing relative competitiveness, make resolving this dispute difficult, and help explain why the dispute has persisted for at least the past 20 years.

This CRS report summarizes the 20-year history of the current debate and the various actions taken to restrict imports of Canadian lumber. It provides a brief summary of U.S. trade law protection provisions, and then examines several aspects of the dispute: what constitutes softwood lumber; allegations of Canadian subsidies and of injury to U.S. producers; and other relevant factors.

History of the Dispute

The debate over restrictions on imports of Canadian lumber began early in the 20th Century. In 1930 (during the Great Depression), a duty of $1 per thousand board feet (MBF)[1] was assessed on Canadian lumber.[2] This rose to $4 per MBF by 1935, when trade negotiations reduced the duty back to $1 per MBF. In 1937, lumber producers in Oregon and Washington unsuccessfully petitioned the U.S. federal government for protection from unfair Canadian competition.

Imports of Canadian lumber increased slowly in subsequent decades. Finally, in 1962, western U.S. lumber producers became distressed enough by the rise in Canadian share of the U.S. lumber market (which had risen to 12% up from 7% in the early 1950s) that they sought protection from Canadian lumber imports. The U.S. Lumbermen's Economic Survival Committee prompted congressional hearings and a White House task force and petitioned the U.S. Tariff Commission (now the U.S. International Trade Commission) for restrictions on Canadian lumber imports. In 1963, the Tariff Commission chose not to impose restrictions, and efforts to restrict lumber imports abated.

The 1982–1983 Investigation

In 1981, following a brief but steep recession, the Northwest Independent Forest Manufacturers (a regional U.S. wood products trade association) alleged that subsidies to Canadian lumber producers had increased unemployment in the U.S. Pacific Northwest. In response to these concerns, House Ways and Means Committee Chairman Sam Gibbons (FL) and Senate Finance Committee Chairman

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[1]Thousand board feet (MBF) is the standard measure for logs and lumber in the United States. One board foot is a 1-foot long segment of a board that is 1 inch thick and 12 inches wide (= 144 cubic inches). For logs, the MBF volume is estimated using "log rules," tables or equations that predict the volume of lumber that could be produced from a log of a given diameter and length; today, the volume of lumber produced from a given log can be much greater than the log rule estimate, because of technological improvements since the rules were developed. For lumber, the MBF volume is greater than the actual lumber volume, because drying and finishing reduces the lumber from its original rough-cut dimensions; for example, a 2x4 was originally 2 inches thick and 4 inches wide when cut from the log, but today a dry, finished 2x4 must be at least 1.5 inches thick and 3.5 inches wide.

[2]Random Lengths, *What's New This Week? U.S.-Canada Trade Dispute Timeline*, at [http://www.randomlengths.com/newtimeline.html], on May 2, 2000.

Bob Dole (KS), together with committee members Bob Packwood (OR) and John Danforth (MO), sent letters to the International Trade Commission (ITC) requesting an investigation of the complaints.

In addition, a group of U.S. lumber producers, the Coalition for Fair Canadian Lumber Imports, came together, and in October 1982, filed a countervailing duty petition[3] with the International Trade Administration (ITA) of the U.S. Department of Commerce, arguing that the Canadian provinces were subsidizing their lumber producers, and with the ITC, arguing that the U.S. lumber industry had been harmed by subsidized Canadian provincial stumpage fees.[4] In November 1982, the ITC reached its preliminary finding that there was a "reasonable indication" that the U.S. lumber industry had been "materially injured" by imports of Canadian lumber.[5] However, the ITA issued its preliminary finding in March 1983 that Canadian subsidies were *de minimis* (less than 0.5%), and that stumpage fees were not subsidies because they were generally available to all industries (even though only one group of industries was interested), were established using the same process for all stumpage purchasers (*i.e.*, were not preferential), and did not relieve the purchasers of any statutory or contractual obligations or production costs.[6] The final ITA finding was consistent with the preliminary, and thus, no countervailing duty was established.[7]

The 1986 Memorandum of Understanding

In March 1985, the U.S. Trade Representative (USTR) asked the ITC to update its 1982 study on injury to U.S. lumber producers. The ITC completed its study in October 1985, reporting that major production costs are lower for Canadian lumber producers.[8] The findings were widely touted by the Coalition for Fair Lumber Imports (CFLI) as evidence of Canadian subsidies and of the need for restrictions.

The CFLI apparently decided that political action would be needed to reverse the 1983 ITA ruling.[9] Numerous bills were introduced in 1985 to restrict Canadian lumber imports directly, or indirectly by revising statutory definitions of natural

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[3]Brief descriptions of the countervailing duty process and other protection provisions of U.S. trade law are provided after this historical account.

[4]"Stumpage" is the term used for fees or prices paid to timberland owners by lumber producers for the right to cut the standing trees and remove them from the site.

[5]47 *Federal Register* 54183-54189 (Dec. 1, 1982).

[6]48 *Federal Register* 10395-10418 (March 11, 1983).

[7]48 *Federal Register* 24159-24183 (May 31, 1983).

[8]U.S. International Trade Commission, *Conditions Relating to the Importation of Softwood Lumber Into the United States; Report to the President on Investigation No. 332-210 Under Section 332 of the Tariff Act of 1930*, USITC Publication 1765 (Washington, DC: October 1985), 224 p.

[9]Benjamin Cashore, *Flights of the Phoenix: Explaining the Durability of the Canada-US Softwood Lumber Dispute* (Orono, ME: Canadian-American Center, Dec. 1997), 58 p. (Hereafter referred to as Cashore, *Flights of the Phoenix*.)

resource subsidies.[10] At the same time, the Reagan Administration was seeking congressional approval of "fast-track" authority for the U.S.-Canada Free Trade Agreement then being negotiated. In February 1986, Sen. Max Baucus led a floor discussion about concerns over Canadian lumber imports, and promised opposition to the free trade agreement if the lumber trade dispute was not resolved first.[11]

In addition, on October 4, 1985, the U.S. Court of International Trade (CIT) issued a ruling which, in part, reversed the ITA standard for determining the countervailable benefits on carbon black (a petroleum product) imports from the Mexican government.[12] This was viewed by some as a precedent for natural resources generally, and thus for reversing the ITA decision on Canadian stumpage fees, although other CIT rulings apparently conflicted with the ruling on carbon black.[13]

The combination of these events led the CFLI to file a new countervailing duty petition with the ITA and the ITC on May 19, 1986. In July, the ITC again reached a preliminary decision that there was "a reasonable indication" that the U.S. industry had been "materially injured" by imports of Canadian lumber.[14] On October 22, the ITA reversed its 1983 decision, with a preliminary finding that Canadian stumpage was actually provided to a single industry at preferential rates, and that the "estimated net subsidy is 15.00 percent *ad valorem*" (*i.e.*, 15% of lumber market prices).[15] This finding established a preliminary 15% *ad valorem* countervailing duty on Canadian softwood lumber imports, pending the final ITA subsidy determination due on December 31, 1986.

After initially rejecting the notion of a negotiated settlement, the Canadian provincial premiers voted 9-1 (with Ontario opposed) in November to enter into negotiations with the U.S. Commerce Department.[16] On December 30, 1986, the day before the final ITA subsidy determination, the two countries signed a Memorandum of Understanding (MOU). The MOU established a 15% tax on Canadian softwood lumber exports to the United States, to be replaced by higher provincial stumpage fees within 5 years; the CFLI withdrew its petition and the U.S. Department of Commerce returned the bonds and deposits collected under the preliminary duty.

Also on December 30, 1986, President Reagan determined that the Canadian federal government would not be able to collect the export fees for several days, and

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[10]See CRS Report IB85178, *Canadian Lumber Imports: Impacts on the U.S. Lumber Industry* (archived Feb. 9, 1987).

[11]Hon. Max Baucus, "Special Order Session on Canadian Lumber Imports," *Congressional Record*, v. 132, Part 2 (Feb. 26, 1986), pp. 2794-2818.

[12]Cabot Corporation *v.* United States, 620 F.Supp. 722 (CIT 1985).

[13]Cashore, *Flights of the Phoenix*, p. 13.

[14]51 *Federal Register* 25752 (July 16, 1986).

[15]51 *Federal Register* 37453-37469 (Oct. 22, 1986).

[16]Random Lengths, *What's New This Week? U.S.-Canada Trade Dispute Timeline: Historical Background Information, 1982-1994*, at [http://www.randomlengths.com/newtimeline-history.html], on May 2, 2000.

that this situation was within the parameters of §301 of the Trade Act of 1974 (19 U.S.C. §2411). Thus, a duty was imposed on Canadian softwood lumber imports until the Commerce Department determined that Canada had begun collecting the export tax, on January 8, 1987.

The 1992 Countervailing Duty

Two Canadian provinces responded to the MOU by raising stumpage fees and reducing their export taxes. In the fall of 1987, the British Columbia (BC) provincial government implemented higher stumpage fees and the Canadian government rescinded the 15% export tax in December.[17] The U.S. Commerce Department also agreed to lowering the export fee for Quebec lumber exports to 8% in April 1988, and to 6.2% in November 1990, because of higher stumpage fees in that province.

In September 1991, the Canadian federal government announced that it would withdraw from the MOU, because most of the provinces had raised their stumpage fees. Canada officially terminated the MOU on October 4. The USTR announced that, because of Canada's action, it had begun a §301 investigation of Canada's laws and policies affecting softwood lumber exports.[18] The USTR also determined that the Canadian practices were "unreasonable and burden or restrict United States commerce, and that expeditious action in this matter is required." Using its §301 authority, the USTR imposed duties on imports of Canadian lumber from certain provinces of up to 15% *ad valorem* "contingent upon affirmative final subsidy and injury determinations in the countervailing duty investigation ...."[19]

On October 31, the ITA self-initiated a countervailing duty investigation.[20] In December, the ITC found "a reasonable indication" that the U.S. lumber industry had been "materially injured" by imports of Canadian lumber.[21] On March 12, 1992, the ITA issued its preliminary determination that the net subsidies to Canadian lumber producers were 14.48% *ad valorem*.[22] The determination was based partly on allegedly subsidized stumpage fees and partly on BC restrictions on log exports that depressed domestic timber prices. The final ITA determination was issued on May 28, and established a countervailing duty of 6.51% *ad valorem*.[23] The determination was confirmed by the ITC in July when it reported that the U.S. lumber industry had indeed been "materially injured" by imports of Canadian lumber.[24]

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[17] *Ibid*.

[18] 56 *Federal Register* 50738-50740 (Oct. 8, 1991). Section 301 protection is described later in this report.

[19] *Ibid*., p. 50739.

[20] 56 *Federal Register* 56055-56058 (Oct. 31, 1991).

[21] 56 *Federal Register* 67099 (Dec. 27, 1991).

[22] 57 *Federal Register* 8800-8817 (March 12, 1992).

[23] 57 *Federal Register* 22570-22624 (May 28, 1992).

[24] 57 *Federal Register* 31389 (July 15, 1992).

The Canadian federal and provincial governments objected strongly to what they believed was a politically-driven countervailing duty that infringed on their sovereign rights.[25] In August 1992, the Canadian federal government filed appeals of both the ITA finding of subsidies and ITC finding of injury to bi-national review panels under Chapter 19 of the U.S.-Canada Free Trade Agreement (FTA).[26] In May 1993, the subsidy panel remanded the ITA finding of subsidies, finding that the ITA had not properly applied the agency's "specificity" guidelines or provided evidence that the stumpage fees had distorted markets.[27]

The ITA reviewed its original decision and the findings of the bi-national review panel, and in September, affirmed its previous determination of Canadian subsidies, but increased the estimated level to 11.54% *ad valorem*.[28] In December, the bi-national review panel ordered a second remand, and directed the ITA to find that there were no subsidies; on January 6, 1994, the ITA's second redetermination complied with this order, and the bi-national panel accepted this redetermination on February 23, 1994.[29]

On April 6, using a provision of the FTA, the USTR requested an Extraordinary Challenge Committee (ECC) to review the bi-national panels' decisions.[30] On August 3, 1994, the ECC dismissed the request "for failure to meet the standards of an extraordinary challenge set forth under FTA Article 1904.13."[31] The ECC order also

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[25]Cashore, *Flights of the Phoenix*, p. 22.

[26]Canada also challenged the U.S. action under the terms of the General Agreement on Tariffs and Trade (GATT). A GATT panel ruled in December that the United States was within its rights to self-initiate a countervailing duty investigation, but acted improperly in imposing interim bonds on lumber imports during the investigation. See [http://www.random lengths.com/newtimeline-history.html].

[27]United States-Canada Free Trade Agreement, Article 1904 Binational Panel Review, *In the Matter Certain Softwood Lumber Products From Canada, Decision of the Panel*, U.S.A.-92-1904-01 (May 6, 1993), 169 p.

[28]58 *Federal Register* 69345 (Dec. 30, 1993).

[29]59 *Federal Register* 12584 (March 17, 1994).

[30]59 *Federal Register* 21754 (April 26, 1994). In July 1993, the bi-national injury panel remanded the ITC finding of injury, because of inadequate evidence that Canadian lumber had caused injury. [Article 1904 Binational Panel Review Under the United States-Canada Free Trade Agreement, *In the Matter of: Softwood Lumber From Canada, Decision of the Panel Reviewing the Final Determination of the U.S. International Trade Commission*, USA-92-1904-02 (July 26, 1993), 78 p. plus appendices.] The ITC responded on October 25, 1993, by affirming its original finding of injury to the U.S. industry. On January 28, 1994, the bi-national panel remanded part of the ITC redetermination. [59 *Federal Register* 6946 (Feb. 14, 1994).] The ITC held firm, and on July 6, 1994, the bi-national injury panel again remanded part of the ITC redetermination. [59 *Federal Register* 37744 (July 25, 1994).] However, the ITC and bi-national injury panel determinations became moot after the Extraordinary Challenge Panel was dismissed in August 1994.

[31]Article 1904 Extraordinary Challenge Committee Pursuant t o the United States-Canada Free Trade Agreement, *In the Matter Of: Certain Softwood Lumber Products From Canada,*

(continued...)

directed that the bi-national subsidy panel's decisions were to remain in effect, and affirmed the panel's order dated February 23, 1994. On August 14, the Commerce Department issued a notice officially revoking the countervailing duty.[32] On October 19, the USTR announced that, in light of the bi-national panel proceedings, it would "terminate action taken under section 301 of the Trade Act of 1974 on certain entries of softwood lumber products from Canada" — *i.e.*, that the Customs Service would stop collecting duties on Canadian lumber.[33]

The 1996 Agreement

Two events in September 1994, shortly after the Extraordinary Challenge Panel was dismissed, were significant in inducing Canada to negotiate an agreement with the United States to restrict lumber exports. First, the U.S. CFLI filed a lawsuit challenging the constitutionality of the review process in Section 19 of the U.S.-Canada Free Trade Agreement.

The second event was the implementation of the Uruguay Round Agreements on the General Agreement on Tariffs and Trade (GATT) and the World Trade Organization (WTO). In §101(a)(2) of P.L. 103-465 (the implementing legislation for the GATT Uruguay Round Agreements),[34] Congress explicitly approved the President's "statement of administrative action" (SAA) that had accompanied the President's proposed legislation.[35] The SAA stated that lumber imports from Canada could be subject to countervailing duties under Uruguay Agreements on GATT; specifically:

> In the past, the Department of Commerce ... has countervailed a variety of programs where the government has provided a benefit through private parties. (*See, e.g.*, Certain Softwood Lumber Products from Canada....) ...
>
> In cases where the government acts through a private party, such as in Certain Softwood Lumber Products from Canada ... (which involved export restraints that led directly to a discernible lowering of input costs), the Administration intends that the law continue to be administered on a case-by-case basis consistent with the preceding paragraph. It is the Administration's view that Article 1.1(a)(1)(iv) of the Subsidies Agreement and section 771(5)(B)(iii) encompass indirect subsidy practices like those which Commerce has countervailed in the past, and that these types of indirect subsidies will continue

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[31](...continued)
Memorandum Opinions and Order, Secretariat File No. ECC-94-1904-01USA (August 3, 1994).

[32]59 *Federal Register* 42029 (Aug. 14, 1994).

[33]59 *Federal Register* 52846 (Oct. 19, 1994).

[34]Act of Dec. 8, 1994; 19 U.S.C. 3501, *et seq.*

[35]President of the United States, *Uruguay Round Trade Agreements, Texts of Agreements, Implementing Bill, Statement of Administrative Action, and Required Supporting Statements*, H.Doc. 103-316, vol. 1 (Washington, DC: U.S. Govt. Print. Off., 1994).

> to be countervailable, provided that Commerce is satisfied that the standard under section 771(5)(B)(iii) has been met.[36]

Some have suggested that this situation — treating restrictions on Canadian log exports as indirect subsidies — directly conflicts with the Agreement on Subsidies and Countervailing Measures agreed to in the Uruguay Round of GATT.[37] Canada has requested consultations under the World Trade Organization (WTO) Dispute Settlement Understanding, arguing that the U.S. provisions violate various sections of WTO Agreements.[38]

In 1994, Canada apparently believed that the CFLI would prevail in another countervailing duty investigation.[39] Negotiations were begun to reach an agreement that would prevent another investigation, and the U.S. Coalition agreed to drop its constitutional challenge to the U.S.-Canada Free Trade Agreement's bi-national panel dispute resolution mechanism. The negotiations continued through 1995. In November 1995, in response to concerns about ineffective negotiations, Sen. Max Baucus introduced S. 1392 (104th Congress), the Emergency Lumber Act of 1995, to impose a temporary 25% duty on lumber imports from Canada and to direct the Administration to initiate another countervailing duty investigation. (A companion bill, H.R. 2802, was introduced in the House in December.) On February 16, 1996, the two countries announced an agreement-in-principle. The final agreement was reached on April 2, 1996, and the agreement was signed by both countries on May 29, and was retroactive to April 1.

The 1996 U.S.-Canada Softwood Lumber Agreement established a fee on imports exceeding a specified quota. Up to 14.7 billion board feet (BBF) of Canadian softwood lumber exported from four provinces (Quebec, Ontario, Alberta, and British Columbia) to the United States can enter with no fee; this amount was about 91% of U.S. imports of Canadian lumber from these provinces in 1995. The fee on the next 0.65 BBF was set at US$50 per thousand board feet (MBF), and the fee on additional Canadian lumber exports was set at US$100 per MBF. These fee rates were indexed to adjust for inflation, and are currently US$54 per MBF and US$108 per MBF.[40] To enforce the agreement, exporters are required to obtain permits from the Canadian government for exports to the U.S. market. For flexibility and market balance, the agreement allowed higher quarterly limits (up to 28.75% of the quota in any one quarter) and a bonus allocation of 0.092 BBF fee-free if the U.S. price of eastern spruce-pine-fir (SPF) 2x4s exceeded US$405 per MBF in the first two years and

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[36] *Ibid.*, p. 926.

[37] Cashore, *Flights of the Phoenix,* p. 27.

[38] 65 *Federal Register* 35969 (June 6, 2000).

[39] Cashore, *Flights of the Phoenix,* p. 28.

[40] The rate is now higher for some exports from British Columbia (BC). In May 1998, BC reduced its timber fees because of diminished Asian demand for lumber, and corresponding weak lumber prices. U.S. producers asked for arbitration under the 1996 Agreement. On August 26, 1999, the arbitration panel ruled that the price reduction violated the terms of the 1996 Agreement, and the maximum rate for BC exports was raised to $148 per MBF.

US$410 per MBF thereafter.[41] The agreement went into effect April 1, 1996, for a period of five years, and thus expires on March 31, 2001.

Protection Under U.S. Trade Law

The body of U.S. trade law offers several means for investigating allegations of unfair foreign trade practices and/or protecting U.S. industries that have been harmed by imports. Three possible tools are safeguards, anti-dumping duties, and countervailing duties.[42] Action can also be taken under §301.

Safeguards. Safeguard relief, also called escape clause or §201 protection, is authorized in §§201-204 of the Trade Act of 1974, as amended (19 U.S.C. 2251-2254). If the ITC has determined that imports have caused or threaten to cause serious injury to a U.S. industry, the President "shall take all appropriate and feasible action," including temporary duties, quotas, or other import restrictions, to give the domestic industry the opportunity to recover its competitiveness. This protection is available even if the imports are traded fairly.

Anti-Dumping Duties. Anti-dumping relief is authorized in §§731-739 of the Tariff Act of 1930, as amended (19 U.S.C. 1673-1973h). Under this provision, the Secretary of Commerce determines whether imports are being sold in the domestic market at unfairly low prices — *e.g.*, at prices lower than in the exporter's home market (*i.e.*, the product is being "dumped" on the U.S. market) — and the ITC determines whether the dumping has injured a U.S. industry. Positive findings of unfair prices and injury can lead to an anti-dumping duty on the dumped imports.

Countervailing Duties. Countervailing relief is authorized in §§701-709 of the Tariff Act of 1930, as amended (19 U.S.C. 1671-1671h). Under this provision, the Secretary of Commerce determines whether imports are being subsidized (directly or indirectly) by a foreign government, and the ITC determines whether the imports have injured a U.S. industry. Positive determinations of subsidy and injury can lead to a countervailing duty on the imports.

Section 301 Action. Action by the USTR is authorized in §§301-309 of the Trade Act of 1974 (19 U.S.C. 2411-2420); mandatory action is directed in §301(a), while discretionary action is authorized in §301(b). The USTR can investigate and respond to foreign trade practices which are found to be illegal, unreasonable, or discriminatory, and burdensome to U.S. interests. A broad range of feasible actions are allowed, as defined in §301(c).

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[41]The price was above this trigger, thus allowing the bonus allocation, from May 1996 through August 1997 and again from May 1999 through July 1999.

[42]See CRS Report RL30461, *Trade Remedy Law Reform in the 106th Congress*. For more information, see *CRS Trade Briefing Book: Antidumping and Countervailing Duties* at [http://www.congress.gov/brbk/html/ebtra67.html]. Alternatively, see U.S. International Trade Commission, *Summary of Statutory Provisions Related to Import Relief*, USITC Pub. 3125 (Washington, DC: August 1998), at [ftp://ftp.usitc.gov/pub/reports/studies/PUB3125.PDF].

Analysis: Subsidies and Injury

U.S. lumber producers complain that subsidies to Canadian lumber producers give them an unfair advantage in supplying the U.S. market, and that this has injured U.S. producers. Canadian lumber imports have risen from 7% of the U.S. market in the early 1950s to more than 30% over the past two decades. The CFLI has argued that imports have risen due to government programs in Canada. In particular, they assert that the fees set by the provinces for government-owned timber are less than prices in a competitive fair market and that log export restrictions in British Columbia artificially depress Canadian timber prices. These practices are alleged to have injured U.S. lumber producers. These two issues — subsidies and injury — are the basis for determining whether a countervailing duty is warranted under U.S. law, and will be examined in turn. First, however, it is useful to examine what imports are considered to be "softwood lumber." Then, after discussing subsidies and injury, other factors (such as differing environmental policies) will be examined.

What is Softwood Lumber?

While seemingly straightforward, "softwood lumber" subject to the softwood lumber agreement has been an issue over the past few years. Before discussing the issue, some basic information on softwoods and on lumber is presented.

Softwood is a classification of tree species, and contrasts with the other major classification, *hardwood*. Both, however, are misnomers. Some "hardwoods," such as aspen and poplar, are softer (less dense) than many "softwoods," such as yellow pines.[43] *Softwood* species are all in the Order Coniferales — the conifers. Conifers generally have needle-like leaves and cones for reproduction. These plants are often called evergreens, because most retain their needles in winter. (Trees of the larch genus (*Larix spp.*) are deciduous, with bare limbs in the winter.) The hardwood timber species are in the Phylum Anthophyta — the angiosperms, or flowering plants. These plants are often called deciduous, because most species in temperate climates lose their leaves in the winter; however, some temperate-climate species (*e.g.*, holly) and most tropical and subtropical species are evergreen, retaining their leaves throughout the year. Despite the imprecision, *softwood* is the term of art for conifer species, and will be used to indicate lumber produced from conifer species. This use is also consistent with the definition of softwood lumber in the harmonized tariff schedules and in the 1996 lumber agreement. (See below.)

Lumber is the collective term for products sawn from logs. This contrasts with the panel products — plywood, particleboard, *etc*. — where the logs are sliced, peeled, or chipped, and the wood pieces are then glued together to form sheets or panels,[44] and with paper products, where wood chips are dissolved to remove the

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[43]The major softwood species — the pines, firs, and spruces — are generally softer (less dense) than the major hardwood tree species of temperate climates — the oaks and maples.

[44]A process similar to plywood production can be used to produce lumber-sized products. Known as parallel-laminated veneer (PLV) lumber, the product is made of wood layers glued

(continued...)

lignin and the fibers adhere by being pressed together under heat. *Boards* are lumber products of less than 2 inches in nominal thickness — typically 1 inch thick and 1 to 12 inches wide (in 2-inch increments).[45] *Dimension lumber* are products of 2 to 5 inches in nominal thickness — most commonly 2 inches thick and 2 to 12 inches wide (in 2-inch increments) in nominal dimensions. *Timbers* are lumber products of at least 5 inches thick and wide, and include products (such as cants and flitches) destined for further processing. The vast majority of softwood lumber — more than 80% — is used for residential and non-residential construction, remodeling, and repair.[46]

Which wood products imported from Canada are subject to the quota in the Softwood Lumber Agreement has been at issue over the past couple of years. The Agreement defined softwood lumber by two tariff items under the Harmonized Tariff Schedule of the United States:[47]

> **Softwood lumber** means articles classified under:
>
> (1) tariff item 4407.10.00 of the Harmonized Tariff Schedule ...; (for purposes of description only, coniferous wood sawn or chipped lengthwise, sliced or peeled, whether or not planed, sanded or finger-jointed, of a thickness exceeding 6 mm [about $^1/_4$ inch]);
>
> (2) tariff items 4409.10.10, 4409.10.20 and 4409.10.90 ...; (for purposes of description only, coniferous wood (including strips and friezes for parquet flooring, not assembled) continuously shaped (tongued, grooved, rebated, chamfered, V-jointed, beaded, moulded, 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); ...[48]

These tariff items include essentially all the traditional softwood lumber items intended for residential construction, as described above, including softwood siding

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[44](...continued)
together in parallel (in contrast to the perpendicular layers in plywood) and then sawn to traditional lumber sizes. The process has been used for producing large wooden beams (timbers) for many years, but is uncommon for traditional lumber products because the production costs are higher than for traditional products.

[45]Lumber is identified in nominal sizes, rather than actual dimensions. The nominal sizes were the original dimensions of green, rough-sawn lumber; the actual dimensions are the minimum sizes for dry, finished lumber as specified by the American Lumber Standards Committee, a committee of lumber producers, distributors, and users who have developed voluntary product standards and methods for grading, testing, and marking lumber products, under the aegis of the National Institute of Standards and Technology. See 64 *Federal Register* 51294 (Sept. 22, 1999) for the most recent softwood lumber standard agreement.

[46]Western Wood Products Association, *1998 Statistical Yearbook of the Western Lumber Industry* (Portland, OR: August 1998), p. 33.

[47]U.S. International Trade Commission, *Harmonized Tariff Schedule of the United States (1996)*, USITC Publication 2937 (Washington, DC: 1998).

[48]"Article IX, Definitions," *Softwood Lumber Agreement Between the Government of the United States of America and the Government of Canada* (Washington, DC: May 29, 1996).

and softwood flooring and excluding logs, poles, wood fencing, and railway sleepers (cross-ties). This definition also excludes builders' joinery and carpentry (tariff item 4418), which is composed of windows and doors (with frames), parquet panels, shakes and shingles, and laminated beams, roof trusses, and other fabricated wood products.

The issue of lumber product classification arose in 1997, after the U.S. Customs Service had issued New York Ruling Letter B81564 (Feb. 18, 1997) classifying "drilled studs" (8- and 10-foot long 2x4s and 2x6s with 1-inch holes drilled about 16 inches from each end) as builders' joinery and thus outside the Agreement's quota. In October, the Customs Service requested comments on drilled stud classification, including whether they serve a particular purpose and whether the holes limit their use in construction.[49] In April 1998, the Customs Service proposed revoking the New York Ruling Letter, effectively reclassifying drilled studs as softwood lumber (under tariff item 4407) subject to the current agreement.[50] The June 1998 final ruling, revoking the 1997 Ruling Letter, was challenged in court, but the Customs Service decision was upheld in December 1998 by the U.S. Court of International Trade.[51]

In 1999, the Customs Service proposed and then finalized notices to reclassify notched studs and rougher-headed lumber as softwood lumber under tariff item 4407, instead of as builders' joinery under tariff item 4418.

The issue, essentially, is whether these various products are, indeed, specialty products with particular construction applications or standard construction lumber with minor modifications to avoid the quota. If the latter is correct, and the products are now correctly classified as softwood lumber products, a further question is whether they were included in the base level of lumber imports used to establish the quota levels, or whether their reclassification has expanded the products covered and thus effectively reduced the quota levels for the standard products from the originally agreed-upon levels.

Subsidies to Canadian Lumber Producers

Alleged subsidies to Canadian lumber producers have been at the core of the efforts to restrict imports by the CFLI over the past two decades. Initial efforts focused on the argument that the Canadian system of allocating timber and setting stumpage fees results in fees below the fair market value of the timber. More recently, critics have also argued that restrictions on log exports (at least from BC) artificially depress domestic Canadian timber prices by limiting the markets for logs.

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[49] 62 *Federal Register* 55667-55668 (October 27, 1997).

[50] 63 *Federal Register* 17927 (April 10, 1998).

[51] *American Bayridge Corp.* v. *United States*, 35 F. Supp. 2d 922 (Ct. Int'l Trade 1998).

Canadian Stumpage Fees. About 94% of the timberlands in Canada are "crown lands" owned and administered by the federal and provincial governments.[52] Although they constitute more than 21% of all Canadian timberlands, most of the federally-owned boreal forests are in the Yukon, Nunavut, and Northwest Territories; in the 10 provinces, the Canadian federal government owns 2% of the timberlands and the provinces own 90%, with 8% in private ownership. This contrasts with U.S. timberlands, where 42% are owned by the federal (33%), state (8%), and local (1%) governments, and 58% are privately owned.[53]

Each province has its own forestry legislation, regulations, and standards. In general, the provinces require management plans for forested areas, typically prepared by certified professional foresters and subject to participation or review by a broad spectrum of users and interests.[54] The provinces also allocate timber harvest. For relatively large producers, the provinces typically use long-term (generally 5 to 25 years, with renewal options) area tenure agreements, with exclusive rights to the specified annual harvest levels and with various management obligations (*e.g.*, road construction and reforestation).[55] For smaller producers, the provinces often use shorter-term (as brief as 6 months) volume tenure agreements, with exclusive rights to the specified annual harvest levels and with some management obligations (but typically less than for a long-term area tenure agreement). Many provinces also have other agreements for selling various types of timber to specific, often quite small or family-operated firms.

The various tenure agreements (also referred to as leases) also must be consistent with the management plans for the areas, which are often prepared by foresters working for the lessees (especially for the long-term area tenures). The only significant opportunity for the public to influence Canadian forest management appears to be through comments on the periodic forest management plans; there seems to be no opportunity to oversee or challenge the appropriateness of forestry activities, except when those activities violate the law, regulations, or management plans. This differs markedly from the system for U.S. federal timber, where both management plans and individual timber sales are subject to public involvement and challenges under an administrative appeals process as well as by litigation.

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[52]Natural Resources Canada, Canadian Forest Service, *The State of Canada's Forests: 1999–2000* (Ottawa, ON, Canada: 2000), pp. 22-28.

[53]U.S. Dept. of Agriculture, Forest Service, "Table 2–Forest Land Area in the United States by Ownership. Region, and Subregion, and State, 1997," *Final Statistics*, at [http://www.srsfia.usfs.msstate.edu/wo/FINAL_RPA_TABLES.PDF], on Nov. 20, 2000, pp. 3-4.

[54]Natural Resources Canada, Canadian Forest Service, *Sustainable Forest Management: A Continued Commitment in Canada*, Monograph No. 9 (Ottawa, ON, Canada: 2000).

[55]David Haley and Martin K. Luckert, *Forest Tenures in Canada: A Framework for Policy Analysis*, Information Report E-X-43 (Ottawa, ON, Canada: Forestry Canada, 1990). (Hereafter cited as Haley and Luckert, *Forest Tenures in Canada*.) Many provinces have revised their tenure systems in the past decade, but the basic provisions remain essentially the same. (Personal communication with F.L.C. Reed, forest policy consultant, South Surrey, BC, Canada, on Dec. 11, 2000.)

Administrative Stumpage Fees. The provinces charge fees for timberland leases and timber harvests. There is generally a flat annual fee for maintaining the leases, and a stumpage fee (per unit of volume) for the timber harvested. In most of the provinces, stumpage fees are determined administratively, and range from a fixed, province-wide fee to fees established separately for each tenure agreement.[56] These fees are adjusted periodically to reflect changes in the market prices of lumber and other wood products.

Administrative stumpage fees are unlikely to match market-determined prices, because the fees are determined by agency personnel, not by markets. If the fees are designed to approximate market prices, lags in periodic fee adjustments suggest that the fees would be below the market value in tight markets, when lumber prices are rising, but above the market value in weak markets, when lumber prices are falling. However, some observers assert that the provinces have intentionally set the fees substantially below market prices, to assure the competitiveness of their producers.[57] Whether provincial administrative stumpage fees approximate market values or are substantially below market values can only be determined by examining provincial fees and U.S. prices for comparable timber, but such comparisons are difficult, as discussed below.

BC Appraised Stumpage Fees. In BC, stumpage fees historically were set using the "residual value" appraisal process, where average harvesting and manufacturing costs (and a profit-and-loss margin) were deducted from the estimated end wood product prices to determine the stumpage fee.[58] This process for timber was first developed by the U.S. Forest Service early in the 20th Century, with the first timber appraisal manual produced in 1914.[59] The U.S. Forest Service still uses residual value appraisals in some places, for some timber. However, the BC Ministry of Forests and the U.S. Forest Service have largely shifted to the "transaction evidence" appraisal system, where stumpage fees are established by comparing the transaction (timber sale or agreement) with other, similar transactions (timber sales or agreements).[60]

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[56]*Ibid.*

[57]John A. Ragosta, Harry L. Clark, Carloandrea Meacci, and Gregory I. Hume, *Canadian Governments Should End Lumber Subsidies and Adopt Competitive Timber Systems: Comments Submitted to the Office of the United States Trade Representative on Behalf of the Coalition for Fair Lumber Imports*, unpublished report (Washington, DC: Dewey Ballantine LLP, April 14, 2000), appendix 1. (Hereafter referred to Dewey Ballantine Comments for the CFLI to the USTR).

[58]In some areas, such as near Vancouver, BC, manufacturing costs are excluded and log prices are used instead of wood product prices. According to economic theory, this would be likely to result in appraised prices closer to a fair market price.

[59]See: Alfred A. Weiner, *The Forest Service Timber Appraisal System: A Historical Perspective, 1891-1981*, FS-381 (Washington, DC: USDA Forest Service, August 1982), pp. 1-21.

[60]It is not clear how transaction evidence appraisals can be determined in a system with no market transactions for comparison.

The difference between the BC provincial system and the U.S. federal system is that in BC, the appraised price is the stumpage fee, while in the United States, the appraised price is the minimum stumpage fee for timber sales which are offered for competitive bidding. Competitively-bid U.S. stumpage fees are often substantially above the appraised price. Data on the ratio of bid fees to appraised price for U.S. Forest Service timber sales are not published regularly, but one study found that, in the 1970s, successful bids were, on average, three times greater than the appraised prices, even when noncompetitive sales were included, and averaged 10 times greater in one region (Alaska).[61] However, competition for U.S. Forest Service timber is not always vigorous, with 12% of those 1970s sales having no bidders and 22% having only one bidder (*i.e.*, sales in which the stumpage fee equaled the appraised price).[62] Nonetheless, this old evidence from U.S. Forest Service timber sales suggests that competitive bidding for timber results in a market price higher than the value estimated using the appraisal system.

Comparing Canadian and U.S. Stumpage Fees. Market values are established in competitive markets between willing buyers and willing sellers. In the United States, this is the situation for wood product manufacturers and private timberland owners and, arguably, federal timber sales in areas with competitive bidding.[63] Thus, much of the timber from lands in the United States is probably sold at fair market values. This is not likely the case in Canada, where leases (rather than competitive bids) are used to allocate timber.

Evidence to demonstrate this possible disparity between U.S. and Canadian stumpage fees is widespread, but inconclusive. Over the past 20 years, several reports have shown significantly higher stumpage fees in the United States.[64] Also, as noted above in the history of the dispute, the U.S. ITC and ITA have found significant differences in stumpage fees in various examinations dating back to 1982. However, other analyses have shown little or no difference between U.S. and Canadian fees.[65]

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[61]U.S. Dept. of Agriculture, Forest Service and U.S. Small Business Administration, *National Study Report: Small Business Timber Sale Set-Aside Program* (Washington, DC: August 1983), pp. 133-138.

[62]*Ibid.*

[63]Some may argue that the U.S. government is not comparable to a traditional private "willing seller," since the U.S. government does not make investments or sales based on profitability, as a private landowner presumably would. However, since the U.S. federal government only owns 33% of U.S. timberlands, it likely has a less substantial impact on timber markets than do the Canadian provinces.

[64]See: Coopers & Lybrand, *Certain Forest Products From Canada, Before the United States Department of Commerce International Trade Administration: Valuation of Stumpage Subsidy*, unpublished report (Washington, DC: Oct. 1982), 18 p; and Dewey Ballantine Comments for the CFLI to the USTR.

[65]See: The Council of Forest Industries of B.C., *A Brief Examination of Comparative Factors Affecting the Forest Industries of the U.S. Pacific Northwest and British Columbia*, unpublished report (Vancouver, BC, Canada: Oct. 1981), 15 p.

Brink Lindsay, Mark A. Groombridge, and Prakash Loungani, *Nailing the Homeowner:*

(continued...)

Several factors can explain such apparent contradictions. First, U.S. timber and Canadian timber are measured differently. In the United States, trees and lumber are measured in board feet, as described above. In Canada, trees and lumber are measured in cubic meters. The conversion — how many board feet of lumber can be produced from a cubic meter of logs — depends on the diameter of the log, ranging from about 130 board feet per cubic meter for a 6-inch diameter, 16-foot log to more than 275 board feet per cubic meter for a 44-inch, 16-foot log.[66] Thus, the conversion rate chosen (*i.e.*, different assumptions about log diameters) can have a significant effect on the resulting price.

Second, except for the occasional forest plantation, forests are not uniform monocultures — forests may contain several species of trees, each of which varies in diameter, height, and quality. Comparisons typically use a single dominant species (*e.g.*, Douglas-fir), but the stumpage fee for the dominant species can be affected by the fee for other species. In U.S. federal timber sales, for example, competitive bidding is generally limited to the dominant species, with the other species being sold at the appraised price; this leads to an overall balance, but limits the validity of the fees for comparing the prices of timber in different areas. U.S. and Canadian forests differ in their species mix (percentage of trees or timber volume in each species) as well as in the size and quality of the trees of each species. Adjusting for these differences is difficult, under the best of circumstances.

Other factors also affect stumpage fees. For example, the management responsibilities imposed on the timber purchasers differ. In Canada, licensees are generally responsible for reforestation and for some forest protection.[67] In U.S. federal forests, timber purchasers generally make deposits to pay for agency reforestation efforts, and some of those deposits are typically reported as part of the stumpage fees.[68] Road construction and road maintenance responsibilities and compensation also differ.

Another factor relates to changes in the exchange rate. A study in 1986 indicated that the relative strength of the U.S. dollar (*vis-a-vis* the Canadian dollar) in the mid- to late-1970s was an important factor in the growth of Canadian market share during that period.[69] The U.S. dollar continued to strengthen until 1986, then

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[65](...continued)
The Economic Impact of Trade Protection of the Softwood Lumber Industry (Washington, DC: Cato Institute, 2000), 15 p. (Hereafter referred to as Cato Institute, *Nailing the Homeowner*.)

[66]David A. Hartman, William A. Atkinson, Ben S. Bryant, and Richard O. Woodfin, Jr., *Conversion Factors for the Pacific Northwest Forest Industry* (Seattle, WA: University of Washington, Institute of Forest Products, n.d.), p. 11; with conversion of cubic feet to cubic meters (at 35 cubic feet per cubic meter) by CRS.

[67]Haley and Luckert, *Forest Tenures in Canada*.

[68]CRS Report 97-14 ENR, *The Forest Service Budget: Trust Funds and Special Accounts*, pp. 17, 29-30.

[69]Darius M. Adams, Bruce A. McCarl, and Lalehrokh Homayounfarrokh, "The Role of (continued...)

weakened significantly for 5 years, before recovering and exceeding its previous peak, at $1.49 Canadian per U.S. dollar for 1999.[70] How these changes have continued to affect U.S.-Canada lumber trade has not been adequately examined.

Export Restrictions. Export restrictions by BC were identified as a subsidy by the ITA in the 1992 countervailing duty investigation. The province began restricting log exports in 1888. Today, under the British Columbia Forest Act of 1978, timber cut from provincial lands must be manufactured in the province, except for timber "surplus to domestic need with no economically feasible use within the Province."[71] Even for logs identified as surplus, the province imposes a fee equal to the export premium (the difference between the export price and the domestic price).[72] The Canadian federal government imposes similar restrictions on log exports from non-crown lands in Canada.[73] "The overall purpose of the Provincial and Federal [export restriction] policies has been to maintain and enhance Provincial development, provide jobs, ensure that ... the timber industry remain[s] solvent ..." and for other purposes.[74]

Exports of logs from public lands in the United States are also restricted. The Forest Resources Conservation and Shortage Relief Act of 1990,[75] as amended, prohibits exports of unprocessed timber from all federal and state lands west of the 100th Meridian (which runs through the Great Plains), except for species and grades identified as surplus to domestic needs.[76] This restriction is similar to the BC and Canadian federal log export restrictions. However, as noted above, the significant difference is that private timberlands produce the majority of U.S. timber supply, and log exports from private U.S. timberlands are not restricted.

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[69](...continued)
Exchange Rates in Canadian-United States Lumber Trade," *Forest Science*, v. 32, no. 4 (April 1986): 973-988.

[70]Data from: International Monetary Fund, *International Financial Statistics Yearbook, 2000*, vol. LIII (Washington, DC: 2000).

[71]Christine L. Lane, *Log Export and Import Restrictions of the U.S. Pacific Northwest and British Columbia: Past and Present*, Gen. Tech. Rept. PNW-GTR-436 (Portland, OR: USDA Forest Service, Aug. 1998), p. 41. (Hereafter referred to as Lane, *Log Export Restrictions*.) Since the late 1980s, three northern coastal BC timber supply areas (Mid Coast, North Coast, and Queen Charlotte) have been exempted from the within-province manufacturing requirement. (Lane, *Log Export Restrictions*, p. 41.)

[72]Lane, *Log Export Restrictions*, p. 44.

[73]Lane, *Log Export Restrictions*, pp. 41-42.

[74]Lane, *Log Export Restrictions*, p. 38.

[75]Title IV of the Customs and Trade Act of 1990, P.L. 101-382; 16 U.S.C. 620.

[76]The Act actually allows exports of 25% of timber harvested from state lands in states with annual harvests exceeding 400 million board feet (*i.e.*, from the State of Washington), but the ban was extended to these lands, as allowed in the 1990 law, by a general order from the U.S. Secretary of Commerce in 1992, which is still in effect. See Lane, *Log Export Restrictions*, pp. 14-19.

Export restrictions are widely recognized as creating an "export premium" — *i.e.*, a higher price for export logs than for comparable logs sold domestically.[77] Few studies identify the magnitude of the export premium, although most discussions fall within a range of 25-50%.[78] One recent study graphically presented 1989-1999 domestic and export log prices in the U.S. Pacific Northwest.[79] In the mid-1990s, the premium was $400-$600 per MBF, about 67-100% above domestic prices. The Asian financial crisis in 1997 reduced the premium to less than $100 briefly, but export prices then stabilized while domestic prices fell, raising the premium to more than $300 per MBF, about 75% above domestic prices.[80] These data suggest that U.S. export restrictions on logs from federal and state lands apparently provide a substantial price premium for export logs from private lands, and therefore may depress domestic prices to less than a free market-determined price. Despite the lack of data, this situation seems likely to be true for Canada also, since BC and the U.S. Pacific Northwest compete in the same Pacific Rim markets — Japan, Korea, and China.

Restrictions that reduce domestic prices to less than a fair market price would, in most circumstances, be considered to be subsidies by most economists, and Article XI of the GATT generally prohibits restrictions on exports.[81] Nonetheless, the ITA's determination that the export restrictions are subsidies has been challenged. In May 2000, Canada requested consultations with the United States under the WTO Dispute Settlement Understanding.[82] Canada has argued that the provisions of U.S. trade law defining export restrictions as subsidies are inconsistent with provisions of the WTO

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[77]See, for example: Donald F. Flora and Wendy J. McGinnis, "Embargoes On and Off: Some Effects of Ending the Export Ban on Federal Logs and Halting Exports of State-Owned Logs," *Western Journal of Applied Forestry*, v. 4, no. 3 (July 1989): 77-79.

Ronald N. Johnson, Randal R. Rucker, and Holly Lippke, "Expanding U.S. Log Export Restrictions: Impacts on State Revenue and Policy Implications," *Journal of Environmental Economics and Management*, v. 29, no. 2 (Sept. 1995): 197-213.

[78]U.S. Dept. of Agriculture, Forest Service, *FY 1990 Budget Proposal to Remove Restriction on Log Exports from Federal Lands*, unpublished briefing paper (Jan. 19, 1989).

[79]Bruce Lippke, Rose Braden, and Scott Marshall, *Changing Export Trends and the Health of the Pacific Northwest Forest Sector*, CINTRAFOR Working Paper 75 (Seattle, WA: Univ. of Washington, College of Forest Resources, Dec. 1999), p. 32.

[80]CINTRAFOR Working Paper 75.

[81]GATT Article XX contains several exceptions to the general prohibition on export restrictions. Article XX(g) allows measures "relating to conservation of exhaustible natural resources if such measures are made effective in conjunction with restrictions on domestic production or consumption" — the conservation exception. To fulfill this exception, Canada would probably need to demonstrate that timber is an exhaustible resource and that the export restrictions are part of a broader program to conserve timber resources. (See CRS Report 93-738 ENR, *Restricting Softwood Log Exports: Policy and Legal Implications*, pp. 14-18.) Since timber is widely considered to be renewable (and not exhaustible), and since the Canadian export restrictions historically were for economic development (Lane, *Log Export Restrictions*, p. 38), it seems unlikely that the Canadian log export restrictions would qualify for the conservation exception to the GATT prohibition on export restrictions.

[82]65 *Federal Register* 35969-35970 (May 19, 2000).

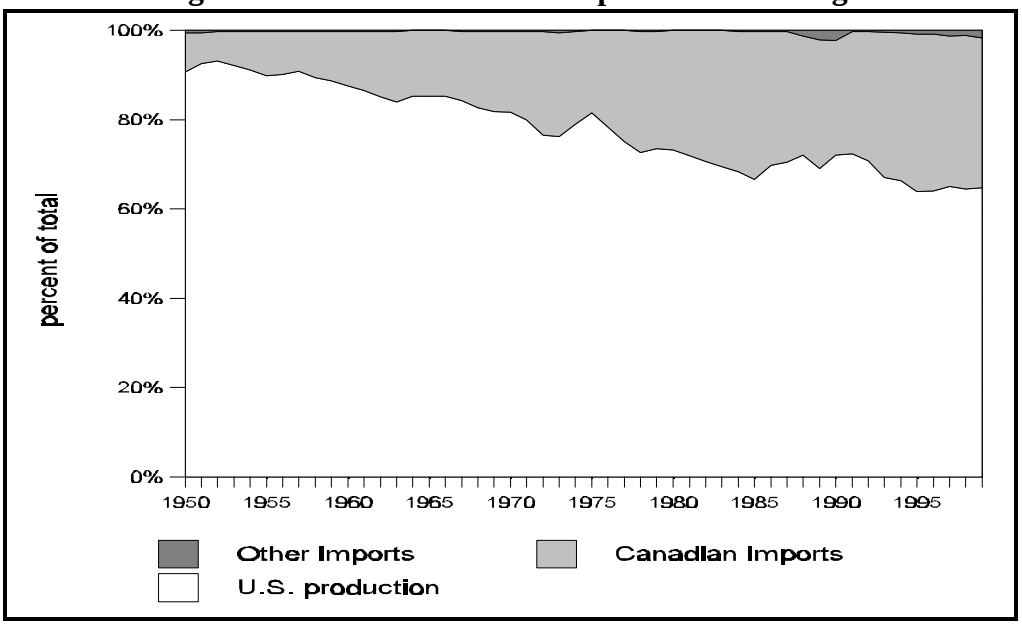
Agreement on Subsidies and Countervailing Measures. If the consultations do not lead to a mutually acceptable resolution, Canada can request a GATT panel under the WTO Dispute Settlement Agreement to examine the U.S. trade law provisions for GATT compatibility.

Injuries to U.S. Lumber Producers

Proving injury or threat of injury to U.S. lumber producers is also essential to establishing a countervailing duty under U.S. trade law. In addition, although not relevant to a countervailing duty investigation, some interests have argued that the user impacts of restrictions on Canadian exports should be considered in discussions or analyses of restrictions by the Administration or by Congress. Harm to U.S. lumber producers and users can be evaluated by tracing the Canadian share of the U.S. lumber market over time and by examining the price impacts of imports and of restrictions.

Canadian Share of the U.S. Lumber Market. The share of the U.S. softwood lumber market provided by Canadian lumber has generally been growing over the past 50 years, as shown in figure 1. Canada's market share was less than 7% in 1952, and rose to more than 35% in 1995. Since 1995, Canada's share of the U.S. market has fluctuated between 33% and 35%.

Figure 1. U.S. Lumber Consumption in Percentage



Sources:

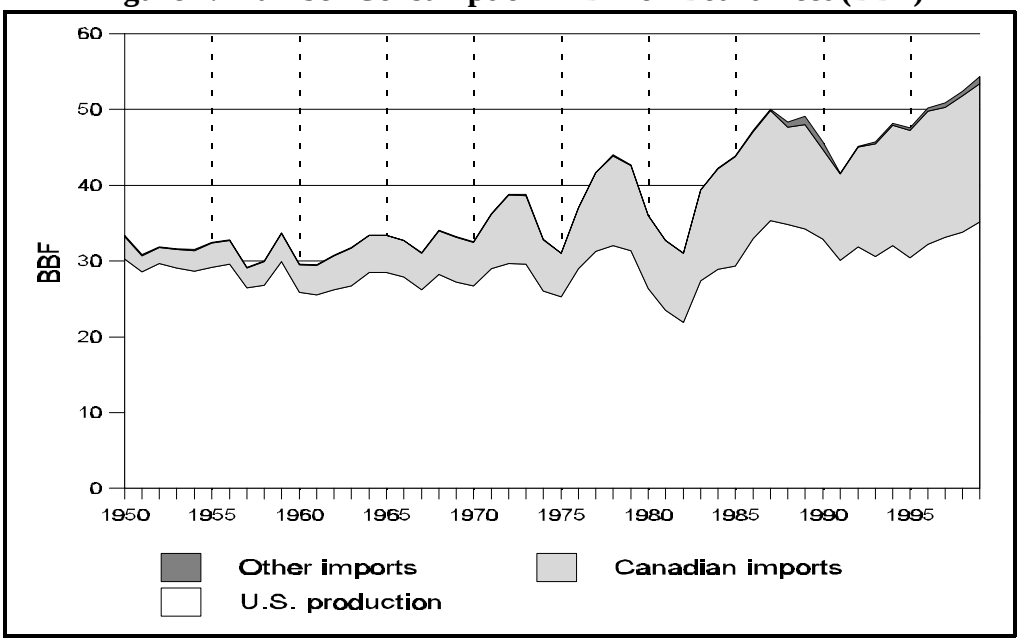
U.S. Dept. of Agriculture, Forest Service, *An Analysis of the Timber Situation in the United States 1952–2030*, Forest Resource Report No. 23 (Washington, DC: Dec. 1982), pp. 292, 318.

James L. Howard, *U.S. Timber Production, Trade, Consumption, and Price Statistics 1965–1997*, Gen. Tech. Rept. FPL–GTR–116 (Madison, WI: USDA Forest Service, July 1999), pp. 41, 43.

American Forest & Paper Association, *Wood Statistical Roundup*, v. 12, no. 1 (Feb. 1999) and v. 13, no. 2 (Feb. 2000).

U.S. lumber producers argue that the increasing Canadian share of the U.S. lumber market has injured them by constraining their potential to expand domestic softwood lumber production. Figure 2 clearly demonstrates that most of the growth in U.S. softwood lumber consumption has been provided by increased imports from Canada. Canadian imports have risen from less than 3 BBF in the early 1950s to more than 18 BBF in 1998 and 1999, including a 50% increase since 1990. U.S. lumber production for the domestic market (*i.e.*, excluding U.S. lumber exports) was more than 30 BBF in 1950 and again in the late 1970s, but fell below 22 BBF in 1982. U.S. production for domestic use rose to more than 35 BBF in 1987, but has fluctuated between 30 BBF and 35 BBF ever since. The U.S. producers assert that Canadian subsidies have allowed Canadian producers to expand lumber exports to the U.S. market at the expense of U.S. producers especially since the mid-1970s.

Figure 2. Lumber Consumption in Billion Board Feet (BBF)



Sources:

U.S. Dept. of Agriculture, Forest Service, *An Analysis of the Timber Situation in the United States 1952–2030,* Forest Resource Report No. 23 (Washington, DC: Dec. 1982), pp. 292, 318.

James L. Howard, *U.S. Timber Production, Trade, Consumption, and Price Statistics 1965–1997*, Gen. Tech. Rept. FPL–GTR–116 (Madison, WI: USDA Forest Service, July 1999), pp. 41, 43.

American Forest & Paper Association, *Wood Statistical Roundup*, v. 12, no. 1 (Feb. 1999) and v. 13, no. 2 (Feb. 2000).

Another way to assess injury to U.S. producers is by examining the relative market positions of Canadian and U.S. producers. At least until 1980, Canada was generally seen as the marginal (high-cost)[83] producer for the U.S. market; this is

[83]In economics, the supplier (or supply region) which decreases production more than other suppliers (*i.e.*, whose market share declines) during economic downturns is considered the (continued...)

demonstrated by the declining Canadian market share as the U.S. economy entered recessions in 1951, 1957, and especially 1974-1975. However, in the 1980 and 1982 recessions, Canada increased its share of the U.S. lumber market; instead, the market share for other regions — notably the U.S. Pacific Northwest and intermountain West — declined, suggesting that these regions had become the marginal (high-cost) producers. This suggests that Canadian production costs had fallen, relative to western U.S. production costs (which some allege is because of Canadian subsidies), and that, at least, western U.S. lumber producers were injured by Canadian imports.

After reaching 33% of the U.S. market in 1985, the Canadian share fell during the U.S. economic expansion (through 1989), implicitly confirming that Canada was not the high-cost producer. However, during the next economic recession (1990-1991) and subsequent recovery, the Canadian market share first fell, then rose again, reaching a new peak (at more than 35% of the U.S. market) in 1995. This might indicate a return to Canada being the marginal (high-cost) supplier, but other factors — including significant changes in U.S. federal timber supplies; attempts to restrict Canadian lumber imports; and changes in Far East Asian economic performance — might have affected the historic relationship between production costs and U.S. market share. If Canada has again become the high-cost (marginal) supplier to the U.S. market, then imports are unlikely to injure U.S. producers. If, however, the recent changes in Canadian market share are not a result of higher production costs, then Canadian imports might be causing injury to domestic producers.

U.S. Lumber Prices. Lumber prices might also be an indicator of injury. Persistently low prices might harm U.S. lumber producers, particularly if Canadian production costs are lowered by subsidies. However, U.S. lumber users (*e.g.*, home builders and lumber dealers) argue that restrictions on Canadian lumber imports have led to high and increasingly volatile lumber prices, harm themselves and the U.S. economy generally. These two issues — price level and price volatility — will be examined after a brief explanation of the problems associated with examining lumber prices.

Lumber prices are more difficult to track over time than data on consumption and market share, because each species and grade has a different price, and the mix of species and grades produced and consumed as well as the relative prices have changed. It is particularly difficult to demonstrate price changes that result from a particular action or event. One analysis noted:

> In a fluctuating commodity market, attributing price changes to particular causes is extremely difficult. The first reason is data imperfections.... The second reason is that market behavior is governed by expectations, which cannot be measured. Because expectations are so important, simple interpretations of supply-demand behavior are often wrong.... The third reason is that multiple factors are always interacting on current market conditions and expectations.... A fourth reason is the high level of volatility that is inherent in the month-to-month functioning of the industry, customers, and international traders.... A final reason

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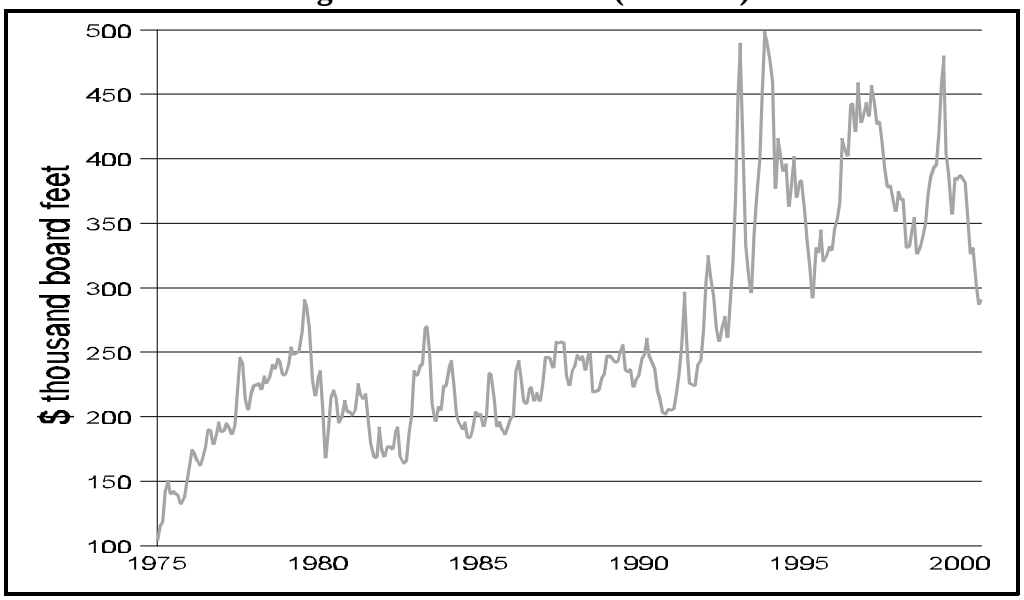
[83](...continued)
highest-cost supplier; these suppliers also increase production more than their competitors (*i.e.*, their market share rises) during economic recoveries.

> is the occurrence of unanticipated disruptions [*e.g.*, a major hurricane] to supply or demand that affect the market.[84]

One organization, Random Lengths, Inc. (Eugene, OR)[85], has produced a weighted average composite price for framing (softwood dimension) lumber weekly dating back to 1975. The monthly average of this framing lumber composite price is shown in figure 3. This monthly average composite price has also been adjusted for inflation, and is shown in figure 4 in 1999 dollars.

Figure 3. Random Lengths Average Monthly Composite Prices for Framing Lumber in Current (Nominal) Dollars



Source: Random Lengths Publications, Inc., at [http://www.randomlengths.com/Composite.html] on Jan. 2, 2001.

Figure 3 shows that framing lumber prices have generally risen over the past 25 years, especially in the 1970s and since 1990. However, when adjusted for inflation, as shown in figure 4, framing lumber prices have risen only a little over the past 20 years, and have generally remained below average prices of the late 1970s. Framing lumber prices are currently at their lowest level since the early 1990s, and are well below prices of the late 1970s in real terms.

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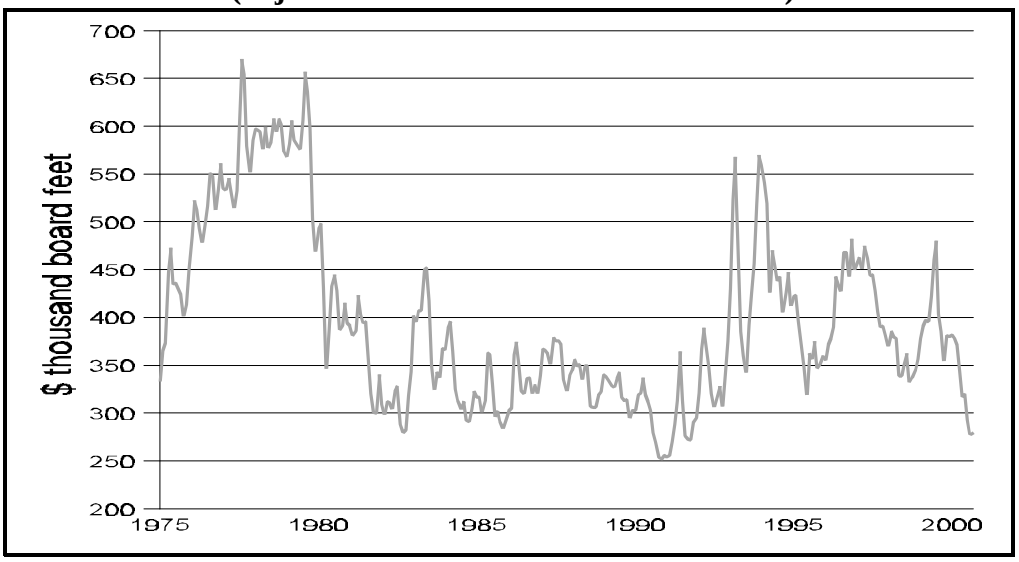
[84]The Irland Group, with Joel Popkin and Company, *Final Report — Assessment of Pricemaking Forces in the US Softwood Lumber Markets. Part One: Industry Characterization and Economic Performance, 1946–92. Part Two: Shortrun Market Dynamics, 1976–1993*, unpublished report to American Forest & Paper Association, National Association of Home Builders, and others (Augusta, ME and Washington, DC: April 1993), p. 158. (Hereafter referred to as *Pricemaking Forces in Lumber Markets*.)

[85]This organization produces a weekly report on North American wood product markets, particularly on prices for various lumber species and grades from various source locations to various destinations.

Figure 4. Random Lengths Average Monthly Composite Price for Framing Lumber in Real (1999) Dollars (adjusted to 1999 dollars with the CPI-U)



Source: Random Lengths Publications, Inc., at [http://www.randomlengths.com/Composite.html] on Jan. 2, 2001.

Price Level. Economic theory suggests that U.S. restrictions on imports of Canadian lumber have probably raised U.S. lumber prices above what they would have been with no restrictions. One estimate, by a group that opposes restrictions, is that the current lumber agreement has raised prices by $50 to $80 per MBF [86] — about 15–25% of the 2000 average framing lumber price of $323 per MBF. Others assert that a fee of $50–$100 per MBF on lumber imports above the 14.7 BBF quota level — alleged to be on only 0.4% of 1999 U.S. lumber consumption — could not possibly raise prices on all softwood lumber consumed in the United States by $50 to $80 per MBF.[87] It is not possible to use price elasticities to estimate the effects of restrictions without having an estimate of the volume change resulting from restrictions, but estimates of the volume impacts of the restrictions have not been published, and the imports of Canadian lumber reached a new record high in 1999, at 18.2 BBF. This might suggest to some that the current agreement has had little effect on U.S. lumber consumption, lumber imports, and lumber prices.

The study that estimated the $50 to $80 per MBF lumber price increase also estimated that this would raise the cost of a new house by $800 to $1,300, and would price 300,000 families out of the housing market.[88] This would imply a 0.5–0.8%

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[86]Cato Institute, *Nailing the Homeowner*.

[87]Dewey Ballantine Comments for the CFLI to the USTR.

[88]Cato Institute, *Nailing the Homeowner*.

increase in the median 1999 price of a new home of $160,000.[89] This change, which some argue is grossly inflated, seems likely to have a negligible impact on housing when compared to the impact of changes in mortgage interest rates. For example, a rise in mortgage rates from 8% to $8^1/_8$% would increase monthly payments on a $128,000 mortgage (assuming a 20% down payment on the 1999 median price of a new home) by more than would a $1,300 increase in lumber prices. (Monthly average rates for the Federal Home Mortgage Corporation fluctuated between $7^3/_4$% and $8^1/_2$% in 2000.[90])

Imports of Canadian lumber have undoubtedly kept softwood lumber prices lower than prices would have been with no imports. However, in general and over the long term, changes in lumber supply have a modest impact on lumber prices. Demand for lumber is a secondary demand, derived substantially from the demand for new or remodeled houses and other buildings. Wood products are a relatively minor component of construction costs; at $323 per MBF (the Random Lengths average framing lumber composite price for 2000), framing lumber in an average (2,000-square foot) new home would cost less than $6,000 — 3.5% of the 1999 median price of a new home.[91] In contrast, more than 80% of softwood lumber is used in construction — residential construction (40%), non-residential construction (15%), and repair and remodeling (28%).[92] Hence, softwood lumber is highly price inelastic, with modest changes in construction demand causing relatively large changes in lumber prices but modest changes in lumber supply causing relatively small changes in lumber prices.[93] This was documented in one analysis that found "lumber demand fundamentals" and "market overreactions" to expected supply problems as the principal factors in all six identified lumber price spikes between 1978 and 1993.[94]

In summary, it is not clear whether framing lumber price levels indicate injury to either the U.S. lumber industry or to U.S. lumber users. Price levels have not risen to levels that appear to significantly constrain homebuilding or other construction, but neither are they so persistently low as to by themselves indicate significant injury to U.S. producers; the ITC, however has consistently found material injury to the U.S. industry each time it has examined the issue.

Price Volatility. Lumber users have also argued that the current softwood lumber agreement has harmed them by increasing the volatility of lumber prices. Relative volatility can be assessed by examining the average and standard deviation

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[89]National Association of Home Builders, *Housing at the Millennium: Facts, Figures and Trends*, at [http://www.nahb.com/main_features/facts.pdf], on Dec. 27, 2000. (Hereafter referred to as NAHB, *Housing at the Millennium*.)

[90]At [www.federalreserve.gov/releases/H15/data/m/cm.txt], on Jan. 3, 2001.

[91]NAHB, *Housing at the Millennium*.

[92]Western Wood Products Association, *1998 Statistical Yearbook of the Western Lumber Industry* (Portland, OR: Aug. 1998), p. 33.

[93]See CRS Report 94-122 ENR, *Lumber Prices – 1993*.

[94]*Pricemaking Forces in Lumber Markets*, pp. 214-215.

Table 1. The Annual Average and Standard Deviation for the Random Length's Framing Lumber Weekly Composite Price

Year	Average	Standard Deviation	Ratio		Year	Average	Standard Deviation	Ratio
1975	$134.19	$14.24	10.6%		1988	$227.87	$10.82	4.7%
1976	$176.48	$11.36	6.4%		1989	$239.90	$12.52	5.2%
1977	$206.33	$21.30	10.3%		1990	$229.02	$22.42	9.8%
1978	$231.83	$ 8.15	3.5%		1991	$234.81	$27.32	11.6%
1979	$252.77	$22.01	8.7%		1992	$281.52	$24.56	8.7%
1980	$203.66	$18.92	9.3%		1993	$397.17	$64.24	16.2%
1981	$195.04	$17.58	9.0%		1994	$411.02	$42.94	10.4%
1982	$166.75	$24.08	14.4%		1995	$336.98	$26.26	7.8%
1983	$221.13	$23.26	10.5%		1996	$400.58	$42.14	10.5%
1984	$198.58	$18.82	9.5%		1997	$416.43	$30.05	7.2%
1985	$194.92	$17.21	8.8%		1998	$348.48	$17.87	5.1%
1986	$205.13	$14.66	7.1%		1999	$402.23	$35.43	8.8%
1987	$229.65	$13.54	5.9%		2000	$322.79	$43.01	13.3%

Source: CRS calculations using data from Random Lengths, Inc.

of lumber prices. Table 1 shows the annual average and standard deviation for the weekly Random Lengths framing lumber composite price, and the ratio of standard deviation to average, to allow comparison of years with different averages.

These data indicate no particular trend. Volatility (measured by the standard deviation-to-average ratio) was unusually high during 2000, although it had been higher in 1993 and 1982. Volatility was also unusually low during 1998, having been lower only in 1978 and 1988. Trade restrictions might affect the volatility of U.S. lumber prices, but these data suggest that other factors appear to have more effect on price volatility than trade restrictions. The current softwood lumber agreement, in effect from 1996–2000, appears not to have increased the volatility of U.S. framing lumber prices.

Other Factors Affecting the Trade Dispute

A host of similarities and differences affecting U.S. and Canadian lumber production have already been discussed — U.S. and Canadian land ownership patterns and pricing and allocation systems; different timber measurements and conversion difficulties; conditions of foreign (especially Asian) lumber markets in

which U.S. and Canadian producers compete; *etc*. Two other factors are worth brief discussions: the structure of U.S. trade law, and differing environmental policies.

U.S. Trade Law Structure. This feature has been identified by one observer as contributing to the persistence of the dispute over imports of softwood lumber from Canada.[95] Dr. Benjamin Cashore has noted that U.S. trade law, in conjunction with the various GATT agreements, has generally become more liberal (oriented toward free trade) over the past several decades. At the same time, he argues, laws enacted by Congress since the 1970s have made it progressively easier for U.S. industries to receive protection from foreign competition. He sees this tension between increasingly free trade policies and easier industry protection as assuring persistent trade disputes and expanding the role of executive and legislative politics in trade relationships and disputes, as demonstrated by the lumber import dispute.

Environmental Policies. Differing environmental policies have also been raised as a cause of differing cost structures; some allege that weaker Canadian environmental protection further subsidizes the Canadian lumber industry. Many environmental groups in the United States and Canada argue that subsidized Canadian stumpage prices lead to overcutting, and that 90% of the harvest is in extensive clearcuts[96] of irreplaceable old-growth timber.[97] They also assert that Canada's laws do not provide nearly as much protection as U.S. environmental laws, especially the Endangered Species Act. U.S. lumber producers have asserted that complying with U.S. environmental laws significantly increases their cost of production.

Some observers view the less restrictive environmental protection in Canada as a result of the lower population density in Canada (the world's second largest county, by area), and thus placing fewer demands on resources and portending fewer environmental threats. One study found that U.S. federal policies for federal lands in Washington and Oregon were more protective than the BC provincial policies.[98] This implies greater costs imposed on U.S. lumber producers by environmental laws than are imposed on their Canadian competitors. However, there has not been a definitive study comparing U.S. federal, state, and local policies for federal, state, local, and private lands in the United States with Canadian federal, provincial, and local policies for federal, provincial, local, and private lands in Canada. Because of differences in resource demands and threats, less restrictive Canadian environmental protection might not necessarily lead to greater environmental damage from logging. Whether Canadian forests are in better condition than, or are more degraded than, U.S. forests is not clear from existing data.

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[95]Cashore, *Flights of the Phoenix.* (See footnote 9.)

[96]For more information on this harvesting method and alternatives, see CRS Report 98-914 ENR, *Clearcutting in the National Forests: Background and Overview.*

[97]World Resources Institute, *Canada's Forest at a Crossroads: An Assessment in the Year 2000*, a Global Forest Watch Canada Report (Washington, DC: 2000).

[98]Benjamin Cashore, *Governing Forestry: Environmental Group Influence in British Columbia and the US Pacific Northwest: A Thesis Submitted in Partial Fulfillment for the Degree of Doctor of Philosophy* (Toronto, ON, Canada: Univ. of Toronto, May 1997).

Summary and Conclusions

Concerns about softwood lumber imports from Canada have been raised for decades. The current dispute has persisted for 20 years. In 1981, Congress asked the Department of Commerce to undertake a countervailing duty (CVD) investigation, which resulted in a finding of *de minimis* (insignificant) subsidies. In 1986, another investigation resulted in a preliminary finding of subsidies of 15% *ad valorem* (as a percent of sale value); the expected CVD was supplanted by a Memorandum of Understanding (MOU), with Canada agreeing to a 15% export tax on softwood lumber. Canada withdrew from the MOU in 1991, arguing that the provinces had responded to the earlier concerns. A new CVD investigation led to a 6.51% *ad valorem* duty in 1992, but this duty was successfully challenged (and terminated) under provisions of the U.S.-Canada Free Trade Agreement. In 1996, following changes in U.S. trade law, the United States and Canada reached the current 5-year softwood lumber agreement that imposes a fee on softwood lumber imports from four Canadian provinces in excess of the specified quota. What actions might follow from the March 31, 2001 expiration of this agreement are not certain. Bills and resolutions to impose and to oppose restrictions on lumber imports from Canada have been introduced in recent Congresses, and the 107th Congress may consider similar legislative proposals.

U.S. lumber producers assert they have been injured by Canadian subsidies that have given Canadian lumber producers an unfair advantage in selling lumber in the U.S. market. These two conditions — subsidies and injury — are prerequisites for a countervailing duty under U.S. trade law. The dispute has also encompassed the question of what softwood lumber products are subject to the current agreement; the U.S. Customs Service has reclassified certain products which Canadian producers claim are specialty products outside the agreement, but which U.S. producers claim are slight modifications to construction lumber to get around the quota.

One alleged subsidy is Canadian provincial stumpage fees (fees for the right to harvest trees) that may be less than their value in a competitive market. In the 10 Canadian provinces, 90% of the timberland is owned by the provinces. The majority of provincial timber is allocated to lumber producers under long-term area tenure agreements, which specify harvest levels, management requirements, and stumpage fees. The stumpage fees are generally set administratively, and adjusted periodically to reflect changes in lumber markets. This contrasts with the situation in the United States, where 58% of timberlands are privately owned, and timber from federal and state lands is typically offered for sale at competitive auctions. Administered fees are not likely to match market values, but could be higher or lower, depending on the purpose and methods by which they are established; critics have claimed that the fees are set low to assure profitable production, regardless of market conditions. Several studies have shown significantly lower Canadian stumpage fees, but other studies have found comparable cross-border fees. These contradictory results may be explained by the adjustments made to account for differences in timber measurement systems (one cubic meter of Canadian logs yields 125–275 board feet of U.S. lumber, depending on the logs' diameters); in tree species, sizes, and grades; in requirements imposed on the timber purchaser (*e.g.*, reforestation and road construction); and in other factors. Analyses of the differences are difficult and generally problematic.

Canadian log export restrictions are also alleged to artificially depress domestic log prices in Canada. Evidence from the U.S. Pacific Northwest, where logs from private lands can be exported but logs from public lands cannot, shows a persistent price differential, with substantially higher prices for exported logs. Most economists would generally identify restrictions that reduce domestic prices as subsidies, and Article XI of the General Agreement on Tariffs and Trade (GATT) prohibits most export restrictions. However, U.S. treatment of Canadian log export restrictions as a subsidy has been challenged; Canada has requested consultations with the United States under the WTO Dispute Settlement Understanding, arguing that this treatment (and this provision of U.S. trade law generally) violates several provisions of the WTO Agreement on Subsidies and Countervailing Measures.

Injury to the U.S. lumber industry remains a major and complex issue. The Canadian share of the U.S. softwood lumber market grew substantially over the past 50 years, from less than 7% in 1952 to more than 35% in 1996. During this period, U.S. lumber production for domestic consumption grew slowly (from nearly 30 billion board feet (BBF) in the early 1950s to 35 BBF in 1999), while imports of Canadian lumber rose substantially (from less than 3 BBF in the early 1950s to more than 18 BBF in 1999). Under the 1996 agreement, imports have continued to grow, although market share has been relatively stable. Lumber imports from Canada may have limited opportunities to expand domestic lumber production, but whether this long-term pattern is sufficient to constitute injury or whether the limited growth in domestic production is due to other factors is not clear from the existing data.

U.S. lumber prices are, according to economic theory, probably higher with the restrictions on Canadian imports than they would be without the restrictions. Price differentials for a single aspect, however, are exceedingly difficult to determine. One estimate of the price increase from the 1996 agreement, by a group that opposes trade restrictions, nearly equaled the fee rates, although the fee applies only to imports in excess of the quota. This estimated price increase, which U.S. lumber producers argue is grossly overstated, would have raised the price of 1999 median new home by less than 1%, and would have raised monthly mortgage payments on such a house by by less than a rise in mortgage interest rates of $^{1}/_{8}$th of 1%.

Opponents of restrictions also argue that the 1996 agreement has increased the volatility of lumber prices. However, the annual volatility (measured by the ratio of standard deviation to average) of the Random Lengths framing lumber composite price over the past 5 years *(i.e.*, under the 1996 agreement) is generally consistent with the annual volatility shown during the preceding 20 years (1975–1995).

Other factors might also be important in the dispute over lumber imports from Canada. One analyst has suggested that the persistence of the dispute is due, at least in part, to the conflict between the increasingly liberal, no-barriers U.S. trade policy and the increasingly easy process for obtaining industry protection under U.S. trade law. In addition, environmental laws and policies probably differ, and the impact of those laws and policies for lumber production costs complicate any cross-border analyses.