Originally Processed With FOIA(s):
1998-0004-F[2]

FOIA Number:
S

FOIA MARKER

This is not a textual record. This is used as an administrative marker by the George Bush Presidential Library Staff.

Record Group/Collection:	George H.W. Bush Presidential Records
Collection/Office of Origin:	Chief of Staff, White House Office of
Series:	Sununu, John, Files
Subseries:	Issues Files

OA/ID Number:	29142
Folder ID Number:	29142-003

Folder Title:
Canadian Softwood Lumber 1991

Stack:	Row:	Section:	Shelf:	Position:
G	15	24	7	1

Withdrawal/Redaction Sheet
(George Bush Library)

Doc. No. / Type	Subject/Title	Date	Restriction	Classification
01a. Memo	From Nicholas Brady to George Bush Re: Canadian Softwood Lumber (1 pp.)	10/3/91	~~(b)(1)~~	~~C~~
01b. Memo	From Robert A. Mosbacher, Julius L. Katz to President Bush Re: Canadian Softwood Lumber (4 pp.)	10/3/91	~~(b)(1)~~	~~C~~
~~02. Note~~	~~From Ambassador D. H. Burney to John Sununu~~ Re: Response to Statement by Senator Max Baucus (1 pp.)	~~09/17/91~~	~~(b)(1)~~	
03. Memo	From Carla A. Hills to John Sununu Re: Canadian Lumber (4 pp.)	n.d.	~~(b)(1)~~	~~C~~
04. Memo	From Carla A. Hills to John Sununu Re: Canadian Lumber (4 pp.)	n.d.	~~(b)(1)~~	~~C~~
05. Memo	From Carla A. Hills to George Bush Re: Canadian Lumber (4 pp.)	09/27/91	~~(b)(1)~~	~~C~~
06. Memo	From Carla A. Hills to George Bush Re: Canadian Lumber (4 pp.)	09/27/91	~~(b)(1)~~	~~C~~

Collection:

Record Group: Bush Presidential Records
Office: Chief of Staff, White House Office of
Series: Sununu, John, Files
Subseries: Issues Files
WHORM Cat.:
File Location: Canadian Softwood Lumber 1991

Pinksheet Number: DJC1457
OA/ID Number: 29142-003
Date Closed: 1/1/1998
FOIA/Sys Case #: 1998-0004-F[2]
Re-review Case #:
P-2/P-5 Review Case #:

PORK CASE: EXTRAORDINARY CHALLENGE PROCEDURE

- The U.S. National Pork Producers Committee has requested USTR to invoke the FTA "extraordinary challenge" procedure in respect of a binational panel decision favouring Canadian producers in a recent countervailing duty case.

- The extraordinary challenge procedure was not intended to serve as an appeal system but only to deal with such matters as judicial wrong-doing.

- No such grounds for an extraordinary challenge exist in the present case.

- U.S. acceptance of the request for challenge would mean that the procedure will be used for each and every case in the future.

- This trivialization of the procedure would seriously prejudice the effectiveness of the unique dispute settlement mechanism under the FTA, which was meant to be final and binding.

MAR 14 '91 09:39 MEDIA RELATIONS OFF. Citizen MAR 14 1991 P.8/11

Bush cool to PM's arms-control plan

President declines to endorse proposal to curb weapons trade

By Dave Todd
Southam News for the Citizen

Major differences over arms control in the Middle East emerged Wednesday when Prime Minister Brian Mulroney's plan for curbing the international weapons trade got a frosty reception from President George Bush.

Mulroney's plan, announced last month, centres on a United Nations summit of world leaders to debate a comprehensive plan for halting proliferation of both conventional and unconventional weapons. An outline released three weeks ago says the meeting would aim at producing "a statement of global political will."

But after discussing the idea with Mulroney, Bush declined to endorse it saying: "I'm not sure exactly what the proper structure is."

A spokesman for the prime minister, briefing reporters, shrugged off Bush's response, saying: "This is not something they're going to tip their hat on.

"No, we didn't get an endorsement. We weren't asking for one."

However, on Monday, senior Canadian officials insisted the prime minister's top objective when he met Bush would be to get support for his ideas about curtailing international arms trafficking.

Seeking American recognition that arms control "is paramount to a solution of any problems" in the Middle East was what Mulroney would be "seeking above all," one Canadian official said.

In Washington, Bush administration officials said the president stood ready to turn down any di-

Please see BUSH/A2

Bush

From page A1 story:
Bush cool to PM's arms-control plan

rect request by Mulroney to back an arms trade limitation summit.

But the most direct evidence of U.S. scorn for the proposal came during a Bush-Mulroney news conference on Parliament Hill.

The president's chief of staff, John Sununu, rolled his eyes repeatedly as Mulroney delivered what amounted to a moral lecture comparing Canada's arms control record to that of major weapons suppliers to the Middle East, like the United States.

"There's a general view — without getting into the question of a total interdiction for the moment — that clearly a lot of these weapons, to understate the case, fell into hands that should never have had them in the first place," Mulroney said.

"We could be much more active in that area if we wanted. We have all the technology in the world; we have all the resources we need. We could be big arms merchants; we've chosen not to be, although it's a very lucrative business. We've chosen not to be because it's fundamentally inconsistent with our policy: to develop it, to peddle it, to finance it, and then to deplore its use."

Mulroney said nobody could fail to be struck by the irony that 95 per cent of the weapons sold to Saddam Hussein's Iraq were delivered by the five permanent members of the UN Security Council: the U.S., the Soviet Union, France, China and Britain.

"This doesn't make a whole lot of sense," the prime minister said.

Bush said he planned to review the issue of new weapons sales to key Middle East allies like Israel and Saudi Arabia once Secretary of State James Baker returns to Washington from his tour of the region.

The hunt for permanent solutions to other Middle East problems in the wake of the Gulf War dominated a working dinner the prime minister hosted for Bush at 24 Sussex Drive.

External Affairs Minister Joe Clark, fresh from his own extensive tour of the region, briefed both leaders on his discussions with Arab, Iranian and Israeli leaders.

A senior Canadian official who attended the dinner said Bush and Mulroney focused on conversations Clark held with Jordan's King Hussein and members of Iran's government — two countries not on Baker's itinerary which both have tense relations with Washington.

"One of the reasons I asked Mr. Clark in particular to visit Jordan immediately after the hostilities was because King Hussein is, in certain quarters, below the salt these days," Mulroney said.

Jordan, Iraq's closest ally before the war, has a population that is more than 40 per cent Palestinian and King Hussein's recent strong support for Saddam has been the major cause of sharply worsened relations with the U.S.

Enok

SOFTWOOD LUMBER

- In 1983 and 1986 the U.S. industry launched countervailing duty cases alleging that Canadian provinces were subsidizing lumber producers by charging low stumpage fees for the right to cut timber.

- In 1983, the investigation found no subsidy. In 1986, while Canada continued to reject the subsidy argument, we agreed (at B.C. urging) to impose a 15% export tax to provide time for the provinces to increase charges to the industry and to resolve what had become a bitter and highly politicized bilateral trade dispute.

- The MOU has achieved these goals. The two major producing provinces (British Columbia and Quebec) have significantly increased charges to the industry. Together they account for nearly 90% of lumber exports to the United States, which were valued at $2.6 billion in 1990.

- Meanwhile, the recession has hit Canadian lumber producers hard. Prices have fallen. The Canadian dollar exchange rate has risen 19.4% since 1986 (from 72 to 86 cents US). Canada's share of the U.S. market has dropped from 33% to 27% to the benefit of U.S. producers. Thousands of jobs have been lost.

- The MOU is blamed for all these difficulties and has become an unacceptable political liability to the Canadian government.

- The MOU was not envisaged as a permanent bilateral agreement and the question of its termination should be addressed.

- While it is desirable to avoid complicating the fast track approval process, there is a need for a settlement of this issue.

FY 1991 SPENDING NOT SUBJECT TO CAPS
"Emergency" Items Approved by the President and Congress in H.R. 1281 (P.L. 102–27) Dire Emergency Supplemental, FY 1991
(dollars in millions)

11:29 AM
19–Sep–91

Account/Rationale	FY 1991 BA	FY 1991 OL
Department of Labor		
Unemployment Insurance Administration........	---	150
Recession – Increased administrative costs that resulted from unanticipated increase in number of claims.		
Legislative Branch		
Capitol Police Board........	6.2	6.1
General Expenses, Capitol Police........	1.1	1.0
Increased security concerns as a result of the Persian Gulf War		
Library of Congress S & E........	0.1	0.1
Increased security concerns as a result of the Persian Gulf War		
Department of the Treasury		
Bureau of Alcohol, Tobacco & Firearms........	2.0	2.0
Increased vigilance on weapons traffic as part of anti–terrorism effort that resulted from the Persian Gulf war.		
Customs Service S & E........	1.8	1.8
Increased scrutiny of international airports, borders as part of anti–terrorism effort that resulted from the Persian Gulf war.		
Secret Service S & E........	4.9	4.9
Increased security concerns as a result of the Persian Gulf war.		
Veterans Administration		
General Operating Expenses........	12.0	11.0
Unanticipated administrative costs associated with increased benefits to veterans as a result fo the Persian Gulf war.		
TOTAL, H.R. 1281........	948.9	1,085.3

FY 1991 SPENDING NOT SUBJECT TO CAPS
"Emergency" Items Approved by the President and Congress in H.R. 1281 (P.L. 102–27) Dire Emergency Supplemental, FY 1991
(dollars in millions)

11:29 AM
19–Sep–91

Account/Rationale	FY 1991 BA	FY 1991 OL
Funds Appropriated to the President		
Economic Support Fund.........	850	850
Emergency aid designed to offset the economic impact of the war on Israel (loss of tourist income, damage from SCUDs); and on Turkey (loss of oil pipeline fees from Iraq, military mobilization costs).		
Agency for International Development		
Operating expenses.........	6.0	6.0
Emergency removal of personnel from high–risk posts, primarily in the Persian Gulf.		
Department of State		
Emergencies, diplomatic and consular service	9.3	6.5
Emergency removal of personnel from high–risk posts, primarily in the Persian Gulf.		
Salaries and Expenses.........	39.7	32.6
Emergency removal of personnel from high–risk posts, primarily in the Persian Gulf.		
United States Information Agency		
Salaries and Expenses.........	4.4	3.6
Emergency removal of personnel from high–risk posts, primarily in the Persian Gulf.		
District of Columbia (general fund).........	3.6	3.6
Increased costs to city government (security) as a result of the Persian Gulf war.		
Department of Justice		
Federal Bureau of Investigation	4.6	3.7
Increased counter–intelligence / anti–terrorism work–load as a result of the Persian Gulf war.		
Immigration and Naturalization Service.........	3.1	2.5
Increased level of investigation of immigrants as part of anti–terrorism effort that resulted from the Persian Gulf war.		

THE WHITE HOUSE

WASHINGTON

October 3, 1991

91 OCT 3 P4:55

MEMORANDUM FOR THE PRESIDENT

SUBJECT: Canadian Softwood Lumber

On September 3, the Canadians announced that on October 3 they would terminate the 1986 U.S.-Canada Memorandum of Understanding, which was designed to offset Canadian subsidies on softwood lumber. Over the past month, Ambassador Hills and Secretary Mosbacher have worked to design a response that balances our domestic and foreign political objectives.

As the attached memorandum indicates, there is interagency consensus to respond by: 1) Initiating a countervailing duty investigation into Canadian lumber pricing practices; and 2) While the investigation is underway, taking action to preserve the <u>status quo</u> of the MOU.

I believe the recommended course of action is a good one. By responding with a countervailing duty investigation, we demonstrate our commitment to established rules and procedures. This will work to our favor in dealing with the U.S. lumber industry and in ongoing negotiations on a North American Free Trade Agreement. Based on consultations with Ambassador Burney, the Canadians understand and are unlikely to object strenuously to the recommended approach.

<u>Recommendation</u>

That you approve the softwood lumber proposal outlined by Secretary Mosbacher and Ambassador Katz in the attached memorandum.

NICHOLAS F. BRADY
Chairman Pro Tempore
Economic Policy Council

Attachment

~~CONFIDENTIAL~~

UNITED STATES DEPARTMENT OF COMMERCE
Office of the Secretary
Washington, D.C. 20230

OCT 3 1991

MEMORANDUM FOR THE PRESIDENT

FROM: Robert A. Mosbacher
Julius L. Katz, Acting USTR

SUBJECT: Canadian Softwood Lumber

On September 3, Canada gave 30 days notice that it will terminate the 1986 U.S.-Canada Memorandum of Understanding (MOU) regarding softwood lumber. After extensive consultation with the U.S. industry and the government of Canada, we have developed a proposal, approved by all EPC agencies, for dealing with this difficult issue. We seek your concurrence on a plan to be announced by Friday, October 4.

BACKGROUND

The 1986 MOU temporarily resolved a longstanding dispute regarding imports of Canadian lumber. The Canadian provinces, which hold the bulk of Canadian forest land, sell timber rights (stumpage) to lumber producers through an elaborate system of administered prices. Most U.S. federal timber is sold at auction and reflects market value.

In a 1982 countervailing duty (CVD) investigation, the Commerce Department determined that Canada's administered prices were not countervailable. However, the Reagan Administration subsequently committed to reopen the matter. In October 1986, the Commerce Department preliminarily ruled that by selling timber rights below cost the Canadian provinces were providing subsidies of 15 percent. Faced with the prospect of imposition of CVDs under this determination, Canada opted for an MOU in which:

o Canada agreed to impose a 15 percent export tax on lumber exports to the United States; and

o The U.S. agreed to terminate the CVD case, and to work with the provinces on "replacement measures" to boost provincial stumpage prices.

The Administration further committed in a Baldrige/Yeutter letter that it would take "appropriate action," such as section 301 retaliation, if Canada ever terminated the MOU.

~~CONFIDENTIAL~~

Since 1986, Commerce has worked with Canadian forestry officials on "replacement measures" designed to eliminate the 15 percent subsidy. On this basis, Commerce authorized Canada to remove the export tax from British Columbia and partially from Quebec, which together account for about 85 percent of Canada's shipments to the United States.

As of October 4, the Canadian federal government will cease collecting the export tax from the remaining provinces. British Columbia and Quebec will be free to alter or eliminate their replacement measures, but we have received assurances that they do not presently intend any major changes.

CANADIAN PERSPECTIVE

As Prime Minister Mulroney may have pointed out in your discussions with him over the summer, lumber is an extremely sensitive political issue in Canada and the MOU has been very unpopular. The Canadians argue that the MOU is no longer needed, since the subsidies have been eliminated in the key lumber exporting provinces through replacement measures.

U.S. INDUSTRY PERSPECTIVE

The U.S. industry is in poor economic condition. It contends that even in provinces with "replacement measures," Canadian lumber remains heavily subsidized, and termination of the MOU poses a major threat to the industry. The industry and its Congressional supporters assert that the Administration is under an obligation immediately to reimpose a 15 percent duty under section 301. Sixty-eight Senators have written to urge a strong and immediate response.

RECOMMENDED COURSE OF ACTION

How the lumber issue is resolved could have important implications not only for U.S.-Canadian relations but for the North American Free Trade Agreement (NAFTA). In order to manage this delicate balance, we recommend the following:

1. Self-initiation of a CVD case

The termination of the MOU by Canada reopens the question of the existence and extent of Canadian subsidies and whether or not U.S. industry is injured or threatened by these practices. Our CVD law provides the prescribed and appropriate tools to make these determinations and to remedy any injury. Self-initiation by Commerce (rather than by industry) is appropriate in this case because of commitments made to the industry in the context of the MOU.

If the industry successfully proves its claims of subsidization and injury before Commerce and the U.S. International Trade Commission (ITC), preliminary measures would be put into effect before the end of this year. Final determinations under U.S. law would be made by the end of April 1992.

The U.S. industry faces major risks in proceeding with such a normal CVD case: First, the effects of Canadian subsidies have been masked over the past five years by the MOU; this renders injury findings by the ITC problematic. Second, the results of our CVD investigation could be challenged by Canada under Chapter 19 of the U.S.-Canada Free Trade Agreement (FTA), which provides binding settlement procedures. An adverse, binding ruling under Chapter 19 could result in a strong Congressional backlash against both the existing FTA and the NAFTA.

Nonetheless, we believe this proposal offers the best chance of attaining a result which is fair and sustainable. The other options at our disposal -- such as the use of 301 to enforce the MOU indefinitely -- are highly problematic. Such actions would inflame U.S.-Canadian trade tensions and, in the long run, would be difficult to defend in the GATT or the FTA.

2. Interim measures

We believe action must also be taken to deal with industry concerns over the next two-to-three months, until the first phase of the CVD investigation is completed. The industry is greatly concerned that the abrupt lifting of the MOU on October 4 will leave them defenseless against an influx of low-priced, subsidized lumber from Canada. Unless we address those concerns, we do not believe we will get the minimum level of support from Congress or the industry necessary to manage this issue. At the same time, we want to minimize the disruptive effect of any action on trade with Canada and encourage the Canadians to keep in place the "replacement measures" adopted under the MOU.

Consequently, we recommend that carefully circumscribed customs measures be imposed to maintain the status quo during this short interim period. On imports from those provinces that were required to impose a 15 percent export tax under the terminated MOU, customs bonds would now be required to cover a maximum potential liability of 15 percent. Imports from other provinces (principally British Columbia, which alone accounts for about three-quarters of Canadian exports) would enter unhindered --

assuming Canadian assurances to maintain their "replacement measures" are honored.

Unfortunately, the only legal authority available to impose these interim measures is Section 301. Duration of the measures would, however, be brief: The measures would be replaced before the end of the year by any preliminary measures normally provided under our CVD law. Moreover, duties would actually be assessed only if the CVD investigation results in a finding of injurious subsidies.

LIKELY REACTIONS

Canada will complain about the imposition of interim measures -- particularly since they must be taken under Section 301, which Canada believes to be inconsistent with our international obligations. The proposed measures are defensible, however, as being merely a short term "bridge" to a normal legal proceeding; as merely maintaining the status quo; and as imposing no liability at all if subsidies and injury ultimately are not proven. By limiting use of Section 301 to the interim measures, which should be of short duration, we expect the Canadian reaction to be more muted.

U.S. industry will be very disappointed at being forced to risk a normal CVD case. Industry representatives have told us, however, that if the sort of interim measures we propose are implemented, industry will not seek now to generate a negative Congressional reaction. If, on the other hand, no interim measures are implemented, we can expect serious attempts at legislative action to impose lumber import relief, as well as attacks on the NAFTA, such as precluding Canadian participation in an agreement.

RECOMMENDATION

We recommend that you authorize us to proceed with a self-initiated CVD case and with interim measures, as outlined above. All EPC agencies concur.

_______ Agree   _______ Let's Discuss

Classified by: J. Bolt
Declassify on: OADR

DEWEY BALLANTINE
1775 Pennsylvania Avenue, N.W.
Washington, D.C. 20006

Telephone: (202) 862-1000
Telecopier: (202) 862-1093, 1097 or 4057
Telex 897070 Cable: DEWBALAW

1301 Avenue of the Americas,
New York 10019-6092

Telephone: 212/259-8000
Telecopier: 212/259-6333
Telex 126825
Cable: DEWBALAW

5355 Town Center Road
Boca Raton, Florida 33486

Telephone: (407) 391-8399
Telecopier: (407) 391-8798

333 South Hope Street
Los Angeles, California 90071

Telephone: (213) 626-3399
Telecopier: (213)625-0562
Cable: DEWBALAW

PLEASE DELIVER THE ATTACHED DOCUMENT(S) TO:

Governor John H. Sununu
Chief of Staff to the President
The White House

Confirmation No.: (202) 456-6797 Ref. No.: 210149.37934
Telecopy No.: (202) 456-2397

COMMENTS:

THIS TRANSMISSION IS FROM: C.T. "Kip" Howlett, Jr. and John A. Ragosta

NUMBER OF PAGES INCLUDING THIS COVER PAGE: 2

DATE: September 26, 1991 TIME OF TRANSMISSION:

TELECOPIER OPERATOR: ______________________

CONFIRMATION OF TRANSMISSION

TIME: ______________________ BY: ______________________

(If there are any problems, please contact us at: 202/862-1061.)

September 26, 1991

A 15% PROVISIONAL DUTY FOLLOWED BY FULL SUBSIDY OFFSET IS NEEDED

1) THE U.S. INDUSTRY FACES SERIOUS SHORT-TERM HARM.

- Five provinces, with 34% of Canadian production, will be freed from a significant subsidy offset. If those provinces' exports rise to 34% of the total, U.S. mills face:
    - $600 million in lost sales annually,
    - the loss of 2.7 billion board feet in sales, and
    - the loss of over 15,000 direct mill jobs.

- While B.C. did increased stumpage, B.C. will probably lower fees.
    - B.C. will now face a competitive disadvantage vis-a-vis the other provinces,
    - the B.C. industry is expecting lower fees,
    - the MOU requires a 17% market adjustment in B.C. on October 1; this will probably not be kept in place, and
    - there is no reason for Canada to eliminate the MOU unless fees will drop.

- The U.S. industry is in a very weak state.

2) FAILURE TO IMPOSE A 15% PROVISIONAL DUTY COULD PREJUDICE U.S. LEGAL ARGUMENTS AT THE GATT.

- The MOU was to be just like a countervailing duty suspension agreement. This was the purpose of the Section 301 commitments.

- International law, makes no distinction between terminated and suspended cases. We have the international right to enforce the MOU like a suspension agreement.

- When a suspension agreement is terminated, under U.S. law the preliminary duty must be reimposed provisionally until the full current subsidy can be calculated.

- Failure to follow this practice will prejudice U.S. legal arguments in the GATT that we acted consistent with our practice for countervailing duty undertakings.

- This month, Canada unilaterally terminated a 1986 suspension agreement on red raspberries, resulting in an immediate snapback to the provisional duty. The U.S. lumber industry only wants to be treated as well as the raspberry industry.

- A small duty will not encourage negotiations.

3) A PROVISIONAL 15% DUTY WILL NOT PREJUDICE CANADA.

- 15% would be provisional; the difference in 15% and the subsidy will be rebated.

- The B.C. and the rest of the Canadian industry still receive enormous subsidies.

THE CHIEF of STAFF
has seen

TELECOPIER TRANSMISSION COVER SHEET

SENDER: Michael Punke

PHONE: 224-2651 DATE:

* *

RECIPIENT: [redacted]

PHONE:

ACTION REQUESTED: In light of the pending administration decision regarding this matter, Senator Baucus thought you might be interested in the recent letter to the President signed by 68 Senators.

NUMBER OF PAGES TO FOLLOW: 4

United States Senate

COMMITTEE ON FINANCE
WASHINGTON, DC 20510-6200

September 20, 1991

The President
The White House
Washington, D.C.

Dear Mr. President:

We are deeply concerned about the September 3, 1991 decision of the Canadian Government to terminate the 1986 U.S. Softwood Lumber Memorandum of Understanding (MOU). As you know, the MOU was negotiated in exchange for the withdrawal of a successful U.S. countervailing duty case against subsidized Canadian lumber. Those subsidies still exist in some Canadian provinces. In addition, the MOU ensures that the Canadian provinces that have implemented replacement measures will not restore or increase their subsidies. The continuation of the MOU is as important today as it was five years ago.

The United States must take swift and strong action to counter the Canadian decision to terminate the agreement, before the reeling U.S. forest products industry is further impacted. We applaud your administration's firm commitment to the MOU and its public statements that in the event of an abrogation, it will take any action "necessary and appropriate" to enforce its terms. Previous administrations have made similar commitments.

We strongly urge you either to press the Canadian Government to live up to its commitments or, if it refuses, to enforce the purposes of the MOU by taking immediate action under U.S. trade law in order to offset the Canadian subsidies. If these remedies are not pursued, we are prepared to find a legislative remedy to fully offset Canada's timber subsidies.

We appreciate your attention to this matter and cannot overemphasize the importance of a satisfactory resolution of this issue to the U.S. forest products industry. We look forward to your response.

Respectfully yours,

Max Baucus Bob Packwood

The President
September 20, 1991
Page Three

Strom Thurmond

Trent Lott

Chuck Grassley

Jim Sasser

Bob Smith

Al Gore

Barbara Mikulski

The President
September 20, 1991
Page Two

George Mitchell

Malcolm Wallop

John Warner

Dale Bumpers

John Seymour

Howell Heflin

Steve Symms

[illegible]

Quentin Burdick

Terry Sanford

Richard Shelby

Kit Bond

Chuck Robb

Fritz Hollings

David Pryor

Carl Levin

Jake Garn

[illegible]

Brock Adams

Larry E Craig

Wyche Fowler Jr.

Bennett Johnston

John Breaux

Pete V Domenici

Ted Stevens

[illegible]

Tim Wirth

Dan Coats

Mitch McConnell

Jesse Helms

[illegible]

John McCain

[illegible]

Wendell Ford

Jay Rockefeller

Patrick Leahy

Alfonse D'Amato

John F. Kerry

Robert C. Byrd

Paul Wellstone

Larry Pressler

Arlen Specter

270938

D. H. Burney
Ambassador - Ambassadeur

17. 9. 91

THE CHIEF of STAFF
has seen

Dear John,

Given the Presidents' calendar for Thursday I thought you would be interested in our response to a recent statement by Sen. Baucus.

Best regards,

Derek.

Canadian Embassy Ambassade du Canada
501 Pennsylvania Avenue, N. W. Washington, D. C. 20001

Canadian Embassy   Ambassade du Canada

501 Pennsylvania Avenue, N.W.
Washington, D.C. 20001

September 17, 1991

The Honourable Max Baucus
United States Senate
Room 706 Hart Senate Office Building
Washington, D.C. 20510-2602

Dear Senator Baucus,

I am writing to respond to your September 10 statement in the Senate concerning Canada's decision to terminate the Softwood Lumber Memorandum of Understanding (MOU).

1. Right to Terminate

Let me first point out that Canada never envisaged the MOU as a permanent arrangement between Canada and the United States. Canada has acted under the termination provision of the MOU which can be exercised by either party on thirty days notice. It is neither fair nor accurate to claim that Canada is violating the MOU or breaking its word, or acting in bad faith by exercising that right of termination agreed to explicitly by the United States and Canada.

2. Reasons for Termination

Canada is terminating the MOU because it has fulfilled its purpose. In 1986, the MOU provided a practical solution to a politically charged dispute. It gave time for provinces to implement planned changes in their forest management and timber pricing policies.

Practices and circumstances have changed substantially since the MOU entered into force. More than 80 percent of softwood lumber exports to the United States have been completely free of the export tax as a result of amendments to the MOU negotiated between our two governments. For example, in British Columbia, which accounts for 78.4% of Canadian lumber exports to

.../2

the United States, charges on the industry have risen from less than $200 million in 1985 to more than $800 million in 1989/90. This increased financial burden on the industry is more than double the $300 million in export taxes collected on exports from the province in 1987. Overall, the increased charges on the industry in Canada considerably exceed the amount of export tax still collected on the balance of Canadian exports to the United States.

3. Allegations of "Subsidy"

Even by U.S. standards there is no subsidy in Canada. The application of the United States' own TSPIRS methodology, accepted by the Congress for calculating forest revenues and expenses, demonstrates conclusively that revenues to provincial governments exceed their expenses.

The figures for 1988/89 are as follows:

• in British Columbia, the province collected $512 million more than expenditures,

• in Quebec, the province collected $80 million more than expenditures,

• in Alberta, the province collected $42 million more than expenditures,

• in Ontario, the province collected $52 million more than expenditures.

4. Report of the B.C. Forest Resources Commission

This report has no more status than one of the dozens of non-governmental reports on public policy that circulate in Washington every year. The conclusions of the Report respecting stumpage have been unanimously rejected by the B.C. Government, industry and labour due to serious conceptual errors, faulty analysis, and basic mistakes in arithmetic. It cannot be regarded as a credible evaluation of B.C. timber pricing policies.

.../3

5. Impact on the Market

It is not credible to contend that Canadian lumber will flood the U.S. market once the MOU terminates. The tax imposed in 1987 is virtually non-existent in 1991 as a result of replacement measures introduced by our major producing provinces and there is no reason to believe that the Canadian provinces will forego the increased revenue from the forest resource which has become so important to their budgets and to their management of the forestry.

The price for lumber in both countries is determined principally by the demand for housing. As the Canadian and U.S. economies recover from the recession, the rate of house-building and the price of lumber can be expected to register strong increases. But there is no evidence to suggest that the U.S. industry will suffer a competitive disadvantage as a result of the termination of the MOU.

6. U.S. Reaction

We responded promptly to the Administration's request for consultations and are endeavouring to provide factual answers to any and all questions arising from the notice of termination.

Any unilateral imposition of trade restrictions which violates your bilateral and international trade obligations would seriously undermine the fundamental trade relationship between the United States and Canada. Canada expects that the United States will respect fully these obligations.

My Government believes that bilateral trade in lumber should now be governed by the same rules that govern all other goods. These are the rules of the Free Trade Agreement and the GATT. If the U.S. industry believes Canadian lumber benefits from countervailable subsidies, it has access to remedies which would be consistent with the provisions of the Free Trade Agreement and the GATT.

Yours sincerely,

D.H. Burney

D.H. Burney
Ambassador

COALITION FOR FAIR LUMBER IMPORTS

C. T. "Kip" Howlett, Jr., Chairman

23 September 1991

The Honorable John H. Sununu
Chief of Staff to the President
The White House
1600 Pennsylvania Ave., NW
Washington, DC 20500

THE CHIEF of STAFF
has seen

Dear Governor Sununu,

We very much appreciated your time on the phone Thursday evening to discuss the Canadian softwood lumber subsidy issue. We are gratified by your interest in and evident command of the substance of this issue. There was not a great deal of time to go into detail, and we are recording some thoughts at greater length in the attached memorandum and also providing specific answers to your questions.

In addition, we are taking your advice and preparing a letter to Jim Baker with a copy to Larry Eagleburger. We hope that you will have an opportunity to mention this issue to Larry Eagleburger and to Brent Scowcroft. Finally, in terms of industry support from outside the Northwest, Senators Cochran and Lott, along with many of their colleagues, will be leaders in this effort.

Please do not hesitate to call to discuss this issue further; it is of the utmost importance to our companies. Thank you in advance for your consideration of this matter.

Very truly yours,

John Georges

T. Marshall Hahn, Jr.

Attachments

1775 Pennsylvania Avenue, N.W., Suite 600 • Washington, D.C. 20006 • (202) 862-4505

National Forest Products Association • Northeastern Lumber Manufacturers Association, Inc. • Northwest Independent Forest Manufacturers • Southeastern Lumber Manufacturers Association • Southern Forest Products Association • Western Forest Industries Association • Western Wood Products Association

September 23, 1991

RESPONDING TO CANADA'S TERMINATION OF THE SOFTWOOD LUMBER MEMORANDUM OF UNDERSTANDING

KEY POINTS

First, we seek nothing more than the operation of the free market. We are more than fully competitive with Canadian lumber if the Canadians would only go to a market-based system for purchasing their timber.

Second, we knew when the Memorandum of Understanding (MOU) was entered into in 1986 that it would require economic adjustment to market forces in Canada. This meant that the Canadians would lose some of the employment and production that they had gained through shipping subsidized products into the U.S. market. This has been occurring as expected. It is not politically easy for them, but that is what living with market forces often requires.

Third, when the Memorandum of Understanding was entered into, it was fully understood that Section 301 enforcement was necessary and would be provided. It was understood by both the industry and the Administration that a new countervailing duty case would not be an effective alternative for precisely the reasons cited below. For this reason, the case would not have been withdrawn without a clear commitment to use of Section 301.

Fourth, our industry (and the nation's economic interests) should not pay the price in production and jobs to ease the political discomfort north of the border for their having to come to terms with market forces. We do not expect the Bush Administration to ask us to do so. The Administration and we firmly believe in living with the outcome that market forces dictate.

Fifth, we are not asking for protection, but the removal of a distortion. The solution lies in Canada's going to a market driven, competitive system. We cannot tell them how to organize their economy, but we also cannot accept the burden of the non-economic disposition of their natural resources in the United States. Of course, the Canadians will have an edge if they cut their forests without paying for them, and also do not re-forest in a manner designed to assure future supplies.

Sixth, prompt action is required, due to the harm that we will suffer. British Columbia is required by the MOU to place into effect a 17% increase in stumpage prices based on market adjustments on October 1. It is clear that there is no guarantee that this amount will be imposed, or that it will not be passed back to Canadian mills, if the MOU is terminated and no immediate U.S. action is taken. Moreover, as soon as the 15% export tax is taken off of Alberta and Ontario, and the 6% tax taken off exports from Quebec, subsidized lumber would pour over the border, taking market share and displacing jobs and mill production in the United States. The harm will be immediate.

Seventh, prompt action is required because this will be most likely to lead to a restoration of an amicable settlement between Canada and the United States. If our response is weak, the Canadians will drag this issue out, and it will poison relations and threaten the North American Free Trade Area negotiations, and other areas of cooperation. The 1986 history indicates that only firmness on the part of the United States can bring about a mutually acceptable settlement. We definitely believe that a new settlement can be achieved if immediate firm action is taken.

Eighth, the Bush and Reagan Administrations have committed to impose the duty if Canada did not. No commitment to an industry could have been reiterated more clearly and more often. We understand from our discussion with Administration officials that this obligation will be lived up to.

Ninth, it is not a fulfillment of the Administration's commitment to ask us to bear the burden once again of litigating the issues in a new countervailing duty case, because --

1) It would be inconsistent with the Administration's commitment to us;

2) It would delay relief, causing us immediate harm;

3) Relief would be uncertain, not because the amount of the subsidy would be in doubt, but because

   (a) Under the law as it has been interpreted, fresh injury would have to be shown, in the face of Canadian market share having declined over the last 5 years from 33% to 26% due to the MOU; and

   (b) Bi-national dispute settlement under the U.S.-Canada Free Trade Agreement favors Canada, where lumber subsidies are a political, not a legal, issue. This issue was specifically exempted from bi-national dispute settlement panels because fair resolution there would be impossible to obtain.

4) We should not be put to the expense of having to fight this issue once again, it having been settled amicably between the two governments after a long and hard negotiation and full litigation of the issues.

Tenth, this issue was already the subject of a political settlement. The 15% countervailing duty was, in our view, a compromise from the higher subsidy amount that existed then. Our current calculations show the Canadian lumber to bear about a 28% subsidy (based on comparisons with U.S. timber sales or 12% based

on comparisons with competitive sales in Canada). These amounts are over and above the MOU measures currently in effect!

Eleventh, absent legislation (which many friends in Congress are considering -- we have asked them to hold off), the only reasonable tool which the Administration has at its disposal is Section 301 action to impose a provisional countervailing duty now.

Twelve, the Canadians should be told that the United States has its politics, too. Our Congressmen and Senators tell us that there will be serious political consequences of seeing Canada able to take sales and jobs away in the Southeast, Northeast, Texas and the Northwest. This is a national problem for us. It is a political problem that is serious (it blocked the U.S.-Canada Free Trade Agreement until it was solved the last time), and it is an economic problem that is real and serious. There is something wrong with the Canadians being able to seize half the market for lumber in several states in the Southeast, after shipping lumber over 3000 miles, considering that they have higher wage rates, and less efficient logging, and no better mills, than we have.

In short, the economics and the politics, as well as the foreign relations aspects, we would respectfully submit, call for early, firm action in the form of a Section 301 duty of 15%.

CONFIDENTIAL
September 23, 1991

CANADA'S TERMINATION OF THE SOFTWOOD LUMBER AGREEMENT SHOULD RESULT IN SECTION 301 ACTION

Given Canada's continuing timber subsidies and the Administration's commitments to action, if Canada terminates the lumber agreement, a 15% Section 301 duty should be imposed until a final subsidy calculation can be made. This memorandum addresses:

- Why Section 301 should be used rather than a new countervailing duty case,
- The serious consequences of Canada's abrogation throughout the United States,
- Why prompt action on October 4 is called for, and
- Possible scenarios for action.

SECTION 301 v. COUNTERVAILING DUTY CASE

The commitments to use Section 301 were a central part of the compromise in the 1986 Softwood Lumber Memorandum of Understanding; the U.S. industry would not have withdrawn its earlier case without them. As was understood then, a new countervailing duty case presents major problems for at least three reasons:

A New Case Requires a Long and Expensive Process

- A new case could **extend for months**, resulting in **enormous expense**.
    - Even if a case could be filed within one month, a preliminary finding would probably take another five months, at which time import bonds would be required.
        - Even these preliminary bonds would almost certainly be refunded if the International Trade Commission ultimately found that only a "threat" of injury existed.
    - Final disposition would require four more months.
    - Even five months of uncontrolled imports could be devastating.
        - Canada has the capacity to increase production. Imports could reach almost $10 million a day.

- In 1986, in order to prevent even a one week gap in the subsidy offset, President Reagan imposed a Section 301 duty on Canadian lumber imports.

- Even then, in the one day between signing the MOU and imposition of the 301 duty, imports flooded across the border. Canadian mills rented fields just inside the United States and dumped lumber in the fields as quickly as trucks could cross the border in order to avoid the subsidy offset.

- The process is very expensive, both in terms of outside consultants and attorneys and in terms of the enormous amount of corporate staff and executive time that must be devoted to a case.

A New Injury Determination Would be Inappropriate

- Canada believes that the U.S. industry cannot win a new case because it cannot show current injury in the way that injury is interpreted by the International Trade Commission (ITC).

  - The ITC looks for clear indicia of present injury caused by the imports.

  - Even in a "threat" of injury case, import levels normally have to show a pattern of increasing. Further, as noted above, in a threat case, effective relief would probably not be available until a final decision.

- The MOU has been partially successful; Canadian market share has dropped from over 33% to under 27%. Under normal ITC practice, this makes an injury finding at best problematic.

- It would be ironic if the partial success of the MOU prevented relief.

- It would be tragic if the U.S. industry had to wait until mill doors close and workers lose their jobs.

Bi-national Panel Review of a Case Would Be Inappropriate

- Canada clearly hopes that a new countervailing duty case would end up before a bi-national panel where Canadian panelists (two or three out of five) would rule against the U.S. industry.

  - For Canadian panelists, the issue would not be just protection for one of Canada's largest industries, but the entire issue of natural resource subsidies.

- The Free Trade Agreement -- and negotiations leading up to the FTA -- contemplated that the MOU and enforcement of the MOU would be exempt from review under the FTA. It states:

> The Parties agree that this Agreement does not impair or prejudice the exercise of any rights or enforcement measures arising out of the Memorandum of Understanding on Softwood Lumber. . . . (Emphasis added.)

Fundamentally, the difficult battles resolved by the MOU compromise **should not have to be re-fought.**

CANADA'S TERMINATION WILL SERIOUSLY INJURE THE U.S. INDUSTRY

Injury from Subsidized Canadian Lumber Can Be Enormous

- By 1985, subsidized Canadian lumber had taken one-third of our market. From 1977 to 1984, as over 600 U.S. mills closed -- over 30,000 jobs lost -- 85 Canadian mills opened.
- Conservatively, if Canada's share of the U.S. market rose to the 1985 level, the United States would lose:
  - **almost 3 billion board feet in production,**
  - **over $600 million in sales annually**, and
  - **over 15,000 direct mill jobs.**
- The market anticipates a negative effect on price once the MOU is terminated. The futures market dropped by five dollars (the maximum amount) on the day that Canada made its announcement.

The Industry is in a Fragile Condition

- The injury caused by subsidized Canadian lumber would be particularly painful given the current market condition.
  - Consumption of lumber is at low levels because of slow housing starts; many mills are operating on the edge.
  - The market has anticipated that with MOU termination, prices will drop below those prevailing in the first quarter of 1991, when many mills operated in the red.

The Effects Will be Felt Throughout the United States

- The lumber industry operates **throughout the United States**, and is concentrated in the **South, Northwest and Northeast.** See attached tables.
  - The largest lumber producing states, in order, are Oregon, California, Washington, Georgia and Mississippi. Maine, for example, ranks 15th.
  - As the attached materials show, lumber employment in 26 separate states exceeds 10,000.

- Northwest producers in particular would suffer from rapidly rising timber costs when subsidized lumber depressed U.S. prices below competitive levels.
- Southern and Northeastern producers could face devastation. By 1986, Canada's share of some Northeastern and Southern markets had risen to dramatic levels. <u>See</u> attached tables.
  - For example, Canada's share of the Maine and New Hampshire markets exceeded 80%.
  - Canada's share of the Georgia and Florida markets exceeded 50%.
- Southern and Northeastern mills are deeply concerned about a return to the level of subsidies that made it impossible for otherwise competitive firms to sell only miles from their mills.

<u>PROMPT ACTION IS NECESSARY</u>

<u>Alberta and Ontario Will Be Released from the 15% Tax</u>

- The approximately 1.2 billion board feet of lumber imports from Alberta and Ontario would be given a subsidy advantage of about $30 per thousand board feet. The effects of this subsidized advantage on a weak market could be serious.
- Ontario and Alberta -- which account for 16% of Canadian production -- will increase production. Reports from Maine indicate that otherwise non-competitive mills in Ontario are being reopened.

<u>British Columbia's and Quebec's Fees Are Likely to Fall</u>

- The 6% subsidy offset on Quebec lumber would be immediately eliminated, but, more importantly, the timber fees in Quebec and British Columbia could be expected to fall.
- The Canadian industry clearly sought elimination of the MOU in order to again increase the subsidies.
- B.C. officials merely note that immediate, dramatic reductions are unlikely. Canadian officials are unwilling to give assurances.
- **There is no reason to abrogate the MOU but to reduce fees.**

<u>The Loss of Monitoring Will Remove Subsidy Discipline</u>

- The MOU clearly contemplated an important role for monitoring and consultations.

- The history of the MOU has demonstrated that without monitoring timber fees will again drop and subsidies increase.

Canada has No Incentive to Settle Absent Resolute Action

- Canada believes that it will face no serious consequences from its unilateral decision to walk away from the MOU and its continuing protection of its industry through subsidies.
- Canada is now unwilling to compromise in a manner that will contribute to elimination of the market distortions.
- Not only is there an obligation to action, but it is likely to contribute to a reasonable settlement.

LIKELY SCENARIOS

Provisional 15% Duty Followed by Full Subsidy Offset

- With 53% of Canadian production consumed in the United States, negotiation is inevitable.
- Given the provinces that are subject to the tax and likely backsliding in other provinces, a 15% initial duty is needed.
- An amount closer to a full subsidy offset is fair and will encourage Canada to eliminate its market distortions.
- This action should be taken under Section 301.

Imposition of a Small Initial Subsidy Pending Further Study

- Canada would not negotiate seriously under this scenario and would tend to simply await a GATT determination.
- This scenario does not require a full subsidy offset, and would not encourage movement to a market solution.

Requiring a New Countervailing Duty Case

- As noted above, this would be unacceptable.

Challenge Canadian Action Under the FTA

- This would be totally ineffective:
  - Canada is not in breach of the FTA in this regard.
  - The FTA provides no effective remedy.

CONCLUSION

If Canada withdraws, the Administration should, on October 4 impose a 15% provisional duty pending calculation of the full subsidy. It should convey the message to the Canadian Government privately now.

- **A new countervailing duty case is inappropriate.**
- **Canadian subsidies will cause serious injury.**
- **Prompt action is called for.**

Attachments

U.S. CONSUMPTION OF SOFTWOOD LUMBER, 1986
BY ORIGIN OF SUPPLIES
(Million Board Feet)

		U.S.				CANADA			
	TOTAL	West Coast Region	Rocky Mountain Region	Southern Pine Region	All Other*	British Columbia	Other Canada	Total	Canadian Imports as % of Total
TOTAL	47,094.0	10,319.0	10,208.0	11,383.0	1,086.6	7,965.5	6,132.1	14,097.6	29.9%
NORTHEAST									
Connecticut	554.6	81.1	76.5	90.0	32.96	139.9	134.1	274.0	49.4%
Delaware	207.2	30.0	13.5	23.1	0.00	109.9	30.7	140.6	67.9%
D. of Columbia	4.6	2.7	0.9	0.0	0.00	0.4	0.6	1.0	21.7%
Maine	245.0	1.7	4.3	15.6	8.00	21.0	194.4	215.4	87.9%
Maryland	703.9	57.9	64.5	197.9	0.00	163.5	220.1	383.6	54.5%
Massachusetts	1,185.3	68.5	50.5	148.7	74.10	253.4	590.1	843.5	71.2%
New Hampshire	281.5	9.5	7.2	19.6	8.91	47.3	189.0	236.3	83.9%
New Jersey	1,047.9	208.4	137.1	183.9	61.48	337.4	119.6	457.0	43.6%
New York	1,502.2	111.1	237.2	146.8	133.93	269.6	603.6	873.2	58.1%
Pennsylvania	1,419.8	63.6	131.6	433.0	74.88	25.4	691.3	716.7	50.5%
Rhode Island	154.2	5.8	3.1	39.1	8.00	76.7	21.5	98.2	63.7%
Vermont	290.5	4.3	6.9	11.7	2.67	75.3	189.6	264.9	91.2%
Subtotal	7,596.7	644.6	733.3	1,309.4	404.96	1,519.8	2,984.6	4,504.4	59.3%
MIDWEST									
Illinois	1,356.4	92.2	537.8	242.4	137.26	293.6	253.1	546.7	40.3%
Indiana	754.3	31.1	78.8	217.4	58.81	55.8	312.4	368.2	48.8%
Iowa	298.8	33.4	161.6	53.5	0.00	22.4	28.3	50.7	17.0%
Kansas	299.8	48.8	85.8	68.9	0.00	75.6	20.7	96.3	32.1%
Michigan	1,486.2	62.7	290.9	256.0	106.10	65.7	704.8	770.5	51.8%
Minnesota	974.1	95.5	414.2	31.3	60.63	237.4	135.1	372.5	38.2%
Missouri	855.4	93.1	195.5	267.5	0.00	245.2	54.1	299.3	35.0%
Nebraska	160.2	32.1	91.8	11.0	0.00	16.7	7.7	24.4	15.2%
Ohio	1,217.6	48.9	183.3	262.3	120.35	70.9	531.9	602.8	49.5%
Wisconsin	777.2	73.8	328.7	15.6	57.05	173.4	128.6	302.0	38.9%
Subtotal	8,180.0	611.6	2,168.2	1,426.6	540.21	1,256.7	2,176.7	3,433.4	42.0%
SOUTH									
Alabama	1,399.4	13.1	99.0	1,135.1	0.00	118.8	33.4	152.2	10.9%
Arkansas	843.0	29.3	61.5	725.8	0.00	23.5	2.9	26.4	3.1%
Florida	1,599.5	43.2	91.4	512.3	37.60	882.2	32.8	915.0	57.2%
Georgia	1,593.2	41.5	93.4	597.2	0.00	763.8	97.3	861.1	54.0%
Kentucky	413.8	13.3	72.3	148.3	0.00	74.5	105.4	179.9	43.5%
Louisiana	789.8	41.6	34.1	689.5	0.00	22.7	1.9	24.6	3.1%
Mississippi	477.3	8.3	32.7	381.7	0.00	49.7	4.9	54.6	11.4%
North Carolina	1,975.3	27.2	106.7	1,156.5	0.00	525.0	157.9	682.9	34.6%
Oklahoma	369.0	114.3	85.5	136.7	0.00	29.2	3.3	32.5	8.8%
South Carolina	736.3	10.0	33.4	483.1	0.00	178.6	31.2	209.8	28.5%
Tennessee	762.6	35.9	146.7	390.6	0.00	136.6	52.8	189.4	24.8%
Texas	2,583.9	340.4	499.4	1,200.3	18.80	463.5	61.5	525.0	20.3%
Virginia	1,446.6	28.8	86.4	1,007.4	0.00	113.9	210.1	324.0	22.4%
West Virginia	160.3	3.2	11.2	60.8	0.00	9.9	75.2	85.1	53.1%
Subtotal	15,150.0	750.1	1,453.7	8,627.3	56.40	3,391.9	870.6	4,262.5	28.1%
INTERMOUNTAIN									
Arizona	946.7	541.0	380.7	0.0	0.00	24.2	0.8	25.0	2.6%
Colorado	575.1	133.8	359.2	0.0	0.00	73.8	8.3	82.1	14.3%
Idaho	611.0	76.5	434.0	0.0	0.00	96.1	4.6	100.5	16.4%
Montana	493.8	10.3	207.5	0.0	0.00	269.6	6.4	276.0	55.9%
Nevada	132.9	96.1	34.2	0.0	0.00	2.6	0.0	2.6	2.0%
New Mexico	239.9	26.6	210.1	0.0	0.00	2.8	0.4	3.2	1.3%
North Dakota	89.8	5.5	36.4	7.8	11.58	4.1	24.4	28.5	31.7%
South Dakota	90.1	9.1	49.2	11.7	9.82	3.5	6.8	10.3	11.4%
Utah	262.3	69.5	178.2	0.0	0.00	13.2	1.4	14.6	5.6%
Wyoming	45.2	2.7	31.5	0.0	0.00	9.6	1.4	11.0	24.3%
Subtotal	3,486.8	971.1	1,921.0	19.5	21.40	499.5	54.3	553.8	15.9%
WEST COAST									
Alaska	63.8	35.2	1.0	0.0	7.03	20.5	0.1	20.6	32.3%
California	7,817.0	4,808.7	2,514.9	0.0	56.40	421.1	15.9	437.0	5.6%
Hawaii	56.0	55.7	0.2	0.0	0.00	0.1	0.0	0.1	0.2%
Oregon	2,857.0	1,616.5	1,000.2	0.0	0.00	216.6	23.7	240.3	8.4%
Washington	1,886.8	825.3	415.8	0.0	0.00	639.4	6.3	645.7	34.2%
Subtotal	12,680.6	7,341.4	3,932.1	0.0	43.43	1,297.7	46.0	1,343.7	10.6%

* Includes imports from countries other than Canada.

SOURCE: Council of Forest Industries of British Columbia
(Adjusted by NFPA)

US LUMBER PRODUCTION
(MILLION BOARD FEET)

	RANK	TOTAL LUMBER			SOFTWOODS			HARDWOODS		
		1989	1988	1987	1989	1988	1987	1989	1988	1987
TOTAL US		48533	49576	49394	37545	38130	38235	10988	11446	11160
Oregon	1	8626	8709	8932	8512	8601	8846	114	108	86
California	2	5356	5708	5445	5320	5671	5408	36	37	37
Washington	3	4599	4703	4927	4274	4408	4645	325	295	282
Georgia	4	2789	2795	2657	2448	2481	2302	340	314	356
Mississippi	5	2422	2355	2349	1800	1721	1726	622	634	623
Idaho	6	2133	2015	2016	2133	2015	2016	N	N	N
Alabama	7	2023	2195	2201	1685	1731	1765	338	465	435
North Carolina	8	1814	1961	1944	1034	1130	1151	780	832	792
South Carolina	9	1613	1566	1526	1270	1218	1218	343	348	308
Montana	10	1567	1558	1640	1567	1558	1640	N	N	N
Arkansas	11	1550	1598	1564	1211	1227	1235	339	372	329
Virginia	12	1362	1416	1275	444	485	464	918	931	811
Texas	13	1301	1329	1217	1152	1124	1045	149	205	173
Tennessee	14	920	992	957	118	132	140	803	860	817
Maine	15	895	942	896	786	827	797	109	115	99
Pennsylvania	16	880	892	887	12	14	15	868	878	872
Louisiana	17	803	884	855	613	652	622	190	232	233
Florida	18	634	607	612	600	574	575	34	32	37
Kentucky	19	604	640	604	14	18	21	589	622	583
Wisconsin	20	595	564	601	57	55	61	538	509	540
West Virginia	21	587	590	600	3	6	58	584	584	541
Missouri	22	545	562	555	33	38	49	512	524	506
Indiana	23	525	536	687	31	27	23	494	509	664
Arizona	24	451	447	422	450	447	422	1	N	N
Michigan	25	451	443	472	73	83	136	378	360	336
Ohio	26	429	455	447	N	1	N	429	454	447
New York	27	426	419	452	67	59	61	359	360	391
South Dakota	28	252	255	256	252	255	256	N	N	N
New Mexico	29	247	224	209	247	224	209	N	N	N
Wyoming	30	239	241	284	239	241	284	N	N	N
Alaska,Hawaii	31	229	272	229	228	198	155	1	N	N
Oklahoma	32	224	252	225	152	178	151	72	74	74
Del.,Mar.	33	205	231	219	86	89	85	119	142	134
Minnesota	34	202	209	203	79	72	72	123	137	131
New Hampshire	35	197	199	201	161	165	169	36	34	32
Vermont	36	166	181	186	73	88	86	93	93	100
Colorado	37	149	149	141	142	142	134	7	7	7
Illinois	38	147	156	158	N	N	N	147	156	158
Massachusetts	39	109	109	123	75	71	83	34	38	40
Utah,Nevada	40	76	76	82	76	76	82	N	N	N
Iowa	41	70	72	66	N	N	N	70	72	66
Conn., Rhode Is	42	60	80	90	10	11	10	50	69	80
Kansas, Neb.	43	36	38	32	N	N	N	36	38	32
New Jersey	44	25	25	24	18	18	17	7	7	7

N = negligible or unavailable data
Source: NFPA (adjusted from Census Bureau)

EARNINGS BY STATE[1]

(In $ Thousands)

Source: Bureau of Economic Analysis, Regional Economic Information Systems, U.S. Department of Commerce, 1988

These employment numbers include both full time and part time workers.

STATE	TOTAL EARNINGS	FOREST-RELATED FORESTRY	PAPER	LUMBER	TOTAL	PERCENT
Alabama	$38,579,508	$22,243	$855,224	$645,913	$1,523,380	3.9%
Alaska	8,458,260	3,318	41,539	120,881	165,738	2.0
Arizona	37,210,739	2,818	73,757	181,453	258,028	0.7
Arkansas	20,733,666	11,792	451,180	443,783	906,755	4.4
California	398,063,025	23,223	1,382,409	1,881,460	3,287,092	0.8
Colorado	40,570,079	1,144	65,483	99,340	165,973	0.4
Connecticut	54,138,529	961	402,894	119,808	523,663	1.0
Delaware	9,415,403	47	73,485	24,585	98,117	1.0
D.C.	24,264,581	6	1,671	5,983	7,660	0.0
Florida	130,087,016	16,375	494,188	582,015	1,092,578	0.8
Georgia	75,616,249	32,972	1,113,661	755,607	1,902,240	2.5
Hawaii	14,117,100	52	9,770	9,882	19,704	0.1
Idaho	9,021,979	6,932	77,941	492,569	577,442	6.4
Illinois	151,746,563	3,908	1,036,412	295,305	1,335,625	0.9
Indiana	60,659,505	353	377,905	570,198	948,456	1.6
Iowa	28,614,354	409	148,570	155,179	304,158	1.1
Kansas	27,376,158	763	112,495	75,090	188,348	0.7
Kentucky	34,036,001	281	252,739	248,266	501,286	1.5
Louisiana	38,587,520	9,697	489,956	289,433	789,086	2.0
Maine	12,940,546	12,774	698,016	369,929	1,080,719	8.4
Maryland	59,666,041	939	271,702	90,512	363,153	0.6
Massachusetts	93,175,761	1,411	764,797	150,730	916,938	1.0
Michigan	112,060,839	9,765	761,596	357,289	1,128,650	1.0
Minnesota	54,350,344	3,163	1,488,535	694,708	2,186,406	4.0
Mississippi	20,321,599	13,277	280,149	549,964	843,390	4.2
Missouri	58,974,897	1,254	397,602	222,687	621,543	1.1
Montana	6,773,854	5,108	33,816	228,858	267,782	4.0
Nebraska	17,652,425	80	48,878	37,608	86,566	0.5
Nevada	14,011,770	10	2,766	30,250	33,026	0.2
New Hampshire	14,135,260	2,392	192,304	155,451	350,147	2.5
New Jersey	114,835,364	689	945,619	193,966	1,140,274	1.0
New Mexico	13,306,580	986	3,781	51,860	56,627	0.4
New York	266,338,756	2,719	1,350,275	401,320	1,754,314	0.7
North Carolina	72,426,929	9,187	774,539	809,941	1,593,667	2.2
North Dakota	5,861,756	373	1,378	7,356	9,107	0.2
Ohio	123,591,182	1,282	1,259,893	482,202	1,743,377	1.4
Oklahoma	29,928,748	1,822	121,584	59,195	182,601	0.6
Oregon	29,729,345	62,482	390,816	2,071,471	2,524,769	8.5
Pennsylvania	137,065,044	5,174	1,411,712	786,264	2,203,150	1.6
Rhode Island	11,792,636	92	61,737	30,035	91,864	0.8
South Carolina	33,642,033	32,644	596,304	363,149	992,097	3.0
South Dakota	6,258,710	177	7,402	46,172	53,751	0.9
Tennessee	51,853,763	5,721	646,144	465,861	1,117,726	2.2
Texas	186,038,564	13,791	788,558	751,508	1,553,857	0.8
Utah	15,645,576	86	36,258	57,973	94,317	0.6
Vermont	6,160,674	1,167	66,063	103,915	171,145	2.8
Virginia	76,600,827	5,740	546,712	618,656	1,171,108	1.5
Washington	54,701,968	37,873	697,757	1,235,271	1,970,901	3.6
West Virginia	14,587,264	458	27,594	139,256	167,308	1.2
Wisconsin	53,659,917	5,456	1,860,399	634,001	2,499,856	4.7
Wyoming	4,702,792	1,626	27	29,886	31,539	0.7
TOTAL U.S.	$2,974,087,999	$377,000	$23,995,992	$19,224,000	$43,596,992	1.5%

EMPLOYMENT BY STATE[1]

Source: Bureau of Economic Analysis, Regional Economic Information Systems, U.S. Department of Commerce, 1988

These employment numbers include both full time and part t workers.

STATE EMPLOYMENT	TOTAL EMPLOYMENT	FOREST-RELATED				
		FORESTRY	PAPER	LUMBER	TOTAL	PERCENT
Alabama	1,963,282	2,605	21,514	35,880	59,999	3.1
Alaska	302,985	113	880	2,887	3,880	1.3
Arizona	1,813,683	303	2,348	8,511	11,162	0.6
Arkansas	1,160,798	1,561	13,417	22,893	37,871	3.3
California	15,814,877	2,646	41,661	72,546	116,853	0.7
Colorado	1,938,885	399	2,311	4,775	7,485	0.4
Connecticut	2,028,766	224	9,615	4,430	14,269	0.7
Delaware	397,964	47	2,609	1,112	3,768	0.9
D.C.	764,829	14	38	386	438	0.1
Florida	6,548,293	1,414	14,578	29,397	45,389	0.7
Georgia	3,579,583	2,071	32,204	37,532	71,807	2.0
Hawaii	650,740	24	325	395	744	0.1
Idaho	502,497	1,112	1,915	15,872	18,899	3.8
Illinois	6,178,717	976	33,633	13,043	47,652	0.8
Indiana	2,944,169	316	13,463	26,504	40,283	1.4
Iowa	1,568,846	378	5,512	6,861	12,751	0.8
Kansas	1,426,400	160	4,093	4,245	8,498	0.6
Kentucky	1,846,499	532	8,612	14,292	23,436	1.3
Louisiana	1,908,329	966	12,093	13,482	26,541	1.4
Maine	697,412	1,028	17,764	16,140	34,932	5.0
Maryland	2,624,036	369	9,393	3,900	13,662	0.5
Massachusetts	3,786,088	428	24,527	6,428	31,383	0.8
Michigan	4,530,295	2,248	21,157	17,109	40,514	0.9
Minnesota	2,548,280	1,246	33,041	19,752	54,039	2.1
Mississippi	1,166,364	1,354	8,420	29,891	39,665	3.4
Missouri	2,933,537	1,848	13,203	12,830	27,881	1.0
Montana	410,810	1,099	839	9,357	11,295	2.7
Nebraska	930,194	122	1,760	2,195	4,077	0.4
Nevada	648,785	20	151	1,474	1,645	0.3
New Hampshire	675,613	259	5,501	8,875	14,635	2.2
New Jersey	4,343,805	174	27,879	7,022	35,075	0.8
New Mexico	704,155	108	124	2,688	2,920	0.4
New York	9,733,122	1,265	43,445	19,102	63,812	0.7
North Carolina	3,743,630	1,613	23,138	43,121	67,872	1.8
North Dakota	366,482	60	54	598	712	0.2
Ohio	5,629,623	744	37,391	23,716	61,851	1.1
Oklahoma	1,566,801	297	3,517	3,432	7,246	0.5
Oregon	1,512,477	6,906	8,867	74,413	90,186	6.0
Pennsylvania	6,063,165	2,304	42,038	35,164	79,506	1.3
Rhode Island	560,521	42	2,115	1,618	3,775	0.7
South Carolina	1,835,212	1,650	16,323	17,780	35,753	1.9
South Dakota	382,334	195	389	2,378	2,962	0.8
Tennessee	2,645,590	946	19,936	25,189	46,071	1.7
Texas	8,514,542	1,352	24,508	35,943	61,803	0.7
Utah	828,527	96	1,249	3,832	5,177	0.6
Vermont	341,025	309	2,638	6,849	9,596	2.8
Virginia	3,561,066	1,062	15,509	28,464	45,035	1.3
Washington	2,560,916	4,200	16,775	45,136	66,111	2.6
West Virginia	746,887	208	1,408	8,389	10,005	1.3
Wisconsin	2,694,570	3,109	50,126	29,872	83,107	3.1
Wyoming	254,095	178	2	1,500	1,680	0.7
TOTAL U.S.	132,886,100	52,700	693,808	859,200	1,605,708	1.2%

2:45 PDT
(5:45 EDT)

September 17, 1991

FAX TO: Katie Winkeljohn
Office of John H. Sununu
Chief of Staff to the President
The White House, Washington, DC

RE: Telephone Call, September 19, 1991, 1 - 2 p.m., EDT
From Governor Sununu to Lumber Industry CEO's Concerning Canadian Lumber Imports

At your suggestion, listed below are the telephone numbers and a contact for Governor Sununu's call to John Georges, International Paper Company, and Marshall Hahn, Georgia-Pacific Corporation. Also included is an issue background paper and a short biog on the two gentlemen. Please call me at 202/ 659-3600 if you have questions or need additional information.

We appreciate your assistance in arranging this call.

CONTACTS FOR INDUSTRY: 9/19/91, between 1-2 pm, Eastern Time

John Georges, Chairman & Chief Executive Officer, International Paper Company.

Location: New York, NY
Contact: Michelle Godfrey
Telephone: 212/ 720-5222

T. Marshall Hahn, Chairman & Chief Executive Officer, Georgia-Pacific Corporation.

intervened with Bill Allen of Business Roundtable -- JHS said "I owe you one"

Location: Atlanta, GA
Contact: Gari Johnson
Telephone: 404/ 727-9112 (hospital)

We would request that Alan Wolff, Counsel for the Coalition, be included on the call. He is with the law firm of Dewey Ballantine.

preemptive against anti-trust issues being raised

Location: Washington, DC
Contact: Barbara Crawford
Telephone: 202/ 429-2352

Sincerely,

John M. Turner
Corporate Director - Government Affairs
Georgia-Pacific Corporation
Washington, DC 202/ 659-3600
(Gail Banner, Secretary)

T. MARSHALL HAHN

CHAIRMAN AND CHIEF EXECUTIVE OFFICER

GEORGIA-PACIFIC CORPORATION

A native of Lexington, Kentucky, Mr. Hahn graduated Phi Beta Kappa from the University of Kentucky with a bachelor of science degree in physics at the age of 18. He earned his Ph.D from the Massachusetts Institute of Technology.

After graduating from MIT, Mr. Hahn held a variety of positions, including head of the nuclear-accelerator laboratory at the University of Kentucky, chairman of the physics department of Virginia Tech and dean of arts and sciences at Kansas State University. He was named president of Virginia Tech when he was 35.

He was elected to Georgia-Pacific's board of directors in 1973. In 1975, he joined the company as executive vice president and was elected president the following year. He became Chief Executive Officer in 1983, and added the responsibilities of Chairman of the Board in 1984 -- the title he holds today.

In addition to his responsibilities as CEO of a Fortune 50 company, Mr. Hahn is active in business and civic activities at both the national and local levels. He is a director and former chairman of the American Paper Institute, services on the Business Council of Georgia and is a member of the Conference Board.

In Atlanta, he is on the board of trustees at Emory University and is a director of the Atlanta Arts Alliance and Central Atlanta Progress.

JOHN A. GEORGES

CHAIRMAN AND CHIEF EXECUTIVE OFFICER

INTERNATIONAL PAPER

John A. Georges became Chairman of the Board of International Paper in April 1985, and Chief Executive Officer in 1984. He was the President and Chief Operating Officer from 1981.

Mr. Georges earned a bachelor's degree in chemical engineering from the University of Illinois and a master's in business administration from Drexel University.

He is Chairman of the Board and a Director of IP Forest Resources Company (the managing general partner of IP Timberlands, Ltd.). He is a Director of Warner-Lambert Company, The Federal Reserve Bank of New York, and the New York Stock Exchange, Inc. He is a member of The Business Council and the Policy Committee of the Business Roundtable; Board member of the Business Council of New York State and a Trustee of its Public Policy Institute; member of the President's Commission on Environmental Quality and on the Board of Overseers of the Executive Council on Foreign Diplomats. He is also a Board member of the President's Council of Tulane University.

September 16, 1991

CANADA'S DECISION TO TERMINATE UNILATERALLY THE U.S.-CANADA AGREEMENT ON SUBSIDIZED CANADIAN LUMBER

The Softwood Lumber Memorandum of Understanding

- Historically, Canadian provinces have not sold timber competitively, but rather have given Canadian lumber mills timber at a fraction of its value. This has seriously injured U.S. mills that must buy timber competitively.

- In 1986, the U.S. industry won a preliminary countervailing duty against these timber subsidies. Canada then sought a settlement -- the Memorandum of Understanding (MOU) -- so that the subsidy offset could be kept in Canada. The MOU applied a lumber export tax to be replaced by increased timber fees.

- Canada without notice announced on September 3 its intention to terminate unilaterally the MOU effective on October 4.

The Administration Committed to Collect the Subsidy Offset

- Before the U.S. industry withdrew its countervailing duty case, the Administration explicitly committed that if Canada for any reason failed to offset the subsidy as called for, the United States would impose a duty.

- President Reagan, under Section 301, instructed the Secretary of Commerce to "take action (including the imposition of an increase in the tariff on softwood lumber imported from Canada) to offset any shortfall in the full imposition" of the charges called for in the MOU. That order makes no distinctions with respect to whether Canada is not collecting the offset because of a breach or termination.

Canadian Timber is Still Heavily Subsidized

- Canadian timber fees are still administratively set. Canadian mills pay a fraction of what U.S. firms pay in the competitive U.S. market for similar timber. Timber sold competitively in Canada also sells for many times the administered price.

- A recent British Columbian study found private timber fees "four times higher" than government prices which were not "capturing the full value of the resource."

The Administration Should Impose an Import Duty to Offset Canadian Subsidies

- If Canada will not offset the subsidy, the United States must. A reasonable settlement can be reached only if Canada understands the serious consequences.

- Section 301 action should be announced now effective October 4. This contingency was anticipated when the MOU was signed and the industry withdrew its case.

- Initially, until the full value of Canadian timber subsidies can be calculated, a 15% duty should be imposed (equal to the 1986 preliminary countervailing duty finding). While some Canadian provinces have increased timber fees to offset in part the subsidies those offsets could be eliminated after the MOU is terminated.

- A new countervailing duty case would be inappropriate: 1) it is a lengthy, expensive process (with subsidies injuring the U.S. industry throughout), 2) the Administration committed to enforcement (such as under Section 301), 3) Canada would argue that a new case should be referred to dispute settlement in the FTA, even though the FTA exempted action arising from the MOU, and 4) Canada would argue that until the U.S. industry is injured by a new surge of subsidized lumber -- that is, until mills close -- no countervailing duty order is appropriate.

<u>Injury from Canada's Action</u>

- In 1986, subsidized Canadian lumber imports were skyrocketing as hundreds of U.S. mills were forced to close and tens of thousands were thrown out of work.

- In fact, immediately after Canada's action, U.S. lumber prices fell dramatically in anticipation of increased subsidized imports. The artificial price depression brought on by subsidized imports will devastate otherwise competitive U.S. firms.

- Conservatively, should Canadian market share return to its 1985 levels, U.S. industry would suffer over $600 million in lost sales. This would result in the loss of approximately 15,000 direct mill jobs.

<u>Georgia-Pacific, International Paper and the Lumber Industry</u>

- Georgia-Pacific had total sales of $12.6 billion in 1990 and operates in fifty states. GP's softwood lumber production in 1990 was almost 2.5 billion board feet.

- International Paper had total sales of $13.0 billion in 1990 and operates in fifty states. IP's softwood lumber production in 1990 was over 850 million board feet.

- The industry produced over 35.8 billion board feet of lumber in 1990, worth over $8 billion at the mill. The lumber and wood products industry has over 700 thousand employees.

- The Coalition for Fair Lumber Imports, on whose behalf we are writing, brought the 1986 countervailing duty case and is now seeking action to offset Canadian subsidies. It is a broad industry coalition including many lumber companies and all of the major lumber associations, including the National Forest Products Association, the Northeast Lumber Manufacturers Association, the Intermountain Forest Industry Association, the Northwest Independent Forest Manufacturers, the Southeast Lumber Manufacturers, the Southern Forest Products Associations, the Western Forest Industries Association and the Western Wood Products Association. It represents the vast majority of the U.S. softwood lumber industry.

2:45 PDT
(5:45 EDT)

September 17, 1991

FAX TO: Katie Winkeljohn
Office of John H. Sununu
Chief of Staff to the President
The White House, Washington, DC

RE: Telephone Call, September 19, 1991, 1 - 2 p.m., EDT
From Governor Sununu to Lumber Industry CEO's Concerning
Canadian Lumber Imports

At your suggestion, listed below are the telephone numbers and a contact for Governor Sununu's call to John Georges, International Paper Company, and Marshall Hahn, Georgia-Pacific Corporation. Also included is an issue background paper and a short biog on the two gentlemen. Please call me at 202/ 659-3600 if you have questions or need additional information.

We appreciate your assistance in arranging this call.

CONTACTS FOR INDUSTRY: 9/19/91, between 1-2 pm, Eastern Time

John Georges, Chairman & Chief Executive Officer,
International Paper Company.

Location: New York, NY
Contact: Michelle Godfrey
Telephone: 212/ 720-5222

T. Marshall Hahn, Chairman & Chief Executive Officer,
Georgia-Pacific Corporation.

intervened with Bill Allen
of Business Roundtable --
JHS said "I owe you one"

Location: Atlanta, GA
Contact: Gari Johnson
Telephone: 404/ 727-9112 (hospital)

We would request that Alan Wolff, Counsel for the Coalition, be included on the call. He is with the law firm of Dewey Ballantine.

preemptive against anti-
trust issues being raised

Location: Washington, DC
Contact: Barbara Crawford
Telephone: 202/ 429-2352

Sincerely,

John M. Turner
Corporate Director - Government Affairs
Georgia-Pacific Corporation
Washington, DC 202/ 659-3600
(Gail Banner, Secretary)

T. MARSHALL HAHN

CHAIRMAN AND CHIEF EXECUTIVE OFFICER

GEORGIA-PACIFIC CORPORATION

A native of Lexington, Kentucky, Mr. Hahn graduated Phi Beta Kappa from the University of Kentucky with a bachelor of science degree in physics at the age of 18. He earned his Ph.D from the Massachusetts Institute of Technology.

After graduating from MIT, Mr. Hahn held a variety of positions, including head of the nuclear-accelerator laboratory at the University of Kentucky, chairman of the physics department of Virginia Tech and dean of arts and sciences at Kansas State University. He was named president of Virginia Tech when he was 35.

He was elected to Georgia-Pacific's board of directors in 1973. In 1975, he joined the company as executive vice president and was elected president the following year. He became Chief Executive Officer in 1983, and added the responsibilities of Chairman of the Board in 1984 -- the title he holds today.

In addition to his responsibilities as CEO of a Fortune 50 company, Mr. Hahn is active in business and civic activities at both the national and local levels. He is a director and former chairman of the American Paper Institute, services on the Business Council of Georgia and is a member of the Conference Board.

In Atlanta, he is on the board of trustees at Emory University and is a director of the Atlanta Arts Alliance and Central Atlanta Progress.

JOHN A. GEORGES

CHAIRMAN AND CHIEF EXECUTIVE OFFICER

INTERNATIONAL PAPER

John A. Georges became Chairman of the Board of International Paper in April 1985, and Chief Executive Officer in 1984. He was the President and Chief Operating Officer from 1981.

Mr. Georges earned a bachelor's degree in chemical engineering from the University of Illinois and a master's in business administration from Drexel University.

He is Chairman of the Board and a Director of IP Forest Resources Company (the managing general partner of IP Timberlands, Ltd.). He is a Director of Warner-Lambert Company, The Federal Reserve Bank of New York, and the New York Stock Exchange, Inc. He is a member of The Business Council and the Policy Committee of the Business Roundtable; Board member of the Business Council of New York State and a Trustee of its Public Policy Institute; member of the President's Commission on Environmental Quality and on the Board of Overseers of the Executive Council on Foreign Diplomats. He is also a Board member of the President's Council of Tulane University.

September 16, 1991

CANADA'S DECISION TO TERMINATE UNILATERALLY THE U.S.-CANADA AGREEMENT ON SUBSIDIZED CANADIAN LUMBER

The Softwood Lumber Memorandum of Understanding

- Historically, Canadian provinces have not sold timber competitively, but rather have given Canadian lumber mills timber at a fraction of its value. This has seriously injured U.S. mills that must buy timber competitively.

- In 1986, the U.S. industry won a preliminary countervailing duty against these timber subsidies. Canada then sought a settlement -- the Memorandum of Understanding (MOU) -- so that the subsidy offset could be kept in Canada. The MOU applied a lumber export tax to be replaced by increased timber fees.

- Canada without notice announced on September 3 its intention to terminate unilaterally the MOU effective on October 4.

The Administration Committed to Collect the Subsidy Offset

- Before the U.S. industry withdrew its countervailing duty case, the Administration explicitly committed that if Canada for any reason failed to offset the subsidy as called for, the United States would impose a duty.

- President Reagan, under Section 301, instructed the Secretary of Commerce to "take action (including the imposition of an increase in the tariff on softwood lumber imported from Canada) to offset any shortfall in the full imposition" of the charges called for in the MOU. That order makes no distinctions with respect to whether Canada is not collecting the offset because of a breach or termination.

Canadian Timber is Still Heavily Subsidized

- Canadian timber fees are still administratively set. Canadian mills pay a fraction of what U.S. firms pay in the competitive U.S. market for similar timber. Timber sold competitively in Canada also sells for many times the administered price.

- A recent British Columbian study found private timber fees "four times higher" than government prices which were not "capturing the full value of the resource."

The Administration Should Impose an Import Duty to Offset Canadian Subsidies

- If Canada will not offset the subsidy, the United States must. A reasonable settlement can be reached only if Canada understands the serious consequences.

- Section 301 action should be announced now effective October 4. This contingency was anticipated when the MOU was signed and the industry withdrew its case.

- Initially, until the full value of Canadian timber subsidies can be calculated, a 15% duty should be imposed (equal to the 1986 preliminary countervailing duty finding). While some Canadian provinces have increased timber fees to offset in part the subsidies those offsets could be eliminated after the MOU is terminated.

- A new countervailing duty case would be inappropriate: 1) it is a lengthy, expensive process (with subsidies injuring the U.S. industry throughout), 2) the Administration committed to enforcement (such as under Section 301), 3) Canada would argue that a new case should be referred to dispute settlement in the FTA, even though the FTA exempted action arising from the MOU, and 4) Canada would argue that until the U.S. industry is injured by a new surge of subsidized lumber -- that is, until mills close -- no countervailing duty order is appropriate.

Injury from Canada's Action

- In 1986, subsidized Canadian lumber imports were skyrocketing as hundreds of U.S. mills were forced to close and tens of thousands were thrown out of work.

- In fact, immediately after Canada's action, U.S. lumber prices fell dramatically in anticipation of increased subsidized imports. The artificial price depression brought on by subsidized imports will devastate otherwise competitive U.S. firms.

- Conservatively, should Canadian market share return to its 1985 levels, U.S. industry would suffer over $600 million in lost sales. This would result in the loss of approximately 15,000 direct mill jobs.

Georgia-Pacific, International Paper and the Lumber Industry

- Georgia-Pacific had total sales of $12.6 billion in 1990 and operates in fifty states. GP's softwood lumber production in 1990 was almost 2.5 billion board feet.

- International Paper had total sales of $13.0 billion in 1990 and operates in fifty states. IP's softwood lumber production in 1990 was over 850 million board feet.

- The industry produced over 35.8 billion board feet of lumber in 1990, worth over $8 billion at the mill. The lumber and wood products industry has over 700 thousand employees.

- The Coalition for Fair Lumber Imports, on whose behalf we are writing, brought the 1986 countervailing duty case and is now seeking action to offset Canadian subsidies. It is a broad industry coalition including many lumber companies and all of the major lumber associations, including the National Forest Products Association, the Northeast Lumber Manufacturers Association, the Intermountain Forest Industry Association, the Northwest Independent Forest Manufacturers, the Southeast Lumber Manufacturers, the Southern Forest Products Associations, the Western Forest Industries Association and the Western Wood Products Association. It represents the vast majority of the U.S. softwood lumber industry.

DRAFT

DRAFT PRESS RELEASE **10/2/91 11:30 p.m.**

The United States will self-initiate a countervailing duty investigation of imports of softwood lumber from Canada, Secretary of Commerce Robert Mosbacher and Acting U.S. Trade Representative Julius L. Katz announced today.

The decision follows Canada's recent announcement that it would terminate, effective October 4, a 1986 Memorandum of Understanding (MOU) with the United States concerning trade in softwood lumber.

The MOU required Canada to offset subsidies preliminarily found in a 1986 countervailing duty investigation, either by collecting a tax of 15 percent on softwood lumber exports to the United States, or by implementing "replacement measures" with a comparable effect. In return, the U.S. lumber industry withdrew its countervailing duty petition and the case was terminated.

"The U.S. industry and the Administration remain concerned that there are Canadian provincial subsidies that cause or threaten injury to our industry," Katz said. "Since Canada has decided to terminate the MOU, we have determined that we must move vigorously to investigate these concerns, and act against any injurious subsidies that are found."

To avoid the risk that Canadian exporters or provinces might disrupt the U.S. lumber market by taking short-term advantage of the termination of the MOU, the United States will put in place interim customs measures to preserve the status quo until preliminary results are available from the countervailing duty investigation.

These interim measures will not exceed those that were in effect under the MOU and will be lifted when there is a preliminary countervailing duty determination. Any further customs measures, as well as duties ultimately collected, will depend on the results of the countervailing duty investigation.

"While we believe the MOU was working well and should have been allowed to remain in place, the actions we are announcing today will protect our industry from dislocation in the near term while allowing a fair determination of whether Canadian provinces are providing injurious subsidies," Secretary Mosbacher said.

-- 30 --

CONFIDENTIAL

THE UNITED STATES TRADE REPRESENTATIVE
Executive Office of the President
Washington, D.C. 20506

DECLASSIFIED
PER NSC WAIVER, ISOO 2021-02
By SS NARA, Date 12/1/23

MEMORANDUM FOR GOVERNOR SUNUNU

From: Carla A. Hills CAH

Subject: Canadian Lumber

On September 4, Canada terminated our 1986 Memorandum of Understanding (MOU) on lumber trade. The following lays out a suggested course of action.

Circumstances

In 1986, a U.S. countervailing duty (CVD) investigation preliminarily found Canadian lumber imports to be unfairly subsidized by 15 percent. Before the case proceeded to a final determination (which could have resulted in the imposition of countervailing duties of 15 percent or more on lumber imports from Canada), the U.S. and Canada entered into the MOU. In exchange for the termination of the CVD case, Canada agreed to impose a 15 percent export tax at the federal level, or some equivalent "replacement measure" at the provincial level, on its exports of lumber to the United States.

The MOU provides that either side may terminate on 30 days' notice. Thus, on October 4, 1991 the Canadian government will cease collecting the export tax and provinces that have imposed "replacement measures" will be free to lift them.

U.S. industry and Congressional reaction to the termination is extremely negative. The industry, which is in poor financial shape, believes that without the MOU in place they will be defenseless against unfair competition from Canada. Moreover, the 1986 MOU was crucial to obtaining industry support for the U.S.-Canada Free Trade Agreement (FTA). Failure to respond immediately to the Canadian termination jeopardizes industry and Congressional support for the NAFTA. I have been contacted personally by many Members, and the President has recently received a letter signed by 68 Senators (led by Senators Packwood and Baucus) urging a strong and immediate response.

Course of Action

Industry and Canada each have preferred courses of action which we find unpalatable. We have reached interagency consensus on a middle course of action, described in Option C below.

CONFIDENTIAL

A. Industry's Preferred Response

U.S. industry believes we should immediately impose a 15 percent duty on Canadian lumber imports under Section 301, arguing that such action is their only defense against allegedly subsidized imports. They also argue that the previous Administration committed to imposing such a duty. However, this approach would be inconsistent with our obligations under the FTA and the GATT, and would evoke an extremely harsh reaction from Canada (probably including retaliation). Moreover, it is debatable whether the prior Administration committed to imposing an immediate duty if the MOU were terminated, although both it and we have formally committed to strong and swift action.

B. Canadian Preferred Course of Action

The Canadians believe that the only legitimate response is for the U.S. to pursue a new formal CVD investigation. However, this option is strongly opposed by U.S. industry:

- They justifiably fear that the ITC will find that they have not been injured (a precondition for a successful CVD action) because the MOU has suppressed injury since 1986; and

- In the unlikely event that injury is found, Canada would appeal the CVD ruling to binding arbitration before a binational panel under the FTA. This is objectionable to U.S. industry because (1) it fears Canada would prevail before a binational panel, and (2) it believes, not unreasonably, that lumber was meant to be excluded from the FTA and governed exclusively by the MOU.

C. Recommended Course: "Mock" CVD

Because of the major defects of both the industry and Canadian preferred options, we have formulated a middle course, which all interested agencies support:

- The ITC would determine whether, in the absence of the MOU, the industry will be injured by Canadian lumber exports.

- At the same time, Commerce would determine whether the Canadians have eliminated their subsidies, as they claim.

- If we find both injury and subsidies, then we would impose an offsetting duty using our Section 301 authority.

We believe that this would be a satisfactory response for U.S. industry. However, because the procedure would be unique (not the standard CVD), Canada would likely challenge us under the GATT and/or the FTA -- although they would not have recourse, in this instance, to FTA binding arbitration. If Canada were to prevail in either forum, which is not unlikely, then we would be under international pressure at that stage (possibly eight to nine months from now) to force industry to pursue a normal CVD.

This "mock" CVD option is unattractive, but we believe it is far superior to the alternatives. It minimizes the risk of a major domestic political problem, while, in our judgment, providing a fair opportunity to Canada to prove its case that its exports are no longer unfairly subsidized.

Whether to Impose Interim Measures

Even if we pursue a "mock" CVD approach or a regular CVD, the U.S. industry would be left unprotected from subsidized Canadian competition during the 2-3 month period of initial investigation. The options for handling this interim period are:

1. Impose immediately a 15 percent interim duty on Canadian imports. The industry argues this is the only action that would put them back in as good a position as they were in five years ago when they agreed to drop their CVD case in exchange for the MOU.

2. Monitor Canadian imports and be prepared to impose an interim duty if there appear to be import surges. This option is strongly opposed by U.S. industry, which would be unprotected, but has the virtue of taking no immediate action that might be vulnerable in international dispute settlement.

3. Seek to preserve the status quo. Under this option, we would impose no duty now, but would put importers on notice that they could be liable from October 5 for any subsidy amount (up to 15 percent) that Commerce's investigation reveals.

No interagency consensus exists on these options. However, I believe that Option 3 represents the minimum action acceptable politically. Failure at least to preserve the status quo would likely be viewed on the Hill as inconsistent with this and the previous Administration's commitment to take swift and forceful action in the event of a breach or termination of the MOU. Moreover, given the poor condition of the U.S. industry, we can expect some mills will close in the next few months, which will be blamed on the Administration's failure to take prompt action.

Most importantly, we believe that Option 3 has the virtue of fairness. If Canadian imports are found ultimately not to be subsidized, no interim duties will be collected. On the other hand, if Canadian imports are found to be subsidized, there is no good reason why our industry should be left vulnerable to unfair competition during the investigatory period merely because Canada wants out now from the agreement it sought and entered into five years ago.

Classified by: Gary R. Edson
Declassify on : OADR

John –

The Pres

has to sign –

Bobby

Document Originally
Attached to
Previous Page

THE WHITE HOUSE

WASHINGTON

MEMORANDUM FOR THE WHITE HOUSE STAFF

FROM: Marlin Fitzwater

SUBJECT: Television Appearances, Sunday, September 29, 1991

ABC "This Week with David Brinkley": 10:30 am Channel 7

The topic will be education and the education report card by the National Education Goals Panel to be released on Monday. The guest will be Secretary of Education, Lamar Alexander; Governor Roy Romer (D-CO) and Representative Les Aspin (D-WI).

CBS "Face the Nation": 10:30 am Channel 9

The topic will be domestic issues such as: unemployment, Danforth and civil rights, family leave, health care and touch upon Iraq, Israeli loans, Shamir and the peace conference. The guest will be White House Chief of Staff, Governor John Sununu.

NBC "Meet the Press": 10:30 am Channel 4

The topic will be the situation in Iraq. The guests are TBD.

CNN "Newsmaker" 1:30 pm and 5:30 pm (Saturday) 10:30 am (Sunday)

Saturday: The topic will be Canada, the Enterprise for the Americas Initiative, trade and related issues. The guest will be Prime Minister of Canada, Brian Mulroney.

Sunday: The topic will be Iraq. The guests are TBD. (they have requested Secretary of Defense Richard Cheney)

CNN Evans & Novak: 12:30 pm (Saturday)

The topic will be domestic issues. The guest will be White House Chief of Staff John Sununu.

McLaughlin One-on-One: 8:30 am (Sunday)

The topic will be Republicans and Democrats. The guest will be Director of the Republican National Committee Clayton Yeutter and Director of the Democratic National Committee Ron Brown.

# # #

~~CONFIDENTIAL~~

THE UNITED STATES TRADE REPRESENTATIVE
Executive Office of the President
Washington, D.C. 20506

DECLASSIFIED
PER NSC WAIVER, ISOO 2021-02
By SS NARA, Date 12/1/23

MEMORANDUM FOR GOVERNOR SUNUNU

From: Carla A. Hills CAH

Subject: Canadian Lumber

On September 4, Canada terminated our 1986 Memorandum of Understanding (MOU) on lumber trade. The following lays out a suggested course of action.

Circumstances

In 1986, a U.S. countervailing duty (CVD) investigation preliminarily found Canadian lumber imports to be unfairly subsidized by 15 percent. Before the case proceeded to a final determination (which could have resulted in the imposition of countervailing duties of 15 percent or more on lumber imports from Canada), the U.S. and Canada entered into the MOU. In exchange for the termination of the CVD case, Canada agreed to impose a 15 percent export tax at the federal level, or some equivalent "replacement measure" at the provincial level, on its exports of lumber to the United States.

The MOU provides that either side may terminate on 30 days' notice. Thus, on October 4, 1991 the Canadian government will cease collecting the export tax and provinces that have imposed "replacement measures" will be free to lift them.

U.S. industry and Congressional reaction to the termination is extremely negative. The industry, which is in poor financial shape, believes that without the MOU in place they will be defenseless against unfair competition from Canada. Moreover, the 1986 MOU was crucial to obtaining industry support for the U.S.-Canada Free Trade Agreement (FTA). Failure to respond immediately to the Canadian termination jeopardizes industry and Congressional support for the NAFTA. I have been contacted personally by many Members, and the President has recently received a letter signed by 68 Senators (led by Senators Packwood and Baucus) urging a strong and immediate response.

Course of Action

Industry and Canada each have preferred courses of action which we find unpalatable. We have reached interagency consensus on a middle course of action, described in Option C below.

~~CONFIDENTIAL~~

A. Industry's Preferred Response

U.S. industry believes we should immediately impose a 15 percent duty on Canadian lumber imports under Section 301, arguing that such action is their only defense against allegedly subsidized imports. They also argue that the previous Administration committed to imposing such a duty. However, this approach would be inconsistent with our obligations under the FTA and the GATT, and would evoke an extremely harsh reaction from Canada (probably including retaliation). Moreover, it is debatable whether the prior Administration committed to imposing an immediate duty if the MOU were terminated, although both it and we have formally committed to strong and swift action.

B. Canadian Preferred Course of Action

The Canadians believe that the only legitimate response is for the U.S. to pursue a new formal CVD investigation. However, this option is strongly opposed by U.S. industry:

- o They justifiably fear that the ITC will find that they have not been injured (a precondition for a successful CVD action) because the MOU has suppressed injury since 1986; and

- o In the unlikely event that injury is found, Canada would appeal the CVD ruling to binding arbitration before a binational panel under the FTA. This is objectionable to U.S. industry because (1) it fears Canada would prevail before a binational panel, and (2) it believes, not unreasonably, that lumber was meant to be excluded from the FTA and governed exclusively by the MOU.

C. Recommended Course: "Mock" CVD

Because of the major defects of both the industry and Canadian preferred options, we have formulated a middle course, which all interested agencies support:

- o The ITC would determine whether, in the absence of the MOU, the industry will be injured by Canadian lumber exports.

- o At the same time, Commerce would determine whether the Canadians have eliminated their subsidies, as they claim.

- o If we find both injury <u>and</u> subsidies, then we would impose an offsetting duty using our Section 301 authority.

We believe that this would be a satisfactory response for U.S. industry. However, because the procedure would be unique (not the standard CVD), Canada would likely challenge us under the GATT and/or the FTA -- although they would not have recourse, in this instance, to FTA binding arbitration. If Canada were to prevail in either forum, which is not unlikely, then we would be under international pressure at that stage (possibly eight to nine months from now) to force industry to pursue a normal CVD.

This "mock" CVD option is unattractive, but we believe it is far superior to the alternatives. It minimizes the risk of a major domestic political problem, while, in our judgment, providing a fair opportunity to Canada to prove its case that its exports are no longer unfairly subsidized.

Whether to Impose Interim Measures

Even if we pursue a "mock" CVD approach or a regular CVD, the U.S. industry would be left unprotected from subsidized Canadian competition during the 2-3 month period of initial investigation. The options for handling this interim period are:

1. <u>Impose immediately a 15 percent interim duty on Canadian imports</u>. The industry argues this is the only action that would put them back in as good a position as they were in five years ago when they agreed to drop their CVD case in exchange for the MOU.

2. <u>Monitor Canadian imports and be prepared to impose an interim duty if there appear to be import surges</u>. This option is strongly opposed by U.S. industry, which would be unprotected, but has the virtue of taking no immediate action that might be vulnerable in international dispute settlement.

3. <u>Seek to preserve the status quo</u>. Under this option, we would impose no duty now, but would put importers on notice that they could be liable from October 5 for any subsidy amount (up to 15 percent) that Commerce's investigation reveals.

No interagency consensus exists on these options. However, I believe that Option 3 represents the minimum action acceptable politically. Failure at least to preserve the status quo would likely be viewed on the Hill as inconsistent with this and the previous Administration's commitment to take swift and forceful action in the event of a breach or termination of the MOU. Moreover, given the poor condition of the U.S. industry, we can expect some mills will close in the next few months, which will be blamed on the Administration's failure to take prompt action.

Most importantly, we believe that Option 3 has the virtue of fairness. If Canadian imports are found ultimately not to be subsidized, no interim duties will be collected. On the other hand, if Canadian imports are found to be subsidized, there is no good reason why our industry should be left vulnerable to unfair competition during the investigatory period merely because Canada wants out now from the agreement it sought and entered into five years ago.

Classified by: [signature]
Declassify on : OADR

~~CONFIDENTIAL~~

THE UNITED STATES TRADE REPRESENTATIVE
Executive Office of the President
Washington, D.C. 20506

SEP 27 1991

MEMORANDUM FOR THE PRESIDENT

DECLASSIFIED
PER NSC WAIVER, ISOO 2021-02
By SS NARA, Date 12/1/23

From: Carla A. Hills CAH

Subject: Canadian Lumber

On September 4, Canada terminated our 1986 Memorandum of Understanding (MOU) on lumber trade. The following lays out a suggested course of action.

Circumstances

In 1986, a U.S. countervailing duty (CVD) investigation preliminarily found Canadian lumber imports to be unfairly subsidized by 15 percent. Before the case proceeded to a final determination (which could have resulted in the imposition of countervailing duties of 15 percent or more on lumber imports from Canada), the U.S. and Canada entered into the MOU. In exchange for the termination of the CVD case, Canada agreed to impose a 15 percent export tax at the federal level, or some equivalent "replacement measure" at the provincial level, on its exports of lumber to the United States.

The MOU provides that either side may terminate on 30 days' notice. Thus, on October 4, 1991 the Canadian government will cease collecting the export tax and provinces that have imposed "replacement measures" will be free to lift them.

U.S. industry and Congressional reaction to the termination is extremely negative. The industry, which is in poor financial shape, believes that without the MOU in place they will be defenseless against unfair competition from Canada. Moreover, the 1986 MOU was crucial to obtaining industry support for the U.S.-Canada Free Trade Agreement (FTA). Failure to respond immediately to the Canadian termination jeopardizes industry and Congressional support for the NAFTA. I have been contacted personally by many Members, and you have recently received a letter signed by 68 Senators (led by Senators Packwood and Baucus) urging a strong and immediate response.

Course of Action

Industry and Canada each have preferred courses of action which we find unpalatable. We have reached interagency consensus on a middle course of action, described in Option C below.

~~CONFIDENTIAL~~

A. Industry's Preferred Response

U.S. industry believes we should immediately impose a 15 percent duty on Canadian lumber imports under Section 301, arguing that such action is their only defense against allegedly subsidized imports. They also argue that the previous Administration committed to imposing such a duty. However, this approach would be inconsistent with our obligations under the FTA and the GATT, and would evoke an extremely harsh reaction from Canada (probably including retaliation). Moreover, it is debatable whether the prior Administration committed to imposing an immediate duty if the MOU were terminated, although both it and we have formally committed to strong and swift action.

B. Canadian Preferred Course of Action

The Canadians believe that the only legitimate response is for the U.S. to pursue a new formal CVD investigation. However, this option is strongly opposed by U.S. industry:

- They justifiably fear that the ITC will find that they have not been injured (a precondition for a successful CVD action) because the MOU has suppressed injury since 1986; and

- In the event that injury (and subsidy) is found, Canada would appeal the CVD ruling to binding arbitration before a binational panel under the FTA. This is objectionable to U.S. industry because (1) it fears Canada would prevail before a binational panel, and (2) it believes, not unreasonably, that lumber was meant to be excluded from the FTA and governed exclusively by the MOU.

C. Recommended Course: "Mock" CVD

Because of the major defects of both the industry and Canadian preferred options, we have formulated a middle course, which all interested agencies support:

- The ITC would determine whether, in the absence of the MOU, the industry will be injured by Canadian lumber exports.

- At the same time, Commerce would determine whether the Canadians have eliminated their subsidies, as they claim.

- If we find both injury and subsidies, then we would impose an offsetting duty using our Section 301 authority.

We believe that this would be a satisfactory response for U.S. industry. However, because the procedure would be unique (not the standard CVD), Canada would likely challenge us under the GATT and/or the FTA -- although they would not have recourse, in this instance, to binding FTA arbitration. If Canada were to prevail in either forum, which is not unlikely, then we would be under international pressure at that stage (possibly eight to nine months from now) to force industry to pursue a normal CVD.

This "mock" CVD option is unattractive, but we believe it is far superior to the alternatives. It minimizes the risk of a major domestic political problem, while, in our judgment, providing a fair opportunity to Canada to prove its case that its exports are no longer unfairly subsidized.

AGREE WITH "MOCK" CVD APPROACH: ____________

DISAGREE: ____________

Whether to Impose Interim Measures

Even if we pursue a "mock" CVD approach or a regular CVD, the U.S. industry would be left unprotected from subsidized Canadian competition during the 2-3 month period of initial investigation. The options for handling this interim period are:

1. Impose immediately a 15 percent interim duty on Canadian imports. The industry argues this is the only action that would put them back in as good a position as they were in five years ago when they agreed to drop their CVD case in exchange for the MOU.

2. Monitor Canadian imports and be prepared to impose an interim duty if there appear to be import surges. This option is strongly opposed by U.S. industry, which would be unprotected, but has the virtue of taking no immediate action that might be vulnerable in international dispute settlement.

3. Seek to preserve the status quo. Under this option, we would impose no duty now, but would put importers on notice that they could be liable after October 4 for any subsidy

amount that Commerce's investigation reveals (up to the equivalent of measures removed by Canada -- as much as 15 percent in some cases, far less in most). We can anticipate strong negative reaction by Canada to this option.

No interagency consensus exists on these options. However, I believe that Option 3 represents the minimum action acceptable politically. Failure at least to preserve the status quo would likely be viewed on the Hill as inconsistent with this and the previous Administration's commitment to take swift and forceful action in the event of a breach or termination of the MOU. Moreover, given the poor condition of the U.S. industry, we can expect some mills will close in the next few months, which will be blamed on the Administration's failure to take prompt action.

Most importantly, we believe that Option 3 has the virtue of fairness. If Canadian imports are found ultimately not to be subsidized, no interim duties will be collected. On the other hand, if Canadian imports are found to be subsidized, there is no good reason why our industry should be left vulnerable to unfair competition during the investigatory period merely because Canada wants out now from the agreement it sought and entered into five years ago.

AGREE WITH INTERIM MEASURE: ____________
(OPTION 3)

DISAGREE: ____________

Classified by: Gary R. Edson
Declassify on: OADR

~~CONFIDENTIAL~~

THE UNITED STATES TRADE REPRESENTATIVE
Executive Office of the President
Washington, D.C. 20506

SEP 27 1991

MEMORANDUM FOR THE PRESIDENT

DECLASSIFIED
PER NSC WAIVER, ISOO 2021-02
By SS NARA, Date 12/1/22

From: Carla A. Hills CAH

Subject: Canadian Lumber

On September 4, Canada terminated our 1986 Memorandum of Understanding (MOU) on lumber trade. The following lays out a suggested course of action.

Circumstances

In 1986, a U.S. countervailing duty (CVD) investigation preliminarily found Canadian lumber imports to be unfairly subsidized by 15 percent. Before the case proceeded to a final determination (which could have resulted in the imposition of countervailing duties of 15 percent or more on lumber imports from Canada), the U.S. and Canada entered into the MOU. In exchange for the termination of the CVD case, Canada agreed to impose a 15 percent export tax at the federal level, or some equivalent "replacement measure" at the provincial level, on its exports of lumber to the United States.

The MOU provides that either side may terminate on 30 days' notice. Thus, on October 4, 1991 the Canadian government will cease collecting the export tax and provinces that have imposed "replacement measures" will be free to lift them.

U.S. industry and Congressional reaction to the termination is extremely negative. The industry, which is in poor financial shape, believes that without the MOU in place they will be defenseless against unfair competition from Canada. Moreover, the 1986 MOU was crucial to obtaining industry support for the U.S.-Canada Free Trade Agreement (FTA). Failure to respond immediately to the Canadian termination jeopardizes industry and Congressional support for the NAFTA. I have been contacted personally by many Members, and you have recently received a letter signed by 68 Senators (led by Senators Packwood and Baucus) urging a strong and immediate response.

Course of Action

Industry and Canada each have preferred courses of action which we find unpalatable. We have reached interagency consensus on a middle course of action, described in Option C below.

~~CONFIDENTIAL~~

A. Industry's Preferred Response

U.S. industry believes we should immediately impose a 15 percent duty on Canadian lumber imports under Section 301, arguing that such action is their only defense against allegedly subsidized imports. They also argue that the previous Administration committed to imposing such a duty. However, this approach would be inconsistent with our obligations under the FTA and the GATT, and would evoke an extremely harsh reaction from Canada (probably including retaliation). Moreover, it is debatable whether the prior Administration committed to imposing an immediate duty if the MOU were terminated, although both it and we have formally committed to strong and swift action.

B. Canadian Preferred Course of Action

The Canadians believe that the only legitimate response is for the U.S. to pursue a new formal CVD investigation. However, this option is strongly opposed by U.S. industry:

- They justifiably fear that the ITC will find that they have not been injured (a precondition for a successful CVD action) because the MOU has suppressed injury since 1986; and

- In the event that injury (and subsidy) is found, Canada would appeal the CVD ruling to binding arbitration before a binational panel under the FTA. This is objectionable to U.S. industry because (1) it fears Canada would prevail before a binational panel, and (2) it believes, not unreasonably, that lumber was meant to be excluded from the FTA and governed exclusively by the MOU.

C. Recommended Course: "Mock" CVD

Because of the major defects of both the industry and Canadian preferred options, we have formulated a middle course, which all interested agencies support:

- The ITC would determine whether, in the absence of the MOU, the industry will be injured by Canadian lumber exports.

- At the same time, Commerce would determine whether the Canadians have eliminated their subsidies, as they claim.

- If we find both injury <u>and</u> subsidies, then we would impose an offsetting duty using our Section 301 authority.

We believe that this would be a satisfactory response for U.S. industry. However, because the procedure would be unique (not the standard CVD), Canada would likely challenge us under the GATT and/or the FTA -- although they would not have recourse, in this instance, to <u>binding</u> FTA arbitration. If Canada were to prevail in either forum, which is not unlikely, then we would be under international pressure at that stage (possibly eight to nine months from now) to force industry to pursue a normal CVD.

This "mock" CVD option is unattractive, but we believe it is far superior to the alternatives. It minimizes the risk of a major domestic political problem, while, in our judgment, providing a fair opportunity to Canada to prove its case that its exports are no longer unfairly subsidized.

AGREE WITH "MOCK" CVD APPROACH: ____________

DISAGREE: ____________

Whether to Impose Interim Measures

Even if we pursue a "mock" CVD approach or a regular CVD, the U.S. industry would be left unprotected from subsidized Canadian competition during the 2-3 month period of initial investigation. The options for handling this interim period are:

1. <u>Impose immediately a 15 percent interim duty on Canadian imports</u>. The industry argues this is the only action that would put them back in as good a position as they were in five years ago when they agreed to drop their CVD case in exchange for the MOU.

2. <u>Monitor Canadian imports and be prepared to impose an interim duty if there appear to be import surges</u>. This option is strongly opposed by U.S. industry, which would be unprotected, but has the virtue of taking no immediate action that might be vulnerable in international dispute settlement.

3. <u>Seek to preserve the status quo</u>. Under this option, we would impose no duty now, but would put importers on notice that they could be liable after October 4 for any subsidy

amount that Commerce's investigation reveals (up to the equivalent of measures removed by Canada -- as much as 15 percent in some cases, far less in most). We can anticipate strong negative reaction by Canada to this option.

No interagency consensus exists on these options. However, I believe that Option 3 represents the minimum action acceptable politically. Failure at least to preserve the status quo would likely be viewed on the Hill as inconsistent with this and the previous Administration's commitment to take swift and forceful action in the event of a breach or termination of the MOU. Moreover, given the poor condition of the U.S. industry, we can expect some mills will close in the next few months, which will be blamed on the Administration's failure to take prompt action.

Most importantly, we believe that Option 3 has the virtue of fairness. If Canadian imports are found ultimately not to be subsidized, no interim duties will be collected. On the other hand, if Canadian imports are found to be subsidized, there is no good reason why our industry should be left vulnerable to unfair competition during the investigatory period merely because Canada wants out now from the agreement it sought and entered into five years ago.

AGREE WITH INTERIM MEASURE: ____________
(OPTION 3)

DISAGREE: ____________

Classified by: Gary R. Edson
Declassify on: OADR