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DEPARTMENT OF COMMERCE

INTERNATIONAL TRADE ADMINISTRATION

[C-122-858]

Certain Softwood Lumber Products from Canada: Amended Final Affirmative Countervailing Duty Determination and Countervailing Duty Order

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

SUMMARY: Based on affirmative final determinations by the Department of Commerce (Commerce) and the International Trade Commission (ITC), Commerce is issuing a countervailing duty order on Certain Softwood Lumber Products (Softwood Lumber) from Canada. Also, Commerce is amending its final countervailing duty determination with respect to Softwood Lumber from Canada, to correct ministerial errors.

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

FOR FURTHER INFORMATION CONTACT: Nicholas Czajkowski and Kristen Johnson, AD/CVD Operations, Offices I and III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: 202-482-1395 and (202) 482-4793, respectively.

SUPPLEMENTARY INFORMATION:

Background

In accordance with sections 705(a), 705(d), and 777(i)(1) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.210(c), on November 8, 2017, Commerce published an affirmative final determination in the countervailing duty investigation of Softwood Lumber

from Canada.<sup>1</sup> Interested parties submitted timely filed allegations that Commerce made certain ministerial errors in the final determination of Softwood Lumber from Canada. Section 705(e) of the Act and 19 CFR 351.224(f) defines ministerial errors as errors in addition, subtraction, or other arithmetic function, clerical errors resulting from inaccurate copying, duplication, or the like, and any other type of unintentional error which the administering authority considers ministerial. We reviewed the allegations and determined that we made certain ministerial errors. See “Amendment to the Final Determination” section below for further discussion.

On December 26, 2017, the ITC notified Commerce of its final determination pursuant to section 705(b)(1)(A)(i) and section 705(d) of the Act, that an industry in the United States is materially injured by reason of subsidized imports of Softwood Lumber from Canada.<sup>2</sup>

#### Scope of the Order

The products covered by this order is Softwood Lumber from Canada. For a complete description of the scope of this order, see Appendix I.

#### Amendment to the Final Determination

On November 9, 2017, West Fraser Mills Ltd. and its cross-owned affiliates (collectively, West Fraser) submitted a timely, properly filed allegation that Commerce made certain ministerial errors in the *Final Determination*.<sup>3</sup> On November 13, 2017, Resolute FP Canada Inc. and Resolute FP US Inc. (collectively, Resolute) and Conseil de l’Industrie Forestiere du Quebec (CIFQ) submitted a timely, properly filed allegation that Commerce made certain ministerial errors in the *Final Determination*.<sup>4</sup> On November 17, 2017, the petitioner<sup>5</sup> submitted rebuttal

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<sup>1</sup> See *Certain Softwood Lumber Products From Canada: Final Affirmative Countervailing Duty Determination, and Final Negative Determination of Critical Circumstances*, 82 FR 51814 (November 8, 2017) (*Final Determination*).

<sup>2</sup> See Letter from ITC concerning Softwood Lumber from Canada USITC Investigation Nos. 701-TA-566 and 731-TA-1342, USITC Publication 4749 (December 2017) (ITC Letter).

<sup>3</sup> See Letter from West Fraser “Softwood Lumber from Canada: Request for Correction of Ministerial Error in the Investigation Final Determination Calculations,” November 9, 2017 (West Fraser Ministerial Error Allegation).

<sup>4</sup> See Letter from Resolute and CIFQ “Softwood Lumber from Canada: Comments Regarding Ministerial

comments to the Resolute and CIFQ allegation.

Commerce reviewed the record and, on December 4, 2017, agreed that the error referenced in West Fraser's allegation constitutes a ministerial error within the meaning of 705(e) of the Act and 19 CFR 351.224(f).<sup>6</sup> Commerce found that it erroneously calculated West Fraser's benefit under the Alberta Tax-Exempt Fuel Program for Marked Fuel, and this error was contrary to our methodological intention.<sup>7</sup> Pursuant to 19 CFR 351.224(e), Commerce is amending the *Final Determination* to reflect the correction of the ministerial error described above. However, Commerce did not find a ministerial error with regard to the Resolute and CIFQ allegation,<sup>8</sup> and thus Commerce is not amending the *Final Determination* with regard to that allegation. Based on our correction of the ministerial error in West Fraser's calculation, the subsidy rate for West Fraser decreased from 18.19 percent *ad valorem* to 17.99 percent *ad valorem*.<sup>9</sup> Because the "all-others" rate is based, in part, on West Fraser's *ad valorem* subsidy rate, the correction noted above also decreases the "all-others" rate determined in the *Final Determination* to 14.19 percent *ad valorem*.<sup>10</sup> All other countervailing duty rates remain unchanged from the *Final Determination*.

### Countervailing Duty Order

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Error," November 13, 2017 (Resolute Ministerial Error Allegation).

<sup>5</sup> The petitioner is an ad hoc association whose members are: U.S. Lumber Coalition, Inc.; Collum's Lumber Products, L.L.C.; Hankins, Inc.; Potlatch Corporation; Rex Lumber Company; Seneca Sawmill Company; Sierra Pacific Industries; Stimson Lumber Company; Swanson Group; Weyerhaeuser Company; Carpenters Industrial Council; Giustina Land and Timber Company; Sullivan Forestry Consultants, Inc.

<sup>6</sup> See Memorandum "Ministerial Error Allegations Concerning Final Affirmative Countervailing Duty Determination, and Final Negative Determination of Critical Circumstances," December 4, 2017.

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

In accordance with sections 705(b)(1)(A)(i) and 705(d) of the Act, the ITC notified Commerce of its final determinations that an industry in the United States is materially injured by reason of subsidized imports of Softwood Lumber from Canada.<sup>11</sup> Therefore, in accordance with section 705(c)(2) of the Act, we are issuing this countervailing duty order. Because the ITC determined that imports of Softwood Lumber from Canada are materially injuring a U.S. industry, unliquidated entries of such merchandise from Canada, entered or withdrawn from warehouse for consumption, are subject to the assessment of countervailing duties.

As a result of the ITC's final determination, in accordance with section 706(a) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to assess, upon further instruction by Commerce, countervailing duties equal to the net countervailable subsidy rates, for all relevant entries of Softwood Lumber from Canada. Countervailing duties will be assessed on unliquidated entries of Softwood Lumber from Canada entered, or withdrawn from warehouse, for consumption on or after April 28, 2017, the date of publication of the *Preliminary Determination*,<sup>12</sup> but will not include entries occurring after the expiration of the provisional measures period and before publication of the ITC's final injury determination as further described below.

#### Amended Cash Deposits and Suspension of Liquidation

In accordance with section 706 of the Act, Commerce will instruct CBP to reinstitute suspension of liquidation on all relevant entries of Softwood Lumber from Canada. These instructions suspending liquidation will remain in effect until further notice. Commerce will also

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<sup>11</sup> See ITC Letter.

<sup>12</sup> See *Certain Softwood Lumber Products From Canada: Preliminary Affirmative Countervailing Duty Determination, and Alignment of Final Determination With Final Antidumping Duty Determination*, 82 FR 19657 (April 28, 2017) (*Preliminary Determination*).

instruct CBP to require cash deposits equal to the amounts as indicated below. Accordingly, effective on the date of publication of the ITC’s final affirmative injury determination, CBP will require, at the same time as importers would normally deposit estimated duties on this subject merchandise, a cash deposit equal to the subsidy rates listed below.<sup>13</sup> The all-others rate applies

<b>Company</b>	<b>Subsidy Rate</b>
Canfor Corporation and its cross-owned affiliates <sup>14</sup>	13.24 percent
J.D. Irving Limited and its cross-owned affiliates <sup>15</sup>	3.34 percent
Resolute FP Canada Inc. and its cross-owned affiliates <sup>16</sup>	14.70 percent
Tolko Marketing and Sales Ltd. and its cross-owned affiliates <sup>17</sup>	14.85 percent
West Fraser Mills Ltd. and its cross-owned affiliates <sup>18</sup>	17.99 percent
All-Others	14.19 percent

to all producers or exporters not specifically listed, as appropriate.

### Provisional Measures

Section 703(d) of the Act states that the suspension of liquidation pursuant to an affirmative preliminary countervailing duty determination may not remain in effect for more than four months. In the underlying investigation, Commerce published the *Preliminary*

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<sup>13</sup> See section 706(a)(3) of the Act.

<sup>14</sup> Commerce has found the following companies to be cross-owned with Canfor Corporation: Canadian Forest Products, Ltd., and Canfor Wood Products Marketing, Ltd.

<sup>15</sup> Commerce has found the following companies to be cross-owned with JDIL: Miramichi Timber Holdings Limited, The New Brunswick Railway Company, Rothesay Paper Holdings Ltd., St. George Pulp & Paper Limited, and Irving Paper Limited.

<sup>16</sup> Commerce has found the following companies to be cross-owned with Resolute: Resolute Growth Canada Inc., Resolute Sales Inc., Abitibi-Bowater Canada Inc., Bowater Canadian Ltd., Resolute Forest Products Inc., Produits Forestiers Maurice S.E.C., and 9192-8515 Quebec Inc.

<sup>17</sup> Commerce has found the following companies to be cross-owned with Tolko: Tolko Industries Ltd., and Meadow Lake OSB Limited Partnership.

<sup>18</sup> Commerce has found the following companies to be cross-owned with West Fraser: West Fraser Timber Co. Ltd., West Fraser Alberta Holdings, Ltd., Blue Ridge Lumber Inc., Manning Forest Products, Ltd., Sunpine Inc., and Sundre Forest Products Inc.

*Determination* on April 28, 2017. Therefore, the four-month period beginning on the date of the publication of the *Preliminary Determination* ended on August 26, 2017. Furthermore, section 707(b) of the Act states that definitive duties are to begin on the date of publication of the ITC's final injury determination. Therefore, in accordance with section 703(d) of the Act and our practice, we instructed CBP to terminate the suspension of liquidation and to liquidate, without regard to duties, unliquidated entries of Softwood Lumber from Canada made on or after August 26, 2017. Suspension of liquidation will resume on the date of publication of the ITC's final determination in the *Federal Register*.

#### Notification to Interested Parties

This notice constitutes the countervailing duty order with respect to Softwood Lumber from Canada, pursuant to section 706(a) of the Act. Interested parties may find an updated list of CVD orders currently in effect at <http://enforcement.trade.gov/stats/iastats1.html>.

This order is issued and published in accordance with section 706(a) of the Act and 19 CFR 351.211(b).

Dated: December 28, 2017.  
P. Lee Smith,  
Deputy Assistant Secretary for  
Policy and Negotiations.

## **Appendix I**

### **Scope of the Order**

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

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

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

adaptation as a particular product. The following products are illustrative of the type of merchandise that is considered “finished,” for the purpose of this scope: I-joists; assembled pallets; cutting boards; assembled picture frames; garage doors.

The following items are excluded from the scope of this order:

- Softwood lumber products certified by the Atlantic Lumber Board as being first produced in the Provinces of Newfoundland and Labrador, Nova Scotia, or Prince Edward Island from logs harvested in Newfoundland and Labrador, Nova Scotia, or Prince Edward Island.
- U.S.-origin lumber shipped to Canada for processing and imported into the United States if the processing occurring in Canada is limited to one or more of the following: (1) Kiln drying; (2) planing to create smooth-to-size board; or (3) sanding.
- Box-spring frame kits if they contain the following wooden pieces—two side rails, two end (or top) rails and varying numbers of slats. The side rails and the end rails must be radius-cut at both ends. The kits must be individually packaged and must contain the exact number of wooden components needed to make a particular box-spring frame, with no further processing required. None of the components exceeds 1” in actual thickness or 83” in length.
- Radius-cut box-spring-frame components, not exceeding 1” in actual thickness or 83” in length, ready for assembly without further processing. The radius cuts must be present on both ends of the boards and must be substantially cut so as to completely round one corner.

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

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

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

4415.20.40.00; 4415.20.80.00; 4418.99.90.05; 4418.99.90.20; 4418.99.90.40;  
4418.99.90.95; 4421.99.70.40; and 4421.99.97.80.

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

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