

in effect. Provincial governments publicly stated their intentions to retain these measures for the foreseeable future.

LUMBER III (1991-92)

In October 1991, the United States took two extraordinary actions. First, the DOC self-initiated a countervailing duty case on Canadian softwood lumber products. By self-initiating the investigation, the DOC did not require a petition from the allegedly affected U.S. industry, as it had in all previous countervailing duty cases.

Second, the United States Trade Representative (USTR), invoking the retaliatory authority of Section 301 of the Trade Act of 1974, ordered that softwood lumber products imported from Canada after October 4, 1991, be subject to a customs bonding requirement imposed at rates reflecting those of the Canadian export charge prior to termination of the MOU. These actions were taken outside of the countervailing duty law, and were not based on any rights under the MOU; the Government of Canada challenged their legality in a proceeding brought under the GATT Subsidies Code.

In its notice of self-initiation, the DOC rejected the use of "cost to government" calculations, the methodology used in 1986, alleging instead subsidies based on comparisons of selected stumpage fees for timber in Canada and the United States.

In December 1991, the DOC expanded its countervailing duty investigation to include Canadian export restrictions on logs.

Under U.S. trade remedy law, four decisions must be taken by two separate government agencies before a final countervailing duty can be imposed: a preliminary determination of injury (i.e. that subsidized imports have caused material injury to the U.S. industry) by the United States International Trade Commission (ITC); a preliminary determination of subsidy by the DOC; a final determination of subsidy by the DOC; and a final determination of injury by the ITC.

The Section 301 interim bonding requirement was ended on March 12, 1992, when the United States made a preliminary determination of subsidy in the CVD investigation. On July 13, 1992, the United States completed its investigation and imposed a countervailing duty of 6.51 per cent on imports of softwood lumber from Canada. The Government of Canada, the provinces and the Canadian industry requested review of the duty action by a binational panel under Chapter 19 of the Canada-U.S. Free Trade Agreement (FTA).

THE CANADIAN LUMBER INDUSTRY

The forest industry is one of Canada's most important industries. It employed almost 311 000 people in 1993, and contributed \$18.7 billion to Canada's gross domestic product in 1992. As an earner of export