

NOTE

The Embassy of Canada presents its compliments to the Department of State and has the honour to refer to the current countervailing duty investigation of certain softwood lumber products imported from Canada.

As the Department of State will be aware, the Canadian authorities have already expressed the view that such an investigation is neither necessary nor justifiable. The major contention of the petitioner is that the resource pricing policies of certain Canadian provinces constitute a subsidy warranting the application of countervailing duties. The Canadian authorities believe strongly that resource pricing, particularly when, as in the case of Canadian stumpage, costs to the owner over the years are more than covered, cannot be considered as a subsidy under Article VI of the General Agreement on Tariffs and Trade. A countervailing duty investigation accordingly constitutes an abuse of the remedy provided for under that Article. This view has been brought to the attention of the Contracting Parties and dispute settlement proceedings have been commenced. In the circumstances, it is the contention of the Canadian authorities that neither the current nor the previous investigation should have been initiated.

Since a new petition has in fact been accepted, however, it would seem useful to recall the outcome of the earlier case, the criteria used by the Department of Commerce in making its determination, and their relevance to the current situation, particularly as regards stumpage. It will be recalled that, following a long and exhaustive examination of similar charges in 1982, Commerce determined that the main government program at issue, that of provincial stumpage, did not in fact confer a subsidy on Canadian lumber producers. This was based on a number of independent considerations. The first and most important of these was that it was not targeted to a specific enterprise or industry, within the meaning of Section 771 (5)(B) of the Tariff Act of 1930, but was generally available to all those who could make use of it.

This continues to be the case. Canadian governments in no way limit the availability of Crown-owned timber, either by industry, nationality of user, previous use of cutting rights or any other means. Any limitations would result not from government action but from the inherent nature of the resource and the current state of technology. The uses of Canadian timber are in fact many and diverse. A range of industries and thousands of independent companies are involved, including producers of pulp and paper products, newsprint, dimension lumber, wood chips, veneer, shakes and shingles, fencing, railway ties, waterboard, particleboard, linerboard, furniture components, posts and poles, fuel, charcoal and a host of other products.