DEPARTMENT OF EXTERNAL AFFAIRS
MINISTÈRE DES AFFAIRES EXTÉRIEURES

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TEXT OF THE CANADIAN GOVERNMENT AIDE-MEMOIRE ON SOFTWOOD LUMBER DELIVERED BY AMBASSADOR GOTLIEB TO U.S. SECRETARY OF COMMERCE BALDRIGE IN WASHINGTON, D.C., WEDNESDAY, JUNE 4, 1986

This refers to the petition filed by the U.S. lumber coalition that calls for a countervailing duty investigation on softwood lumber imports from Canada.

Softwood lumber is one of the most important single items of trade between Canada and the USA. For over half a century Canada has been an important and dependable supplier of the U.S.'s needs for softwood lumber. In 1985 Canadian lumber exports to the U.S. were in excess of Canadian $3.5 billion. Over 60,000 Canadian jobs are directly dependent on those exports.

Canadian authorities request that careful consideration be given to the following points in the determination of whether to initiate the petition:

1. It will be recalled that, with the exception of minor new industry assistance programmes, the same basic issues were addressed in an exhaustive fashion by the Department of Commerce in the 1982-83 countervailing duty action against imports of softwood lumber from Canada. With respect to the primary issue at stake, namely provincial stumpage, the International Trade Administration rejected the allegation that it conferred either an export or a domestic subsidy to Canadian lumber producers. All countervailable Canadian programmes were found to be de minimis. The USA lumber industry did not exercise its rights to appeal the Department of Commerce's decision to the Courts.

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2. Since the petition provides no evidence of material changes in Canadian practices after the 1983 decision, or substantiation of economically significant new programmes, and no basis to argue a change in U.S countervail law, the Department of Commerce is in effect being asked to act as its own Court of Appeal.

3. Acceptance of the petition as filed would be a denial of established legal principles that preclude reassertion of claims already decided and of the Commerce Department's own guidelines. Commerce has never accepted a second petition on the same product where it has previously come to a final negative determination of subsidy. Therefore for Commerce to accept the petition would be an arbitrary decision that would set a troublesome policy precedent.

4. The Secretary of Commerce has the authority to dismiss a petition in whole or in part. Therefore, if it accepts the petition at all, the Commerce Department should limit its investigation to new programmes and those programmes previously found to be countervailable. To do otherwise would be to subject Canadian governments and industry to unwarranted costs and harrassment.

5. The Canadian authorities would find it particularly objectionable if the new countervailing duty investigation was to examine Canadian stumpage systems. It is the Canadian position that the GATT Contracting Parties never intended Article VI to be used to address perceived problems of natural resource pricing. Therefore, stumpage should not be addressed in the context of countervailing duty law. In fact, the Administration has argued on a number of occasions that the expansion of U.S. countervailing duty law to include natural resource pricing programmes would be inconsistent with U.S. obligations under the GATT. Also, the U.S. itself has agreed as recently as at the January 1986 Quadrilateral Meeting of Trade Ministers in San Diego that the matter of natural resource pricing per se should not be dealt with as a subsidy issue.

In light of the above considerations, Canadian authorities strongly urge that the petition be rejected.

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