



Minister for  
International Trade

Ministre du  
Commerce extérieur

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# STATEMENT DISCOURS

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86/80

Statement on Behalf of the  
Government of Canada,  
December 30, 1986, by  
The Honourable Gerald Merrithew,  
Minister of State (Forestry and  
Mines) and the Honourable Robert de  
Cotret, President of the Treasury  
Board

OTTAWA

December 31, 1986

**Canada**

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We are here tonight to report a successful end for Canada to a long-standing trade dispute which has disrupted our vital softwood lumber industry. That success is in the form of an agreement which saw the U.S. lumber coalition accept the Canadian conditions for settlement. The discussions were long and difficult. Tonight, at our insistence, the American industry withdrew its demands for what was clearly an attempt to impose a U.S. veto on how our provinces administer their resource policy.

This clearly has been a successful outcome for the initiative set in motion by the Prime Minister and nine Premiers at the First Ministers' Conference in Vancouver last November.

The key objectives set out at Vancouver have all been met.

First, we have settled the dispute in a way which recognizes the sovereign rights of Canadian provinces to manage their resources. Second, we have kept increased lumber revenues in Canada. Third, we have avoided precedents that would damage Canada's trade interests.

Even in the face of American threats to break off negotiations, the Prime Minister's direction to our negotiators was explicit. There would be absolutely no negotiation on any direct or indirect intrusion into our sovereign right to manage our resources as we felt appropriate.

Canadians should realize that these were high-stakes negotiations. Had we failed to reach an agreement, an ensuing U.S. countervailing duty would have resulted in a significant loss of money from Canadian interests to the U.S. Treasury.

As a result of this agreement, the U.S. lumber coalition is withdrawing the petition that led to the preliminary countervail decision. As a consequence, the Government of Canada is announcing today that it will introduce legislation upon the return of Parliament on January 19, 1987, to impose and collect in Canada a 15% export charge on Canadian softwood lumber being exported to the United States on or after January 8, 1987.

The agreement essentially maintains exemptions from the export charge for some Canadian companies operating in British Columbia, Quebec, Ontario and New Brunswick. In addition, the export charge will not apply to the value added in the remanufacturing process. This will be a significant advantage for companies engaged in further processing of lumber into products such as wall panelling and furniture components.

We are communicating the agreement to the Provinces and the lumber industry. There is a strong consensus with the Provinces to meet at an early date to develop replacement measures to offset the export charges.

The federal government embarked on this latest round of talks with the support of nine provinces. The successful approach to the long-standing problem was suggested in discussions between International Trade Minister Pat Carney, and Malcolm Baldrige, the U.S. Secretary of Commerce.

Withdrawal of the U.S. industry's petition and the consequent termination of the countervail process maintains Canada's control over its resources.

We also want to add that under the agreement, the U.S. government will refund bonds and deposits made by Canadian exporters pursuant to the preliminary countervail decision.

This process has been long and difficult. The government of Canada objected to the initiation of the countervail investigation in June, both directly with Secretary Baldrige and in the GATT Council. The Canadian lumber industry should not have been subjected to a second countervail duty case in three years.

We worked closely with the provinces, industry and labour in developing a strategy to fight the case and a detailed response refuting the allegations was submitted by Canada.

In September, the provinces, industry and labour, urged us to explore with the U.S. whether the issue could be resolved in advance of a preliminary determination. We made a good faith proposal aimed at an out-of-court settlement. It was rejected.

Following the preliminary determination in October, we stated our view that the preliminary determination was flawed in law, inconsistent with established U.S. practice and, in some important respects, based on erroneous assumptions.

The Minister for International Trade went to Washington November 6, together with provincial forestry Ministers from the provinces named in the U.S. petition and took our arguments directly to Secretary Baldrige. Following that meeting, Secretary Baldrige was provided with additional arguments substantiating our position that the preliminary determination was wrong. These arguments were repeatedly reinforced by federal Cabinet Ministers with their U.S. counterparts.

We explored all avenues consistent with international trade rules to achieve a satisfactory resolution of this rancorous dispute which threatened the economic security of those Canadians who depend on our forests for their livelihood. We spared no effort in seeking to maintain the best possible access to vital U.S. markets for Canada's softwood lumber exports.

Today, our efforts have finally paid off. This agreement removes many of the offensive elements that Canadians would have faced had this issue proceeded to an adverse final determination and imposition of a countervail duty.

The proposal that led to this outcome was made without prejudice to our position that stumpage programs and practices are not countervailable subsidies. We continue to maintain that position. However, it was the responsibility of the Minister for International Trade to explore all possible avenues to resolve this matter.

The decision to enter discussions was made against the possibility that even tougher measures would have emerged from the U.S. Congress even in the far from certain event of Canada winning the countervail case. The position of nine provinces and of this government was that we had to seek a way to protect both Canada's sovereignty and the jobs of our lumber workers and to keep the increased revenues in Canada.

The softwood lumber issue illustrates some of the trade problems that Canada and the U.S. face, but it also demonstrates why it is essential that our two sovereign governments come up with new rules to settle such disagreements. A trade agreement can provide us both with better methods of dealing with problems when they do arise.

We would be pleased to take your questions.

THE UNITED STATES TRADE REPRESENTATIVE

WASHINGTON

20506

December 30, 1986

The United States Trade Representative presents its compliments to the Embassy of Canada and has the honor to acknowledge the receipt of your Government's Note of today's date, enclosing the Memorandum of Understanding attached thereto concerning trade in certain softwood lumber products, which reads as follows:

The Embassy of Canada presents its compliments to the United States Trade Representative and has the honor to refer to the recent discussions held between representatives of the Government of Canada and the Government of the United States of America concerning trade in certain softwood lumber products, and to confirm on behalf of the Government of Canada, that it will implement the measures incumbent upon the Government of Canada pursuant to the Memorandum of Understanding attached hereto.

The Canadian Embassy further has the honor to request that the United States Trade Representative confirm on behalf of the Government of the United States of America that it will implement the measures incumbent upon the Government of the United States of America pursuant to the Memorandum of Understanding and that the Understanding will enter into force on the date of the reply of the United States Trade Representative.

The Canadian Embassy avails itself of this opportunity to renew to the United States Trade Representative the assurance of its highest consideration.

The United States Trade Representative further has the honor to confirm on behalf of the Government of the United States of America that it will implement the measures incumbent upon the Government of the United States of America pursuant to the Understanding and that the Understanding will enter into force on the date of this reply.

The United States Trade Representative further has the honor to inform the Government of Canada that the Understanding is a trade agreement for purposes of United States law.

The United States Trade Representative avails itself of this opportunity to renew to the Embassy of Canada the assurance of its highest consideration.

*Bruce Smart*

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Bruce Smart  
Under Secretary for International Trade  
U. S. Department of Commerce

*Alan Woods*

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Alan Woods  
Acting United States Trade Representative

MEMORANDUM OF UNDERSTANDING

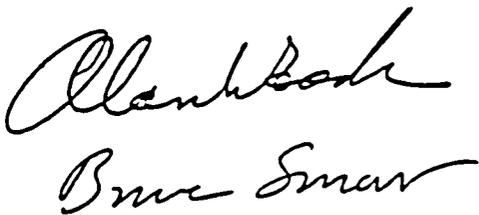
1. The Governments of Canada and the United States of America enter into this Understanding to resolve differences with respect to the conditions affecting trade in softwood lumber products.

2. DEFINITIONS

For purposes of this Understanding, the following definitions apply:

a. CERTAIN SOFTWOOD LUMBER PRODUCTS - means those products identified in Appendix A, except as modified by agreement between the Government of Canada and the Government of the United States of America. The Tariff Schedules of the United States Annotated (TSUSA) number as it stands at the time of the entry into force of the Understanding controls the definition of each covered product.

b. UNITED STATES OF AMERICA - means the customs territory of the United States of America and foreign trade zones located in the territory of the United States of America.

  
Bruce Smart

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3. GENERAL PROVISIONS

- a. Both Governments agree that the terms of this Understanding will be implemented when the countervailing duty petition on certain softwood lumber products from Canada is withdrawn and the notice of termination of the investigation is signed.
- b. This Understanding is without prejudice to the position of either Government as to whether the stumpage programs and practices of Canadian governments constitute subsidies under United States law or any international agreement.
- c. The Government of the United States of America will release bonds and refund deposits made pursuant to the preliminary affirmative countervailing duty determination on certain softwood lumber products from Canada.
- d. The Government of the United States of America will state in the notice of termination that the preliminary affirmative countervailing duty determination on certain softwood lumber products from Canada is henceforth without legal force and effect.

## EXPORT CHARGE

- a. The Government of Canada will collect an export charge on exports of certain softwood lumber products made on or after January 8, 1987, directly or indirectly from Canada to the United States of America. Exports to countries other than the United States of America which are in transit to the United States of America will be treated as exports to the United States of America. Exports from Canada which are in transit to the United States of America on a through bill of lading dated on or before December 30, 1986 will not be subject to an export charge.
  
- b. Unless the export charge is modified under the provisions of paragraph 5, the charge will be equal to 15 percent ad valorem of the f.o.b. final mill price of the exported product. The export charge however will not be imposed on the value added in manufacturing some softwood lumber products. The Government of Canada will collect an export charge on those products listed in Appendix B and such other further manufactured products as may subsequently be agreed to by the two Governments. The export charge for these products will be 15 percent of the certified value of the softwood

lumber inputs used in their manufacture. For purposes of determining the value of such inputs for non-arm's length transactions the appropriate value will be established by utilizing the values of either identical, or if that value cannot be determined, similar products which have been sold on an arm's length basis.

- c. For the purpose of collecting the export charge, all exporters will be required to obtain a license from the Department of National Revenue. Export charges will be collected no later than the last day of the first month following that in which the products were exported. Certain softwood lumber products which include products listed in Appendix B will be placed on the Canadian Export Control List to facilitate enforcement. Export of these products will be permitted under a General Export Permit which will require that all shipments be made in compliance with the provisions of the Softwood Lumber Products Export Charge Act and its accompanying Regulations. An "Export Notice" will be required for each shipment and will identify inter alia the exporter's license number, the General Export Permit number, the product exported, and the quantity and the sales price of the product exported. If the charge is to be paid on some value other than the sales price of the product exported, the export notice also will

identify to the extent known by the exporter, the product on which the charge is to be levied, its unit price, and the value on which the charge is to be based. A copy of this Notice must be presented to Canada Customs at the time of export, with two additional copies available to U.S. Customs.

- d. The companies listed in Appendix C are exempt from payment of the export charge in respect of their own production of certain softwood lumber products if the Government of Canada certifies every six months to the Government of the United States of America that they are harvesting no timber from Crown lands in Alberta, British Columbia, Ontario, or Quebec.
- e. The Government of Canada will take all reasonable steps to prevent circumvention or avoidance of the payment of the export charge determined in accordance with this Understanding.

## 5. REPLACEMENT MEASURES

- a. The Government of Canada may reduce or eliminate the export charge on the basis of increased stumpage or other charges by provinces on softwood lumber production.

- b. Any such modifications in the export charge will be made by the Government of Canada. Calculation of the value of any replacement measures in relation to the export charge will be subject to further consultations and agreement between the two Governments.
  
- c. The Government of Canada and the Government of the United States of America agree that the fiscal year 1985/86 for each province will be the reference year for establishing the baselines from which increased provincial charges will be calculated.

6. ADDITIONAL UNDERTAKING

The Government of Canada will take no action, and will take all reasonable steps to ensure that no other governmental body in Canada takes any action, directly or indirectly, which has the effect of offsetting or reducing the export charge or replacement measures, except as provided in this Understanding.

7. EXCHANGE OF INFORMATION AND MONITORING

- a. The Government of Canada and the Government of the United States of America will exchange information

necessary for the implementation and monitoring of this Understanding. The Government of Canada will provide the Government of the United States of America with data concerning the level of Provincial and Federal softwood and total stumpage harvest, the total revenue collected from the sale of Provincial and Federal softwood and total timber, total export charge collected, total shipments of certain softwood lumber products to the United States of America, total lumber production by province and total softwood lumber production by province, for each fiscal year within three months of the close of the fiscal year or as soon thereafter as is practicable, having regard to the importance of these data for monitoring the Understanding.

- b. The Government of the United States of America may require presentation of two copies of the Export Notice as a condition of entry into the United States of America of certain softwood lumber products. It is not the intention of the two Governments that entry will be denied in the event of minor deficiencies in the Export Notice.
  
- c. Not later than sixty (60) days after the end of each quarter, the Government of Canada will provide the Government of the United States of America with a

report on a province-by-province basis containing, at a minimum, the following: the quantity of softwood lumber products exported, the value on which the tax was paid, and the total tax collected for the quarter. If a monthly statement is requested, it will be provided not later than sixty (60) days after the end of that month.

- d. If the Government of the United States of America presents the Government of Canada with information showing its concern with an identified problem of evasion or underpayment of the export charge or replacement measures, the Government of Canada will provide to the Government of the United States of America information relevant to such concerns. The Government of the United States of America will hold such information in the strictest confidence and will make it available only to those government employees directly involved in the review of the identified problem.

## 8. CONSULTATIONS

- a. The Government of Canada and the Government of the United States of America will consult semiannually and otherwise at the request of either Government regarding

any matter concerning this Understanding.

- b. Six months from the effective date of this Understanding, the two Governments will consult regarding the information exchanged under this Understanding.
- c. If exports from Canada to the United States of any of the products listed in Appendix D show a rapid and substantial increase, the two governments will consult to determine whether any remedial action is required.
- d. If exports from Canada to the United States of any of the products listed in Appendix A show a rapid and substantial decrease, the two governments will consult to determine whether any remedial action is required.

9. TERMINATION OF UNDERSTANDING

Either Government may terminate this Understanding at any time upon thirty (30) days written notice.

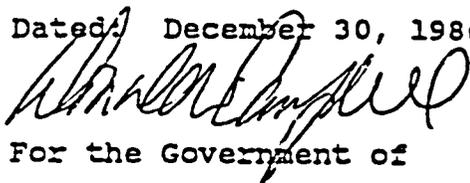
10. EFFECTIVE DATE

This Understanding is effective on the date of exchange of Notes confirming its acceptance by both Governments.

AGREED MINUTE

Promptly after implementation of this Understanding both Governments agree to notify the GATT Secretariat that a mutually satisfactory settlement has been reached in the dispute concerning the countervailing duty proceeding by the United States of America on certain softwood lumber products from Canada.

Dated: December 30, 1986



For the Government of

Canada:



For the Government of the

United States of America:

## APPENDIX A

Softwood lumber, rough, dressed, or worked (including softwood flooring classifiable as lumber, but not including siding and molding), as classified under items 202.03 through 202.30, inclusive of the Tariff Schedules of the United States (1986);

Softwood siding (weatherboards or clapboards), not drilled or treated, as classified under items 202.47 through 202.50, inclusive of the Tariff Schedules of the United States (1986);

Softwood lumber and softwood siding, drilled or treated; edge-glued or end-glued softwood not over 6 feet in length or over 15 inches in width, whether or not drilled or treated, as classified under items 202.52 and 202.54 of the Tariff Schedules of the United States (1986);

Softwood flooring, whether in strips, planks, blocks, assembled sections or units, or other forms, and whether or not drilled or treated (except softwood flooring classifiable as lumber), as classified under item 202.60 of the Tariff Schedules of the United States (1986).

## APPENDIX B

### Further Manufactured Products

<u>Number</u>	<u>Product</u>
101	Finish
102	Finish Paneling and Ceiling (Cedar)
103	Casing and Base
104	Flooring
105	Ceiling and Siding (Except Cedar)
106	Bevel Siding (Cedar)
107	Bevel Siding (Except Cedar)
109	V.G. Stepping, K.D.
110	Paneling (Except Cedar)
111	Paneling (Cedar)
112	Gutter
113	Battens, K.D.
116	Lath
156	Door Stock
157	Window Sash Cuttings, Door Cuttings
161	Moulding Stock
163	Ladder and Pole Stock
164	Ladder Rails
167	Tank Stock
178	Mast, Spar and Boat Lumber

Note: The number and product description refer to the Standard Grading Rules for West Coast Lumber.

APPENDIX C

List of Company Exclusions

1. J.D. Irving, Inc.
2. Primex Forest Products, Ltd.
3. Herb Shaw and Sons, Ltd.
4. Bois Daaguam, Inc./Daaguam Lumber, Ltd.
5. J.A. Fontaine et Fils, Inc.
6. Les Industries Grondin, Ltee.
7. Precibois, Inc.
8. Rene Bernard, Inc.
9. Conrad Poulin et Fils, Ltee.
10. Dead River, Ltd.
11. Fraser, Inc.
12. Francois Giguere, Inc.
13. Devon Lumber Co., Ltd.
14. Allwood Industries, Ltd.
15. Harold's Lumber Manufacturing, Ltd.
16. Delta Cedar Products, Ltd.
17. Fawcett Lumber Co.
18. Kaloka Forest Products
19. Namu Forest Products, Ltd.
20. Phoenix Millwork, Ltd.

APPENDIX D

115	Pickets
117	Fence Boards
162	Mouldings

Note: The numbers and product descriptions refer to the Standard Grading Rules for West Coast Lumber.

SIDE LETTER

FEDERAL STUMPAGE

The Government of Canada undertakes not to increase the harvest from federal Crown lands in a manner which would be inconsistent with the objectives of this Understanding.

## SIDE LETTER

### CIRCUMVENTION

The Government of the United States of America considers that the rebate, remission, deferral or non-collection of the export charge, except as provided for in the Understanding could have the effect of offsetting or reducing the export charge within the meaning of paragraph 6 of the Understanding. Further, the Government of the United States of America considers that other actions, including a reduction in the price of stumpage or other charges and the assumptions of obligations currently borne by producers or exporters of certain softwood lumber, could have the same effect and give rise to consultations regarding their effect.

## SIDE LETTER

The Government of Canada considers that the objective of the Understanding-- to resolve differences with respect to the conditions affecting trade in certain softwood lumber products-- involves not only settlement of the dispute over the countervailing duty investigation, but also avoiding the enactment of legislated restrictions or further investigations under U.S. trade law. In either eventuality, the Government of Canada may exercise its right to terminate the Understanding.