Minister for International Trade | Ministre du Commerce extérieur

COMMUNIQUÉ

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CANADIAN STATEMENT TO GATT COUNCIL CONCERNING U.S. COUNTERVAILING DUTY PETITION AGAINST CANADIAN SOFTWOOD LUMBER

Canada's Minister for International Trade, James Kelleher, released a copy of the statement made by the Canadian representative at the GATT council meeting held today in Geneva.

The statement highlighted the reasons why Canada considers that it would be inappropriate for a new countervailing duty action to be initiated, based as it would be on essentially the same facts and the same law as in 1983 when the Commerce Department ruled that Canadian stumpage systems did not constitute subsidies.

The statement makes clear that Canada views the refiling of a countervailing duty petition on the same issues as a calculated protectionist action by the U.S. lumber industry. Acceptance of the petition by the U.S. Department of Commerce would subject Canadian industry to unwarranted costs and harassment and offend against principles of natural justice.

The statement notes that in raising again the same fundamental issues, the U.S. industry is in effect requesting the Commerce Department to act as its own court of appeal.

The Minister stated that the federal government, in cooperation with Canadian industry and the provinces, will be taking further appropriate steps to protect Canadian lumber interests.

The full statement is attached.

Canada

Canadian Statement to GATT Council

Re. U.S. Lumber CVD

I wish to bring to the attention of the Contracting Parties a potential problem which could put at risk Canada's lumber products exports to the U.S.A. which last year were valued at about Canadian $3.5 billion, and which also has serious implications for the trade of other Contracting Parties.

On May 19 a group of U.S. lumber producers filed a countervailing duty petition alleging that four Canadian provinces set stumpage (the price for government owned standing timber) at preferential prices, which in their view confers a benefit on a particular industry and therefore constitutes a countervailing subsidy. The petition asserts that the duty required to offset this benefit is about 27% of the average price of imported Canadian lumber in 1985. The petition also alleges that certain Canadian federal and provincial industry assistance programs constitute countervailable subsidies.

This initiative is striking since these same issues were exhaustively examined in a countervailing duty action concluded in 1983. At that time the Commerce Department held that Canadian stumpage practices were neither export nor domestic subsidies; moreover, they were held not to constitute

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preferential pricing and that in any event any benefits were generally available to all industries capable of utilizing timber. The Commerce Department also determined that all industry assistance programs together conferred benefits of less than 0.5% and were therefore deemed to be de minimus. The petitioner did not appeal this final determination.

Since there has been no change in U.S. law and no significant changes in Canadian programs or stumpage systems, in our view there are no grounds for accepting a new petition. The petitioner appears to rely primarily on the assertion that the factual situation is clearer now than in 1983, together with a perceived evolution of the Commerce Department's interpretation of the countervailing duty law since that time. In effect the petitioner is requesting the Commerce Department to act as its own court of appeal.

The refiling of a CVD petition on the same issues is clearly a calculated protectionist action by the U.S. lumber industry. In our view to accept the petition would subject Canadian industry and governments to unwarranted costs and harassment and offend against principles of natural justice.

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While the procedural issue of whether a new petition on essentially the same facts should be accepted is an important one, initiation of an investigation would raise a substantive issue of even greater significance for all Contracting Parties and especially those relying heavily on exports of natural resource products. 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. In effect the petitioner is arguing that countervailing duties should be used to offset another country's comparative advantage in natural resources. The Canadian authorities believe strongly that such an interpretation of the GATT was never intended by the Contracting Parties and in particular that it would be an abuse of the remedy provided for in Article VI.

We will of course be invoking our rights to hold consultations with the U.S. authorities on this issue, but I wanted to take the opportunity of this Council meeting to apprise other Contracting Parties of this development and the serious implications it could have for the international trading system.

Geneva
May 22, 1986