



SBC Magazine • 6300 Enterprise Lane, Ste. 200 • Madison, WI 53719
608/271-1176 • www.sbcmag.info

DOC Issues CVD/AD Administrative Ruling

December 14, 2004

Summary:

The U.S. Department of Commerce (DOC) issued a final administrative ruling today, stating the countervailing duties (CVD) established on softwood lumber imported from Canada will be set at 17.18%. A reduction from the preliminary deposit rate of 18.79%, this CVD rate applies to softwood lumber imports shipped during the period May 22, 2002 to March 31, 2003.

In addition, the DOC also provided a final administrative ruling on anti-dumping duties (AD), setting an overall rate of 4.03%, down from the 8.43% rate previously established. **This represents an overall decrease in duties collected on imported Canadian softwood lumber from 27.2% down to 21.2%.** A fact sheet produced by the DOC's Import Administration summarizing this decision is attached.

This decision comes on the heels of instructions issued by the DOC yesterday to the U.S. Customs and Border Protection (CBP) to lower the CVD deposit rate from 18.79% to 18.62%, reflective on all shipments imported since December 10. This rate will remain in effect until the final administrative ruling is made official on December 20, 2004.

Component Manufacturer Impacts:

This decision clears the way for approximately \$900 million of the over \$3.6 billion already collected on softwood lumber imported from Canada to be distributed to petitioning U.S. companies (members of the Coalition for Fair Lumber Imports).

- However, with an appeal on this decision by the Canadian government expected shortly and numerous appeals currently ongoing within NAFTA and WTO, it remains uncertain when, or even if, the \$900 million will be disbursed.

- Approximately \$5.4 million from the collected duties were distributed this week to U.S. companies due to a handful of Canadian companies not filing an appeal on the duties.

After this final administrative ruling is made official on December 20, the cumulative duties collected on imported Canadian softwood lumber will decrease by almost 10%.

- After December 20, the 17.18% CVD rate will be used until a second administrative ruling is issued by the DOC on softwood lumber imported from Canada between April 1, 2003 and March 31, 2004.
- It is currently unclear how this will affect the cash-flow situation of many Canadian producers, but many provincial governments have indicated they will provide subsidies to the industry while the appeal process goes forward.

With so many legal avenues either being pursued, or still available to interested parties on both sides of the border, it appears clearer than ever that a long-term negotiated settlement is the best solution.

- WTCA will do everything it can to push forward for an enduring agreement that will permanently end tariffs that seek to manage trade.
- WTCA will continue to advocate that any single softwood lumber and softwood lumber value-added product, producer or specific geographical region in either country not be placed at a competitive disadvantage as a result of any provision within a negotiated agreement.
- WTCA will also continue to support changes in Canadian provincial forest policy, and their move toward a free-market system in the production of softwood lumber.

Chronology & Additional Background:

CVD Challenge Timeline

A NAFTA panel was established in April 2002 to review the CVD rate and the determining methodology used by the U.S. In August 2003, this panel issued a report remanding a number of issues back to the DOC. In response, the DOC issued a remand determination in January of 2004. The NAFTA panel reviewed this remand determination and delivered a report of their findings on June 7, 2004. On July 30, 2004 the DOC issued their second remand determination. The NAFTA panel was initially to respond to the determination in late October, but the decision was delayed until December 1, 2004. For more in-depth discussion of these NAFTA panel decisions, please refer to earlier Legislative Alerts online at: http://www.sbcmag.info/legis_currentupdateindex.htm.

The July 2004 DOC remand determination included a change in calculation methodology to potentially reduce the CVD cash deposit rate to 7.82% from 18.79%. However, the rate is still subject to further revision as a result of the ongoing NAFTA proceeding, and the

cash deposit rate that is charged on Canadian imports of lumber to the U.S. will not actually be changed until the NAFTA panel process is fully exhausted.

First CVD Administrative Review

Based on the preliminary results released in June and October 2004, it was expected the current CVD subsidy rate of 18.79% would be reduced. In the preliminary determination, the DOC calculated a countervailing subsidy rate of 9.33%. The final determination now identifies the actual duty rate to be paid on softwood lumber exports that were shipped during the period May 22, 2002 to March 31, 2003.

Second CVD Administrative Review

On November 22, 2004, Canada filed a questionnaire response to a second CVD administrative review of the softwood lumber case with the DOC. The total response contained more than 36,000 pages, and included Canadian companies' requests for company-specific "zero rate review" in the countervailing duty proceeding.

Companies that successfully complete the review could potentially have their cash deposits refunded and their rate reduced to zero. However, in August 2004, the DOC issued a memorandum indicating they would not be conducting any zero rate reviews as a part of the second review. While Canada has argued the U.S. should not terminate these reviews, the first CVD administrative review ruling indicates the DOC will not conduct the reviews.

AD Determination Challenge

A NAFTA panel was established in April 2002. The panel issued its first report in July of 2003 and remanded issues back to the DOC. In response, the DOC issued its remand determination in October 2003. The panel issued its second report in March 2004 and further remanded issues back to the DOC. The DOC issued its second remand determination on April 23, 2004. In this remand determination three of the company specific rates were recalculated (which revised the rate to 8.85% from 8.43%).