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## The Tremendous U.S.-Canada Softwood Lumber Trade Dispute

Robert Ireland (U.S. International Trade Commission) · Wednesday, December 20th, 2017



The North American Free Trade Agreement (NAFTA) was signed by Canadian Prime Minister Brian Mulroney, Mexican President Carlos Salinas de Gortari, and American President George H. W. Bush on December 17, 1992, and entered into force on January 1, 1994. In addition to substantially increasing trade between the three countries, NAFTA has

reduced trade friction (at least until 2017 when the Trump Administration demanded the treaty be re-negotiated; by all accounts the negotiations are not going well and NAFTA may not survive). A glaring pre-2017 exception, however, is the enduring conflict between Canada and the U.S. over forestry products, particularly softwood lumber, which the governments excluded from NAFTA, and which in 2016 became confrontational again.

Softwood lumber has important commercial uses, particularly for residential housing construction, and is harvested predominantly from conifer trees, such as cedar, pine, Douglas fir, and spruce. The U.S. categorizes softwood under Chapter 44 (Wood and articles of wood) of the Harmonized Tariff Schedule of the United States.

In 2016, Canada's forest product exports were CAN\$34.4 billion and softwood consisted of CAN\$9.97 billion of that total (nearly 30%). Just under 70% of Canadian softwood exports cross the border to the U.S. The U.S. imports approximately 40% of the softwood that it needs and the majority comes from Canada.

At the core of the dispute, most timber harvesting in Canada takes place on public lands, whereas in the U.S. most of it is done on private lands. Accordingly, U.S. softwood producers allege the main Canadian landowner (the Canadian Government) is selling the product at below market prices and thus amounts to a subsidy, while they must purchase the product from private landowners at market prices.

The Canadian Atlantic Provinces (Newfoundland and Labrador, Nova Scotia, and Prince Edward Island) are largely not part of the dispute because softwood from that region is largely produced on private lands rather than on land owned by the government.

Post-1980, policy analysts have divided the ongoing dispute into four different phases (Lumber I to IV). A new dispute, Lumber V, began on November 25, 2016 during the Obama Administration, when a coalition of U.S. softwood producers filed a petition at the U.S. Department of Commerce (DOC) and its subsidiary agency, the U.S. International Trade Administration, alleging that they have been “materially injured or threatened with material injury by reason of LTFV [less-than-fair-value] and subsidized imports of softwood lumber products from Canada.” Effective December 15, 2016, the DOC launched a formal investigation.

On April 28, 2017, DOC announced that it had preliminarily determined that “countervailable subsidies are being provided to producers and exporters of certain softwood lumber products from Canada.” Using a “weighted-average of the individually estimated subsidy rates calculated for the examined respondents using each company’s business proprietary data for the merchandise under consideration,” DOC calculated a range of subsidy rates, with an average of approximately 20%.

On November 2, 2017, DOC “announced its affirmative final determinations in the antidumping duty (AD) and countervailing duty (CVD) investigations of imports of softwood lumber from Canada.” DOC instructed U.S. Customs and Border Protection to begin collecting tariffs on imports of Canadian softwood from certain producers. On December 7, 2017, the U.S. International Trade Commission ruled unanimously to uphold the tariffs.

The Canadian Government is also talking tough and has asked for a review of the tariffs under Section 19 of NAFTA, which provides for the convening of a panel to review antidumping and countervailing duty cases. Additionally, Canada is challenging the new U.S. tariffs at the World Trade Organization. In previous softwood disputes, the Canadians have prevailed in such forums. Meanwhile, Canada is attempting to expand its softwood exports to Asia, especially China.

While international trade creates extra value on an aggregate basis, international trade policy can create winners and losers, both cross-border and domestically, and Lumber V is another textbook example. Internationally, the new U.S. softwood tariffs have angered Ottawa, while Beijing is pleased that, among other reasons, it may gain a larger source of softwood. Within the U.S., softwood producers are ecstatic, but the residential construction industry is worried about price rises, which have already been exacerbated by the global warming induced wildfires in California and British Columbia. Lumber V is also undoubtedly spilling into the already acrimonious NAFTA re-negotiations.

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