

Akin Gump

STRAUSS HAUER & FELD LLP

SPENCER S. GRIFFITH

+1 202.887.4575/fax: +1 202.887.4288
sgriffith@akingump.com

March 6, 2017

Case No.: C-122-858

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Investigation

ITA/EC/Office III

PUBLIC DOCUMENT

VIA ELECTRONIC FILING

The Honorable Wilbur Ross
Secretary of Commerce
International Trade Administration
Enforcement & Compliance
APO/Dockets Unit, Room 18022
14th Street & Constitution Avenue, NW
Washington, DC 20230

Re: Certain Softwood Lumber Products from Canada: Government of British Columbia Support for Company Exclusions Process

Dear Secretary Ross:

On behalf of the Government of British Columbia, we hereby express our support for the Government of Canada's request that the Department conduct a company exclusions process in the above-referenced investigation for those exporters of subject merchandise that are able to demonstrate that they received no or *de minimis* benefits from the programs under investigation. The Government of Canada recently reiterated its request that the Department conduct a company exclusions process, based on a readily administrable grouping of applicants and certifications from the relevant Canadian government authorities, in a February 15, 2017 meeting

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with Department officials.¹ The Government of Canada submitted its initial request for a company exclusions process in its December 7, 2016 Consultations Paper.²

As the Department is aware, British Columbia is home to a large number of producers and exporters of subject merchandise, including remanufacturers that purchase all of their fiber inputs in arm's-length transactions from unaffiliated suppliers, with no or virtually no connection to the programs under investigation. Such companies comprised the bulk of the applicant pool in the company exclusions processes conducted by the Department in its previous two countervailing duty investigations of Canadian-origin softwood lumber. For this reason, the Government of Canada in its Consultations Paper explained that remanufacturers that purchase their fiber inputs in arm's length transactions from unaffiliated companies could form a distinct category of applicants subject to a fair and workable application and review process.³

The Government of British Columbia respectfully submits that procedural fairness requires the Department to again afford such Canadian producers and exporters of subject merchandise with the opportunity to demonstrate that they received no or *de minimis* benefits pursuant to the programs under investigation, as the Department has done in previous investigations.

Moreover, the Department's regulations clearly permit a company exclusions process in this investigation, notwithstanding the Department's determination to conduct this investigation

¹ See Memorandum to the File from Eric B. Greynolds, Program Manager, AD/CVD Operations, Office III, "Ex-Parte Meeting with Counsel to the Government of Canada" (February 15, 2017).

² See Letter from Hughes Hubbard & Reed LLP to the Sec'y of Commerce, "Submission of Consultations Paper," dated December 7, 2016 ("Consultations Paper"), at 48.

³ *Id.*

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on a company-specific rather than on an aggregate basis. Specifically, in addition to the detailed rules governing company exclusions in the context of an aggregate investigation,⁴ the Department's regulations authorize it broadly to exclude "any exporter or producer for which the Secretary determines an...individual net countervailable subsidy rate of zero or *de minimis*."⁵ Indeed, in recognition of such legal authority, the Petitioner requested the Department to "consider establishing a limited process for considering company exclusions" if the Department chooses to conduct the investigation on a company-specific basis.⁶ The Petitioner further recognized that, by doing so, the Department could reduce significantly the inevitable heavy burden on the Department to conduct expedited reviews of these same companies, should the present investigation result in an order.⁷

The Government of British Columbia stands ready to assist the Government of Canada to ensure that any company exclusions process that the Department may initiate is administered as efficiently as possible, including with respect to the required certifications of zero or *de minimis* subsidization.

Finally, the Government of British Columbia notes that many of the above-referenced producers and exporters of subject merchandise manufacture products of considerably higher value than the dimensional softwood lumber products at the heart of this investigation. The Government of British Columbia therefore also reiterates its earlier request that the Department

⁴ 19 C.F.R. § 351.204(e)(4).

⁵ 19 C.F.R. § 351.204(e)(1).

⁶ Letter from Pickard Kentz & Rowe to the Department, re: Certain Softwood Lumber Products from Canada: Comments on the Department's Subsidy Rate Methodology, C-122-858, at 6 (December 29, 2016).

⁷ *Id.*

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exclude from the scope of the above-referenced investigation all softwood lumber products valued above U.S. \$500/thousand board feet (“MBF”).⁸ As the Government of British Columbia explained in its letter of January 9, 2017, such high-value softwood lumber products do not compete with Spruce-Pine-Fir (“SPF”) dimensional framing products.⁹ This is true also for the other products for which the Government of Canada has requested scope exclusions, including Western Red Cedar.¹⁰

Further, a value-based definition for high-value softwood lumber products is the most administratively feasible way to effectuate the requested scope exclusion.¹¹ Moreover, as the Department is aware, the exclusion of high-value softwood lumber products would be consistent with the 2006 Softwood Lumber Agreement between the Government of Canada and the Government of the United States of America (“2006 SLA”), which at Article 6 provided separate treatment for softwood lumber products valued above the \$500/MBF threshold.¹²

* * * * *

⁸ Letter from Akin Gump Strauss Hauer & Feld LLP to the Department, re: Certain Softwood Lumber Products from Canada: Scope Comments of the Government of British Columbia, C-122-858 (January 9, 2017) (“B.C. Scope Comments”).

⁹ *Id.*

¹⁰ Consultations Paper at Attachment 6.

¹¹ B.C. Scope Comments.

¹² *See* Petition Exhibit 3.

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In accordance with the Department's regulations, we are filing this submission electronically via ACCESS at <http://access.trade.gov>. Copies of this submission are being served today on parties as indicated in the attached certificate of service. If you have any questions or desire any additional information, please feel free to contact the undersigned.

Respectfully submitted,

/s/ Spencer S. Griffith

Spencer S. Griffith

Bernd G. Janzen

Shana Hofstetter

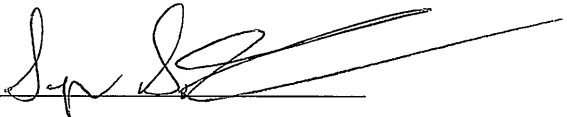
Yujin K. McNamara

Jared T. Cail

AKIN GUMP STRAUSS HAUER & FELD LLP
Counsel to the Government of British Columbia

REPRESENTATIVE CERTIFICATION

I, Spencer Griffith, with Akin, Gump, Strauss, Hauer & Feld, Counsel to the Province of British Columbia, certify that I have read the attached submission of Government of British Columbia Support for Company Exclusions Process pursuant to the investigation of softwood lumber from Canada (C-122-858). In my capacity as Counsel of this submission, I certify that the information contained in this submission is accurate and complete to the best of my knowledge. I am aware that U.S. law (including, but not limited to, 18 U.S.C. 1001) imposes criminal sanctions on individuals who knowingly and willfully make material false statements to the U.S. Government. In addition, I am aware that, even if this submission may be withdrawn from the record of the AD/CVD proceeding, the U.S. Department of Commerce may preserve this submission, including a business proprietary submission, for purposes of determining the accuracy of this certification. I certify that a copy of this signed certification will be filed with this submission to the U.S. Department of Commerce.

Signature: 
Date: 3/6/2017

**PUBLIC CERTIFICATE OF SERVICE
CERTAIN SOFTWOOD LUMBER FROM CANADA
C-122-858**

I, Spencer S. Griffith, hereby certify that a copy of the foregoing submission was served on this 6th day of March, 2017, on the following parties by hand delivery or by email per prior agreement when marked with an asterisk:

On behalf of the Embassy of Canada

Colin Bird
Embassy of Canada
501 Pennsylvania Avenue, NW
Washington, DC 20001-2111

**On behalf of the Governments of
Manitoba and Saskatchewan**

Michele Sherman Davenport, Esq.
Davenport & James PLLC
1101 30th Street, NW
Suite 500
Washington, DC 20007

On behalf of Canfor Corporation

Donald B. Cameron, Esq.
Morris, Manning & Martin, LLP
1401 I Street, NW
Suite 600
Washington, DC 20005

On behalf of the Government of Quebec

Matthew J. Clark, Esq.
Arent Fox LLP
1717 K Street, NW
Washington, DC 20006-5344

On behalf of the Government of Ontario

H. Deen Kaplan, Esq.
Hogan Lovells US LLP
555 Thirteenth Street, NW
Washington, DC 20004

On behalf of the Government of Canada

Joanne E. Osendarp, Esq.
Hughes Hubbard & Reed LLP
1775 I Street, NW
Washington, DC 20006-2401

**On behalf of the British Columbia
Lumber Trade Council and its constituent
associations: the Coast Forest Products
Association and the Council of Forest
Industries, and their members**

Mark A. Moran, Esq.
Steptoe & Johnson LLP
1330 Connecticut Avenue, NW
Washington, DC 20036

**On behalf of the Government of Nova
Scotia**

Thomas M. Beline, Esq.
Cassidy Levy Kent (USA) LLP
2000 Pennsylvania Avenue, NW
Suite 3000
Washington, DC 20006

**On behalf of Carrier Lumber Ltd.,
Carrier Forest Products Ltd. And Retail
Industry Leaders Association (RILA)**

Kristin H. Mowry, Esq.
Mowry & Grimson, PLLC
5335 Wisconsin Avenue, NW
Suite 810
Washington, DC 20015

**On behalf of Tembec Inc. and Eacom
Timber Corporation and Barette Wood,
Inc.**

Yohai Baisburd, Esq.
Dentons US LLP
1900 K Street, NW
Washington, DC 20006-1102

**On behalf of the Government of Alberta,
Tolko Marketing and Sales Ltd. and
Tolko Industries Ltd.**

Lawrence A. Schneider, Esq.
Arnold & Porter Kaye Scholer LLP
601 Massachusetts Avenue, NW
Washington, DC 20001

On behalf of J.D. Irving, Limited

Walter J. Spak, Esq.
White & Case LLP
701 Thirteen Street, NW
Washington, DC 20001

On behalf of West Fraser Mills Ltd.

Donald Harrison, Esq.
Gibson, Dunn & Crutcher LLP
1050 Connecticut Avenue, NW
Washington, DC 20036-5306

**On behalf of Representative of Terminal
Forest Products, Ltd.**

Joel R. Junker, Esq.
Junker & Nakachi, P.C.
1191 Second Avenue
Suite 1800
Seattle, WA 98101

**On behalf of Resolute FP Canada Inc.
and Rene Bernard Inc. Conseil de
l'Industrie forestiere du Quebec (CFIQ),
the Ontario Forest Industries Association,
Resolute FP Canada Inc. and Rene
Bernard Inc.**

Elliot J. Feldman, Esq.
Baker Hostetler LLP
1050 Connecticut Avenue, NW
Suite 1100
Washington, DC 20036-5304

**On behalf of the Government of New
Brunswick**

William H. Barringer, Esq.
Curtis, Mallet-Prevost, Colt & Mosle LLP
1717 Pennsylvania Avenue, NW
Washington, DC 20006

**On behalf of the New Brunswick Lumber
Producers (NBLP) Chaleur Sawmills
Association, Delco Forest Product Ltd.,
Forenbu Lumber Ltd., H.J. Crabbe &
Sons Ltd. and Twin Rivers Paper
Company Inc.**

Richard L.A. Weiner, Esq.
Sidley Austin LLP
1501 K Street, NW
Washington, DC 20005

**On behalf of the Committee Overseeing
Action for Lumber International Trade
Investigations or Negotiations
(COALITION)**

David A. Yocis, Esq.
Picard Kentz & Rowe
1750 K Street, NW
Suite 800
Washington, DC 20006