
INFORMATION BULLETIN

For Immediate Release
2017FLNR0089-001178
April 24, 2017

Ministry of Forests, Lands and Natural Resource
Operations

Softwood lumber: Preliminary countervailing duty rate announced

VICTORIA – The U.S. Department of Commerce today announced that preliminary countervailing duties of nearly 20% will be applied to the majority of Canadian softwood lumber shipments entering the United States.

Preliminary countervailing duties in the form of cash deposits become effective around May 1, 2017, (once notice published in U.S. federal register) for four months to the end of August. Thereafter, these duties will not be collected until the final orders are published in January 2018.

The U.S. Department of Commerce argues that the countervailing duty is required to offset what in its view is unfair subsidies that Canadian and provincial governments allegedly provide to lumber companies.

The U.S. Department of Commerce investigated five companies and assessed preliminary countervailing duties as follows:

- Canfor: 20.26%
- Irving: 3.02%
- Resolute: 12.82%
- Tolko: 19.50%
- West Fraser: 24.12%

The preliminary countervailing duty assessed on all other companies is 19.88% (the average of the duty rates assessed on the five companies). In addition on April 24, the U.S. Department of Commerce found “critical circumstances” applied on a preliminary basis to Irving and all other companies, but not to Canfor, Resolute, Tolko and West Fraser. This means that Irving and all other companies may be assessed countervailing duties on their shipments made since about Jan. 31 (90 days prior to the notice being published in the U.S. federal register, expected around May 1).

Cash deposits are held in trust by U.S. Customs until all avenues for appeal are exhausted. Options for appeal will be assessed at the time all final orders are issued, which is currently expected to be in January 2018.

On June 23, the U.S. Department of Commerce is expected to release its preliminary determination on anti-dumping duties. The Department of Commerce argues that an anti-dumping duty may be required to offset what in its view are unfair selling practices by Canadian lumber companies that are allegedly selling lumber into the U.S. at a price below their costs or sales value in Canada. Critical circumstances also would apply to Irving and all other companies on a preliminary basis.

Taking a Stand: United Action on B.C. Softwood Lumber, summarizes actions the B.C. government has taken to date on the softwood lumber file. It and other frequently asked questions are available online: www.gov.bc.ca/softwoodlumber

A backgrounder follows.

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Connect with the Province of B.C. at: www.gov.bc.ca/connect

FREQUENTLY ASKED QUESTIONS

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Softwood Lumber: countervailing duty decision

What is a countervailing duty?

- A countervailing duty is a duty assessed by the U.S. Department of Commerce on Canadian exports of softwood lumber to the U.S. The U.S. Department of Commerce argues that in its view the duty is required to offset unfair subsidies that Canadian and provincial governments allegedly provide to lumber companies.

What is an anti-dumping duty?

- An anti-dumping duty is a duty assessed by the U.S. Department of Commerce on Canadian exports of lumber to the U.S. The U.S. argues that in its view the duty may be required to offset unfair selling practices by Canadian lumber companies that are allegedly selling lumber into the U.S. at a price below their costs or sales value in Canada.

Will the anti-dumping duty replace the countervailing duty?

- No. The anti-dumping duty, if any, will be in addition to the countervailing duty. The U.S. Department of Commerce's preliminary decision on the anti-dumping duty is expected June 23.

What was the rationale for the U.S. Department of Commerce's finding?

- So far the U.S. Department of Commerce only released the duty rates. The rationale for how each duty rate was assessed and the rationale for a finding of critical circumstances will be provided later.
- Federal government and provincial government staff and legal counsel will carefully review the rationale and then submit rebuttals to the U.S. Department of Commerce.
- These and other submissions will be considered by the U.S. Department of Commerce in making its final determination which is expected in November 2017.
- Final rates are expected to become effective in January 2018.
- However, countervailing duties will be in place for only four months following publication of the Commerce determination (May through August) and will not resume until final duty orders are published in January 2018.

Is there expected to be a difference between the preliminary and final duty rate?

- Maybe. In the last lumber litigation (Lumber IV), the combined countervailing and anti-dumping duty rates shifted from 32% to 27%.

What is the current timeline for litigation?

- **Nov. 25, 2016** – U.S. industry (COALITION) filed a petition with the U.S. Department of Commerce asking it to investigate Canadian softwood lumber products.
- **Dec. 15, 2016** – U.S. Department of Commerce initiated its investigation.
- **Jan. 6, 2017** – The U.S. International Trade Commission found that Canadian softwood lumber products were “injuring” American companies. As a result, the DOC continued its investigation.
- **April 25, 2017** – U.S. Department of Commerce issued preliminary countervailing (subsidy) determination.
- **Approximately May 1, 2017** (once notice of preliminary determination published in U.S. federal register) – Canadian companies start paying cash deposits on lumber shipments to U.S. until Aug. 31, 2017. Given the preliminary finding of “critical circumstances” all Canadian companies, except for Canfor, Resolute, Tolko and West Fraser may be subject to duties on lumber shipments made since about Jan. 31, 2017.
- **June 23, 2017** – U.S. Department of Commerce issues preliminary anti-dumping determination.
- **Approximately July 1, 2017** (once notice of preliminary determination published in U.S. federal register) – Canadian companies may be required to start paying cash deposits that include the anti-dumping duty until late December. Given the preliminary finding of “critical circumstances” all Canadian companies, except for Canfor, Resolute, Tolko and West Fraser may be subject to anti-dumping duties on lumber shipments made since about April 1, 2017.
- **Late August 2017 to early January 2018** – Cash deposits for countervailing duty NOT required.
- **Late December 2017 to early January 2018** – Cash deposits for anti-dumping duty NOT required.
- **Early January 2018** – Final countervailing and anti-dumping orders published.

What is the status of exclusions granted for cedar, other high-value products, lumber harvested from private lands and companies without tenure?

- The U.S. Department of Commerce has yet to release its decision on exclusions.

What are the avenues for appeal?

- Appeals can be made to WTO and either NAFTA or the U.S. Court of International Trade. Avenues for appeal will be explored after the final orders are issued by the U.S. Department of Commerce. Appeals are currently expected to begin in January 2018.

Why are some provinces excluded from the decision?

- The U.S. industry asked that Nova Scotia, Prince Edward Island and Newfoundland and Labrador be excluded from the scope of the investigation.

Why are the five companies each assessed a different duty rate?

- The different duty rate reflects the differences in their operating regions and environments.

Why is there a difference between the rates for Tolko, Canfor and West Fraser?

- While the three companies are all based in B.C., they all have operations in other parts of Canada, which has affected the preliminary duty that was assessed for each company.

Why did Irving volunteer as a respondent?

- This was Irving's own decision.

What's the current status of negotiations for a new agreement? Are any talks scheduled?

- No formal talks are currently scheduled.

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