

Certification Requirements

Any party submitting factual information in an AD or CVD proceeding must certify to the accuracy and completeness of that information.⁶⁵ Parties are hereby reminded that revised certification requirements are in effect for company/government officials, as well as their representatives. Investigations initiated on the basis of petitions filed on or after August 16, 2013, and other segments of any AD or CVD proceedings initiated on or after August 16, 2013, should use the formats for the revised certifications provided at the end of the *Final Rule*.⁶⁶ The Department intends to reject factual submissions if the submitting party does not comply with applicable revised certification requirements.

Notification to Interested Parties

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305. On January 22, 2008, the Department published *Antidumping and Countervailing Duty Proceedings: Documents Submission Procedures; APO Procedures*, 73 FR 3634 (January 22, 2008). Parties wishing to participate in this investigation should ensure that they meet the requirements of these procedures (e.g., the filing of letters of appearance as discussed in 19 CFR 351.103(d)).

This notice is issued and published pursuant to section 777(i) of the Act and 19 CFR 351.203(c).

Dated: December 15, 2016.

Gary Taverman,

Associate Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

Appendix

Scope of the Investigation

The merchandise covered by this investigation is softwood lumber, siding, flooring and certain other coniferous wood ("softwood lumber products"). The scope includes:

- Coniferous wood, sawn, or chipped lengthwise, sliced or peeled, whether or not planed, whether or not sanded, or whether or not finger-jointed, of an actual thickness exceeding six millimeters.
- Coniferous wood siding, flooring, and other coniferous wood (other than moldings and dowel rods), including strips and friezes for parquet flooring, that is continuously shaped (including, but not limited to,

tongued, grooved, rebated, chamfered, V-jointed, beaded, molded, rounded) along any of its edges, ends, or faces, whether or not planed, whether or not sanded, or whether or not end-jointed.

- Coniferous drilled and notched lumber and angle cut lumber.
- Coniferous lumber stacked on edge and fastened together with nails, whether or not with plywood sheathing.
- Components or parts of semi-finished or unassembled finished products made from subject merchandise that would otherwise meet the definition of the scope above.

Softwood lumber product imports are generally entered under Chapter 44 of the Harmonized Tariff Schedule of the United States ("HTSUS"). This chapter of the HTSUS covers "Wood and articles of wood." Softwood lumber products that are subject to this investigation are currently classifiable under the following ten-digit HTSUS subheadings in Chapter 44: 4407.10.01.01; 4407.10.01.02; 4407.10.01.15; 4407.10.01.16; 4407.10.01.17; 4407.10.01.18; 4407.10.01.19; 4407.10.01.20; 4407.10.01.42; 4407.10.01.43; 4407.10.01.44; 4407.10.01.45; 4407.10.01.46; 4407.10.01.47; 4407.10.01.48; 4407.10.01.49; 4407.10.01.52; 4407.10.01.53; 4407.10.01.54; 4407.10.01.55; 4407.10.01.56; 4407.10.01.57; 4407.10.01.58; 4407.10.01.59; 4407.10.01.64; 4407.10.01.65; 4407.10.01.66; 4407.10.01.67; 4407.10.01.68; 4407.10.01.69; 4407.10.01.74; 4407.10.01.75; 4407.10.01.76; 4407.10.01.77; 4407.10.01.82; 4407.10.01.83; 4407.10.01.92; 4407.10.01.93; 4409.10.05.00; 4409.10.10.20; 4409.10.10.40; 4409.10.10.60; 4409.10.10.80; 4409.10.20.00; 4409.10.90.20; 4409.10.90.40; and 4418.90.25.00.

Subject merchandise as described above may also be classified as stringers, square cut box-spring-frame components, fence pickets, truss components, pallet components, flooring, and door and window frame parts under the following ten-digit HTSUS subheadings in Chapter 44: 4415.20.40.00; 4415.20.80.00; 4418.90.46.05; 4418.90.46.20; 4418.90.46.40; 4418.90.46.95; 4421.90.70.40; 4421.90.94.00; and 4421.90.97.80.

Although these HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the investigation is dispositive.

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DEPARTMENT OF COMMERCE

International Trade Administration

[C-122-858]

Certain Softwood Lumber Products From Canada: Initiation of Countervailing Duty Investigation

AGENCY: Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce.

DATES: Effective December 15, 2016.

FOR FURTHER INFORMATION CONTACT: Nicholas Czajkowski at (202) 482-1395, or Lana Nigro at (202)-482-0698, AD/CVD Operations, Enforcement and

Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

The Petition

On November 25, 2016, the Department of Commerce (the Department) received a countervailing duty (CVD) petition concerning imports of certain softwood lumber products (softwood lumber) from Canada,¹ filed in proper form, on behalf of the Committee Overseeing Action for Lumber International Trade Investigations or Negotiations (COALITION) (hereinafter, Petitioner).²

On November 30 and December 2, 2016, the Department requested additional information and clarification of certain aspects of the Petition.³ Petitioner filed responses to these requests on December 1 and 5, 2016.⁴ Further, Petitioner submitted revised versions of two exhibits originally provided in Volume III of the Petition.⁵ On December 7, 2016, in consultations the Department held with respect to the CVD petition, the Government of Canada (GOC) provided comments on, and requested the Department poll the

¹ See Letter from Petitioner, "Petition for the Imposition of Antidumping and Countervailing Duties on Imports of Certain Softwood Lumber Products from Canada," November 25, 2016 (Petition), at Volume III.

² The COALITION is an ad hoc association whose members include U.S. Lumber Coalition, Inc.; Collum's Lumber Products, L.L.C.; Hankins, Inc.; Potlatch Corporation; Rex Lumber Company; Seneca Sawmill Company; Sierra Pacific Industries; Stimson Lumber Company; Swanson Group; Weyerhaeuser Company; Carpenters Industrial Council; Giustina Land and Timber Company; and Sullivan Forestry Consultants, Inc. *Id.*, Volume I at 2.

³ See Letter from the Department, "Petition for the Imposition of Antidumping and Countervailing Duties on Imports of Certain Softwood Lumber Products from Canada: Supplemental Questions," November 30, 2016 (General Issues Supplemental Questionnaire); see also Letter from the Department, "Petition for the Imposition of Countervailing Duties on Imports of Certain Softwood Lumber Products from Canada: Supplemental Questions," December 2, 2016 (Countervailing Duty Petition Supplemental Questionnaire).

⁴ See Letter from Petitioner, "Supplement to the Petitions for the Imposition of Countervailing Duties on Imports of Certain Softwood Lumber Products from Canada: Response to the Department's Supplemental Questions" December 1, 2016 (Petition Supplement); see also Letter from Petitioner, "Petition for the Imposition of Countervailing Duties on Imports of Certain Softwood Lumber Products from Canada: Response to Supplemental Questions," December 5, 2016 (Countervailing Duty Petition Supplemental Questionnaire Response).

⁵ See Letter from Petitioner, "Supplement to the Petition for the Imposition of Countervailing Duties on Imports of Certain Softwood Lumber Products from Canada: Correction of Production Errors" December 2, 2016.

⁶⁵ See section 782(b) of the Act.

⁶⁶ See *Certification of Factual Information to Import Administration during Antidumping and Countervailing Duty Proceedings*, 78 FR 42678 (July 17, 2013) (*Final Rule*); see also frequently asked questions regarding the *Final Rule*, available at http://enforcement.trade.gov/tei/notices/factual_info_final_rule_FAQ_07172013.pdf.

industry to determine, industry support.⁶ On December 8, 2016, Petitioner provided a response to the GOC comments on industry support.⁷

In accordance with section 702(b)(1) of the Tariff Act of 1930, as amended (the Act), Petitioner alleges that the GOC and the governments of certain Canadian provinces are providing countervailable subsidies within the meaning of sections 701 and 771(5) of the Act, to manufacturers, producers, or exporters of softwood lumber from Canada, and that imports of such softwood lumber products are materially injuring, or threatening material injury to, an industry in the United States. Additionally, consistent with section 702(b)(1) of the Act, the Petition is accompanied by information reasonably available to Petitioner supporting its allegations of subsidy programs in Canada on which we are initiating a CVD investigation.

The Department finds that Petitioner filed the Petition on behalf of the domestic industry because Petitioner is an interested party, as defined by section 771(9)(F) of the Act. As discussed in the “Determination of Industry Support for the Petition” section, below, the Department also finds that Petitioner demonstrated sufficient industry support with respect to initiation of the requested CVD investigation.

Period of Investigation

As discussed below in the section “Respondent Selection,” in the event the Department determines that the number of companies involved in the investigation is large and it cannot individually examine each company based upon the Department’s resources, we intend to select company respondents using data from U.S. Customs and Border Protection (CBP). Should we conduct this investigation on a company-specific basis, the period of investigation would be January 1, 2015, through December 31, 2015.⁸

Scope of the Investigation

The product covered by this investigation is certain softwood lumber products from Canada. For a full description of the scope of this

investigation, see the Appendix to this notice.

Comments on the Scope of the Investigation

During our review of the Petition, the Department issued questions to, and received responses from, Petitioner pertaining to the proposed scope to ensure that the scope language in the Petition accurately reflected the products for which the domestic industry is seeking relief.⁹ As a result of those exchanges, the scope of the Petition was modified to clarify the description of merchandise covered by the Petition. The class or kind of merchandise covered by this initiation, as described in the Appendix to this notice, reflects that clarification.

As discussed in the preamble to the Department’s regulations,¹⁰ we are setting aside a period of time for interested parties to raise issues regarding product coverage (*i.e.*, scope). The Department will consider all comments received and, if necessary, consult with parties prior to the issuance of the preliminary determinations in this investigation and the companion antidumping duty investigation concurrently being initiated. If scope comments include factual information,¹¹ all such factual information should be limited to public information. The Department requests that all interested parties submit scope comments by 5:00 p.m. Eastern Standard Time (EST) on Wednesday, January 4, 2017, which is 20 calendar days from the signature date of this notice. Any rebuttal comments, which may include factual information (and also should be limited to public information), must be filed by 5:00 p.m. EST on Tuesday, January 17, 2017, which is the first business day ten calendar days after the initial comments deadline.¹²

The Department requests that any factual information parties consider relevant to the scope of the investigations be submitted during this time period. However, if a party subsequently finds that additional factual information pertaining to the scope may be relevant, the party may contact the Department and request permission to submit the additional

information. All such comments and information must be filed on the records of the CVD investigation and the concurrent AD investigation.

Filing Requirements

All submissions to the Department must be filed electronically using Enforcement and Compliance’s Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS).¹³ An electronically-filed document must be successfully received, in its entirety, by the time and date when it is due. Documents excepted from the electronic submission requirements must be filed manually (*i.e.*, in paper form) with Enforcement and Compliance’s APO/Dockets Unit, Room 18022, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230, and stamped with the date and time of receipt by the applicable deadlines.

Consultations

Pursuant to section 702(b)(4)(A) of the Act, the Department notified representatives of the GOC of its receipt of the Petition and provided them with the opportunity for consultations regarding the CVD allegations.¹⁴ On December 7, 2016, the Department held consultations with the GOC.¹⁵ All letters and memoranda pertaining to these consultations are available via ACCESS.

Determination of Industry Support for the Petition

Section 702(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 702(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) At least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the

⁶ See Letter from the Government of Canada, “Certain Softwood Lumber from Canada: Submission of Consultations Paper,” December 7, 2016 (GOC Comments).

⁷ See Letter from Petitioner, “Comments on Government of Canada’s Consultations Paper,” December 8, 2016 (Petitioner’s Response to GOC Comments); see also Memorandum to the File Re: Consultations with Officials from the Government of Canada, December 7, 2016 (CVD Consultations Memo), which references the GOC comments.

⁸ See 19 CFR 351.204(b)(2).

⁹ See General Issues Supplemental Questionnaire; see also General Issues Supplemental Questionnaire Response.

¹⁰ See *Antidumping Duties; Countervailing Duties*, 62 FR 27296, 27323 (May 19, 2007).

¹¹ See 19 CFR 351.102(b)(21).

¹² See 19 CFR 351.303(b)(1) (“For both electronically filed and manually filed documents, if the applicable due date falls on a non-business day, the Secretary will accept documents that are filed on the next business day.”)

¹³ See 19 CFR 351.303 (describing general filing requirements); see also *Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures*, 76 FR 39263 (July 6, 2011) (detailing the Department’s electronic filing requirements, which went into effect on August 5, 2011). Helpful information on using ACCESS can be found at <https://access.trade.gov/help.aspx>, and the ACCESS handbook is available at <https://access.trade.gov/help/Handbook%20on%20Electronic%20Filing%20Procedures.pdf>.

¹⁴ See Letter from the Department, “Certain Softwood Lumber Products from Canada: Invitation for Consultations to Discuss the Countervailing Duty Petition,” November 28, 2016.

¹⁵ See Department Memorandum, “Countervailing Duty Petition on Certain Softwood Lumber Products from Canada,” December 7, 2016.

petition. Moreover, section 702(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, the Department shall: (i) Poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A); or (ii) determine industry support using a statistically valid sampling method to poll the “industry.”

Section 771(4)(A) of the Act defines the “industry” as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs the Department to look to producers and workers who produce the domestic like product. The International Trade Commission (ITC), which is responsible for determining whether “the domestic industry” has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC must apply the same statutory definition regarding the domestic like product,¹⁶ they do so for different purposes and pursuant to a separate and distinct authority. In addition, the Department’s determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law.¹⁷

Section 771(10) of the Act defines the domestic like product as “a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title.” Thus, the reference point from which the domestic like product analysis begins is “the article subject to an investigation” (*i.e.*, the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition).

With regard to the domestic like product, Petitioner does not offer a definition of the domestic like product distinct from the scope of this investigation. Based on our analysis of the information submitted on the record, we have determined that softwood lumber constitutes a single domestic like product and we have

analyzed industry support in terms of that domestic like product.¹⁸

In determining whether Petitioner has standing under section 702(c)(4)(A) of the Act, we considered the industry support data contained in the Petition with reference to the domestic like product as defined in the “Scope of the Investigation,” in the Appendix to this notice. To establish industry support, Petitioner provided actual 2015 production data of the domestic like product for all U.S. softwood lumber producers that support the Petition.¹⁹ Petitioner also estimated the 2015 softwood lumber production of those U.S. softwood lumber producers/sawmills whose workers are represented by the Carpenters Industrial Council, a recognized union and a member of the COALITION.²⁰ Petitioner estimated total 2015 production of the domestic like product for the entire domestic industry based on production data published by *Lumber Track*, adjusted to account for any flooring and siding produced outside sawmills that may have not been included in the published production data.²¹ Petitioner compared the total production of the supporters of the Petition to the estimated total production of the domestic like product for the entire domestic industry.²² We relied upon data Petitioner provided for purposes of measuring industry support.²³

On December 7, 2016, we received comments on industry support from the GOC.²⁴ Petitioner responded to the GOC’s Comments on December 8, 2016.²⁵ For further discussion of these comments, *see* the Canada CVD Initiation Checklist, at Attachment II.

Our review of the data provided in the Petition, the Petition Supplement, letters from the GOC and Petitioner, and other information readily available to

¹⁸ For a discussion of the domestic like product analysis in this case, *see* Countervailing Duty Investigation Initiation Checklist: Certain Softwood Lumber Products from Canada (Canada CVD Initiation Checklist), at Attachment II, Analysis of Industry Support for the Antidumping and Countervailing Duty Petitions Covering Certain Softwood Lumber Products from Canada (Attachment II). This checklist is dated concurrently with this notice and on file electronically via ACCESS. Access to documents filed via ACCESS is also available in the Central Records Unit, Room B8024 of the main Department of Commerce building.

¹⁹ *See* Petition, Volume I, at 6–7 and Exhibit 10; *see also* Petition Supplement, at 8–9 and Exhibit 10.

²⁰ *See Id.* at 6–9 and Exhibits 10 and 14.

²¹ *Id.*, at 4–6 and Exhibits 2 and 56.

²² *See Id.* at 4–10 and Exhibit 10; *see also* Petition Supplement, at 8–9 and Exhibit 10.

²³ *Id.* For further discussion, *see* Canada CVD Initiation Checklist, at Attachment II.

²⁴ *See* GOC Comments, at 5–9.

²⁵ *See* Petitioner’s Response to GOC Comments, at 4–7.

the Department indicates that Petitioner has established industry support.²⁶ First, the Petition established support from domestic producers and workers accounting for more than 50 percent of the total production of the domestic like product and, as such, the Department is not required to take further action in order to evaluate industry support (*e.g.*, polling).²⁷ Second, the domestic producers and workers have met the statutory criteria for industry support under section 702(c)(4)(A)(i) of the Act because the domestic producers and workers who support the Petition account for at least 25 percent of the total production of the domestic like product.²⁸ Finally, the domestic producers and workers have met the statutory criteria for industry support under section 702(c)(4)(A)(ii) of the Act because the domestic producers and workers who support the Petition account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petition.²⁹ Accordingly, the Department determines that the Petition was filed on behalf of the domestic industry within the meaning of section 702(b)(1) of the Act.

The Department finds that Petitioner filed the Petition on behalf of the domestic industry because it is an interested party as defined in section 771(9)(F) of the Act and it has demonstrated sufficient industry support with respect to the CVD investigation that it is requesting the Department initiate.³⁰

Injury Test

Because Canada is a “Subsidies Agreement Country” within the meaning of section 701(b) of the Act, section 701(a)(2) of the Act applies to this investigation. Accordingly, the ITC must determine whether imports of the subject merchandise from Canada materially injure, or threaten material injury to, a U.S. industry.

Allegations and Evidence of Material Injury and Causation

Petitioner alleges that imports of the subject merchandise are benefitting from countervailable subsidies and that such imports are causing, or threaten to cause, material injury to the U.S.

²⁶ *See* Canada CVD Initiation Checklist, at Attachment II.

²⁷ *See* section 702(c)(4)(D) of the Act; *see also* Canada CVD Initiation Checklist, at Attachment II.

²⁸ *See* Canada CVD Initiation Checklist, at Attachment II.

²⁹ *Id.*

³⁰ *See* Canada CVD Initiation Checklist, at Attachment II.

¹⁶ *See* section 771(10) of the Act.

¹⁷ *See USEC, Inc. v. United States*, 132 F. Supp. 2d 1, 8 (CIT 2001) (citing *Algoma Steel Corp., Ltd. v. United States*, 688 F. Supp. 639, 644 (CIT 1988), *aff’d* 865 F.2d 240 (Fed. Cir. 1989)).

industry producing the domestic like product. In addition, Petitioner alleges that subject imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act.³¹

Petitioner contends that the industry's injured condition is illustrated by reduced market share; underselling and price suppression or depression; lost sales and revenues; mill closures and layoffs; and adverse impact on the domestic industry's key trade and financial indicators, including financial performance, production, and capacity utilization.³² We have assessed the allegations and supporting evidence regarding material injury, threat of material injury, and causation, and we have determined that these allegations are properly supported by adequate evidence and meet the statutory requirements for initiation.³³

Initiation of Countervailing Duty Investigation

Section 702(b)(1) of the Act requires the Department to initiate a CVD investigation whenever an interested party files a CVD petition on behalf of an industry that (1) alleges the elements necessary for the imposition of a duty under section 701(a) of the Act and (2) is accompanied by information reasonably available to the petitioner supporting the allegations.

Petitioner alleges that exporters/producers of softwood lumber in Canada benefited from countervailable subsidies bestowed by the GOC and the governments of certain Canadian provinces. The Department examined the Petition and finds that it complies with the requirements of section 702(b)(1) of the Act. Therefore, in accordance with section 702(b)(1) of the Act, we are initiating a CVD investigation to determine whether manufacturers, producers, and/or exporters of softwood lumber from Canada receive countervailable subsidies from the GOC and/or the governments of certain Canadian provinces, as alleged by Petitioner.

On June 29, 2015, the President of the United States signed into law the Trade Preferences Extension Act of 2015 (TPEA), which made numerous amendments to the Act.³⁴ The TPEA

does not specify dates of application for those amendments. On August 6, 2015, the Department published an interpretative rule, in which it announced the applicability dates for each amendment to the Act, except for amendments contained in section 771(7) of the Act, which relate to determinations of material injury by the ITC.³⁵ The amendments to sections 776 and 782 of the Act are applicable to all determinations made on or after August 6, 2015, and, therefore, apply to this CVD investigation.³⁶ Based on our review of the Petition, we find that there is sufficient information to initiate a CVD investigation on 33 of 38 alleged programs. For a full discussion of the basis for our decision to initiate or not to initiate on each program, see CVD Initiation Checklist. A public version of the initiation checklist for this investigation is available on ACCESS.

In accordance with section 703(b)(1) of the Act and 19 CFR 351.205(b)(1), unless postponed, we will make our preliminary determination in this investigation no later than 65 days after the date of initiation.

Critical Circumstances

Petitioner alleges, based on trade statistics and documented prior knowledge of an impending trade case, that there is a reasonable basis to believe or suspect that critical circumstances exist with regard to imports of softwood lumber from Canada.³⁷

Section 703(e)(1) of the Act provides that if a petitioner alleges critical circumstances, the Department will find that such circumstances exist, at any time after the date of initiation, when there is a reasonable basis to believe or suspect: (A) That "the alleged countervailable subsidy" is inconsistent with the Agreement on Subsidies and Countervailing Measures (SCM Agreement) of the World Trade Organization, and (B) that "there have been massive imports of the subject merchandise over a relatively short period." Section 351.206(h)(2) of the Department's regulations provides that, generally, imports must increase by at least 15 percent during the "relatively short period" to be considered "massive" and section 351.206(i) defines a "relatively short period" as normally being the period beginning on the date the proceeding begins (*i.e.*, the

date the petition is filed)³⁸ and ending at least three months later.³⁹ The regulations also provide, however, that, if the Department "finds that importers, or exporters or producers, had reason to believe, at some time prior to the beginning of the proceeding, that a proceeding was likely," the Department "may consider a period of not less than three months from that earlier time."⁴⁰

Petitioner alleges that Canadian softwood lumber producers benefit from numerous Canadian government subsidies, which include subsidies that are contingent upon export performance. Specifically, Petitioner alleges that under the Export Development Canada: Export Guarantee Program, the GOC provides loan guarantees in support of working capital requirements in order to promote the export of subject merchandise.⁴¹

Petitioner also asserts that there have been massive imports of softwood lumber over a relatively short period. Petitioner contends that, pursuant to 19 CFR 351.206(i), the Department should evaluate the level of imports during a period prior to the filing of the Petition, because importers and foreign exporters and producers had reason to believe that a countervailing duty petition was likely.⁴² In particular, Petitioner provided news articles and industry publications to demonstrate that importers and foreign exporters and producers were aware that the Softwood Lumber Agreement (SLA) expired on October 12, 2015, and that after October 12, 2016, the domestic industry in the United States would once again be permitted to file a CVD petition.⁴³ Accordingly, Petitioner asserts that importers and foreign exporters and producers were aware that they had a one-year period following the expiration of the SLA to ship subject merchandise without being subject to countervailing duties.⁴⁴ Therefore, to consider whether imports of softwood lumber were massive over a relatively short period of time, Petitioner contends that the Department should compare import levels during January 2015 through October 2015 (base period) with import levels during November 2015 through

³⁸ See 19 CFR 351.102(b)(40) (providing that a proceeding begins on the date of the filing of a petition).

³⁹ See 19 CFR 351.206(i).

⁴⁰ See *id.*

⁴¹ See Petition, Volume III, at 231–236.

⁴² See *id.* at 69–70.

⁴³ See *id.* at 70–72 and Exhibits 39, 64, 65, 67. Petitioner notes that there was a one-year "standstill" period during which domestic industry was not permitted to file a CVD petition. *Id.* at 70–72.

⁴⁴ See *id.* at 72–73.

³¹ See Petition, Volume I, at 34 and Exhibit 27.

³² *Id.*, at 28–30, 34–67 and Exhibits 2, 3, 19, 24, 26–27, 29, 32, 34, 36–53, and 59–60; see also Petition Supplement, at 9 and Exhibit 59.

³³ See Canada CVD Initiation Checklist, at Attachment III, Analysis of Allegations and Evidence of Material Injury and Causation for the Antidumping and Countervailing Duty Petitions Covering Certain Softwood Lumber Products from Canada.

³⁴ See Trade Preferences Extension Act of 2015, Public Law 114–27, 129 Stat. 362 (2015).

³⁵ See *Dates of Application of Amendments to the Antidumping and Countervailing Duty Laws Made by the Trade Preferences Extension Act of 2015*, 80 FR 46793 (August 6, 2015) (*Applicability Notice*).

³⁶ *Id.*, at 46794–95. The 2015 amendments may be found at <https://www.congress.gov/bill/114th-congress/house-bill/1295/text/pl>.

³⁷ See Petition, Volume I, at 67–78.

August 2016 (comparison period).⁴⁵ Based on Petitioner's calculation, the import volume of softwood lumber surged 25.56 percent between the base and comparison periods, and the value of imports surged 18.11 percent.⁴⁶ Petitioner asserts that because the surge in imports constituted more than a 15 percent change, import volumes of softwood lumber are massive, as defined in the Department's regulations.

Petitioner requests that the Department make a preliminary finding of critical circumstances within 45 days of the filing of the Petition.⁴⁷ Section 702(e) of the Act states that if "at any time after the initiation of an investigation under this subtitle, the administering authority finds a reasonable basis to suspect that the alleged countervailable subsidy is inconsistent with the {SCM} Agreement, the administering authority may request the Commissioner of Customs to compile information on an expedited basis regarding entries of the subject merchandise."

Taking into consideration the foregoing, we will analyze this matter further. We will monitor imports of softwood lumber products from Canada and may request that CBP compile information on an expedited basis regarding entries of subject merchandise.⁴⁸ If, at any time, the criteria for a finding of critical circumstances are established, we will issue a critical circumstances determination at the earliest possible date.⁴⁹

Respondent Selection

Petitioner named hundreds of companies as producers/exporters of softwood lumber from Canada.⁵⁰ The Department intends to follow its standard practice in CVD investigations and calculate company-specific subsidy rates in this investigation. In the event the Department determines that the number of companies is large and it cannot individually examine each company based upon the Department's resources, where appropriate, the Department intends to select mandatory respondents based on CBP data for U.S. imports of softwood lumber from Canada during the period of investigation under the appropriate Harmonized Tariff Schedule of the United States (HTSUS) numbers listed in the "Scope of the Investigation," in

the Appendix. The Department also intends to release CBP data under Administrative Protective Order (APO) to all parties with access to information protected by APO within five business days of publication of this **Federal Register** notice. Interested parties wishing to comment regarding the CBP data must do so within seven calendar days after the placement of the CBP data on the record of this investigation. Because a "company-specific" methodology is a departure from the "aggregate" methodology used in previous investigations of certain softwood lumber products from Canada,⁵¹ the Department invites comments regarding the appropriate subsidy rate methodology to use in this investigation. These comments are due within seven calendar days of publication of this **Federal Register** notice.

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305(b). Instructions for filing such applications may be found on the Department's Web site at <http://enforcement.trade.gov/apo>.

Comments for this investigation must be filed electronically using ACCESS. An electronically-filed document must be received successfully in its entirety by the Department's electronic records system, ACCESS, by 5:00 p.m. EST, by the dates noted above. We intend to finalize our decision regarding respondent selection within 20 days of publication of this notice.

Distribution of Copies of the Petition

In accordance with section 702(b)(4)(A)(i) of the Act and 19 CFR 351.202(f), a copy of the public version of the Petition has been provided to the GOC via ACCESS. Because of the particularly large number of producers/exporters identified in the Petition,⁵² the Department considers the service of the public version of the Petition to the foreign producers/exporters satisfied by delivery of the public version to the GOC consistent with 19 CFR 351.203(c)(2).

ITC Notification

We will notify the ITC of our initiation, as required by section 702(d) of the Act.

Preliminary Determination by the ITC

The ITC will preliminarily determine, within 45 days of the date on which the Petition was filed, whether there is a reasonable indication that imports of softwood lumber in Canada are materially injuring, or threatening material injury to, a U.S. industry.⁵³ A negative ITC determination will result in the investigation being terminated;⁵⁴ otherwise, the investigation will proceed according to statutory and regulatory time limits.

Submission of Factual Information

Factual information is defined in 19 CFR 351.102(b)(21) as: (i) Evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by the Department; and (v) evidence other than factual information described in (i) through (iv). The regulation requires any party, when submitting factual information, to specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct. Specific time limits for submission of factual information, based on the type of factual information being submitted, are provided at 19 CFR 351.301. Parties should review the regulations prior to submitting factual information in this investigation.

Extensions of Time Limits

Parties may request an extension of time limits before the expiration of a time limit established under Part 351, or as otherwise specified by the Secretary. In general, an extension request will be considered untimely if it is filed after the expiration of the time limit. For submissions that are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. ET on the due date. Under certain circumstances, we may elect to specify a different deadline after which extension requests will be considered untimely for submissions that are due from multiple parties simultaneously. In such a case, we will inform parties in the letter or memorandum setting forth the deadline

⁵³ See section 703(a)(2) of the Act.

⁵⁴ See section 703(a)(1) of the Act.

⁴⁵ See *id.* at 73–74.

⁴⁶ See *id.*

⁴⁷ See *id.* at 69.

⁴⁸ See Section 702(e) of the Act.

⁴⁹ See Policy Bulletin 98/4, 63 FR 55364 (October 15, 1998).

⁵⁰ See Petition, Volume I, at 28 and Exhibit 61.

⁵¹ See *e.g.*, *Notice of Final Affirmative Countervailing Duty Determination and Final Negative Critical Circumstances Determination: Certain Softwood Lumber Products from Canada*, 67 FR 15545 (April 2, 2002) and *Accompanying Issues and Decision Memorandum*. See also section 777A(e)(2)(B) of the Act

⁵² See Petition, Volume I at Exhibit 61.

(including a specified time) by which extension requests must be filed to be considered timely. An extension request must be made in a separate, stand-alone submission; under limited circumstances we will grant untimely-filed requests for the extension of time limits. Review *Extension of Time Limits; Final Rule*, 78 FR 57790 (September 20, 2013), available at <http://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm>, prior to submitting factual information in this investigation.

Certification Requirements

Any party submitting factual information in an AD or CVD proceeding must certify the accuracy and completeness of that information.⁵⁵ Parties are hereby reminded that revised certification requirements are in effect for company/government officials, as well as their representatives. Investigations initiated on the basis of petitions filed on or after August 16, 2013, and other segments of any AD or CVD proceedings initiated on or after August 16, 2013, should use the revised certification formats provided at the end of the *Final Rule*.⁵⁶ The Department intends to reject factual submissions if the submitting party does not comply with the applicable revised certification requirements.

Notification to Interested Parties

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305. On January 22, 2008, the Department published *Antidumping and Countervailing Duty Proceedings: Documents Submission Procedures; APO Procedures*, 73 FR 3634 (January 22, 2008). Parties wishing to participate in this investigation should ensure that they meet the requirements of these procedures (e.g., the filing letters of appearance, as discussed at 19 CFR 351.103(d)).

This notice is issued and published pursuant to sections 702 and 777(i) of the Act.

Dated: December 15, 2016.

Gary Taverman,

Associate Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

Appendix

Scope of the Investigation

The merchandise covered by this investigation is softwood lumber, siding, flooring and certain other coniferous wood ("softwood lumber products"). The scope includes:

- Coniferous wood, sawn, or chipped lengthwise, sliced or peeled, whether or not planed, whether or not sanded, or whether or not finger-jointed, of an actual thickness exceeding six millimeters.
- Coniferous wood siding, flooring, and other coniferous wood (other than moldings and dowel rods), including strips and friezes for parquet flooring, that is continuously shaped (including, but not limited to, tongued, grooved, rebated, chamfered, V-jointed, beaded, molded, rounded) along any of its edges, ends, or faces, whether or not planed, whether or not sanded, or whether or not end-jointed.
- Coniferous drilled and notched lumber and angle cut lumber.
- Coniferous lumber stacked on edge and fastened together with nails, whether or not with plywood sheathing.
- Components or parts of semi-finished or unassembled finished products made from subject merchandise that would otherwise meet the definition of the scope above.

Softwood lumber product imports are generally entered under Chapter 44 of the Harmonized Tariff Schedule of the United States ("HTSUS"). This chapter of the HTSUS covers "Wood and articles of wood." Softwood lumber products that are subject to this investigation are currently classifiable under the following ten-digit HTSUS subheadings in Chapter 44: 4407.10.01.01; 4407.10.01.02; 4407.10.01.15; 4407.10.01.16; 4407.10.01.17; 4407.10.01.18; 4407.10.01.19; 4407.10.01.20; 4407.10.01.42; 4407.10.01.43; 4407.10.01.44; 4407.10.01.45; 4407.10.01.46; 4407.10.01.47; 4407.10.01.48; 4407.10.01.49; 4407.10.01.52; 4407.10.01.53; 4407.10.01.54; 4407.10.01.55; 4407.10.01.56; 4407.10.01.57; 4407.10.01.58; 4407.10.01.59; 4407.10.01.64; 4407.10.01.65; 4407.10.01.66; 4407.10.01.67; 4407.10.01.68; 4407.10.01.69; 4407.10.01.74; 4407.10.01.75; 4407.10.01.76; 4407.10.01.77; 4407.10.01.82; 4407.10.01.83; 4407.10.01.92; 4407.10.01.93; 4409.10.05.00; 4409.10.10.20; 4409.10.10.40; 4409.10.10.60; 4409.10.10.80; 4409.10.20.00; 4409.10.90.20; 4409.10.90.40; and 4418.90.25.00.

Subject merchandise as described above may also be classified as stringers, square cut box-spring-frame components, fence pickets, truss components, pallet components, flooring, and door and window frame parts under the following ten-digit HTSUS subheadings in Chapter 44: 4415.20.40.00; 4415.20.80.00; 4418.90.46.05; 4418.90.46.20; 4418.90.46.40; 4418.90.46.95; 4421.90.70.40; 4421.90.94.00; and 4421.90.97.80.

Although these HTSUS subheadings are provided for convenience and customs

purposes, the written description of the scope of the investigation is dispositive.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XE962

Endangered and Threatened Species; Initiation of 5-Year Review for the Endangered Black Abalone and the Endangered White Abalone

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of initiation of 5-year review; request for information.

SUMMARY: NMFS announces its intent to conduct 5-year reviews for the black abalone (*Haliotis cracherodii*) and the white abalone (*Haliotis sorenseni*) under the Endangered Species Act of 1973, as amended (ESA). Both the black abalone and white abalone are listed as endangered under the ESA. NMFS is required by the ESA to conduct 5-year reviews to ensure that the listing classifications of the species are accurate. The 5-year reviews must be based on the best scientific and commercial data available at the time. We request submission of any such information on black abalone and white abalone, particularly information on the status, threats, and recovery of the species that has become available since the final listing decision for white abalone in May 2001 and black abalone in January 2009.

DATES: To allow us adequate time to conduct this review, we must receive your information no later than February 21, 2017. However, we will continue to accept new information about any listed species at any time.

ADDRESSES: Submit your comments by including NOAA–NMFS–2016–0146 by either of the following methods:

- *Federal e-Rulemaking Portal.* Go to www.regulations.gov/#/docketDetail:D=NOAA-NMFS-2016-0146, click the "Comment Now!" icon, complete the required fields, and enter or attach your comments.

- Mail or hand-deliver written information to Melissa Neuman, NMFS West Coast Region, 501 West Ocean Boulevard, Suite 4200, Long Beach, CA 90802.

Instructions: NMFS may not consider comments if they are sent by any other method, to any other address or

⁵⁵ See section 782(b) of the Act.

⁵⁶ See *Certification of Factual Information to Import Administration During Antidumping and Countervailing Duty Proceedings*, 78 FR 42678 (July 17, 2013) (*Final Rule*). Answers to frequently asked questions regarding the *Final Rule* are available at http://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf.