

DEPARTMENT OF STATE

[Public Notice: 4150]

Overseas Security Advisory Council (OSAC) Meeting Notice; Closed Meeting

The Department of State announces a meeting of the U.S. State Department—Overseas Security Advisory Council on November 13, 14, and 15, in Washington, DC. Pursuant to section 10(d) of the Federal Advisory Committee Act and 5 U.S.C. 552b(c)(1) and (4), it has been determined the meeting will be closed to the public. Matters relative to classified national security information as well as privileged commercial information will be discussed. The agenda will include updated committee reports, a world threat overview and a round table discussion that calls for the discussion of classified and corporate proprietary/security information as well as private sector physical and procedural security policies and protective programs at sensitive U.S. Government and private sector locations overseas.

For more information contact Marsha Thurman, Overseas Security Advisory Council, Department of State, Washington, DC 20522-1003, phone: 202-663-0533.

Dated: October 2, 2002.

Peter E. Bergin,

*Director of the Diplomatic Security Service,
Department of State.*

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**OFFICE OF THE UNITED STATES
TRADE REPRESENTATIVE**

[Docket No. WTO/DS-257]

**WTO Dispute Settlement Proceeding
Regarding the U.S. Department of
Commerce Final Countervailing Duty
Determination Concerning Certain
Softwood Lumber From Canada**

AGENCY: Office of the United States
Trade Representative.

ACTION: Notice; request for comments.

SUMMARY: The Office of the United States Trade Representative (“USTR”) is providing notice that, on August 19, 2002, the United States received a request from the Government of Canada for the establishment of a dispute settlement panel under the Marrakesh Agreement Establishing the World Trade Organization (“WTO Agreement”) regarding the U.S. Department of Commerce (“DOC”) final countervailing duty determination concerning certain

softwood lumber from Canada. The panel was established on October 1, 2002. Canada alleges that the initiation and conduct of the countervailing duty investigation, the final determination, the provision of expedited and administrative reviews, and related matters are inconsistent with various provisions of the Agreement on Subsidies and Countervailing Measures (“SCM Agreement”) and the General Agreement on Tariffs and Trade 1994 (“GATT 1994”). USTR invites written comments from the public concerning the issues raised in this dispute.

DATES: Although USTR will accept any comments received during the course of the dispute settlement proceedings, comments should be submitted on or before December 1, 2002 to be assured of timely consideration by USTR.

ADDRESSES: Comments should be submitted (i) electronically, to FR0048@ustr.gov, Attn: “DS257 Dispute” in the subject line, or (ii) by mail, to Sandy McKinzy, Monitoring and Enforcement Unit, Office of the General Counsel, Room 122, Office of the United States Trade Representative, 600 17th Street, NW., Washington, DC 20508, Attn: DS257 Dispute, with a confirmation copy sent electronically to the e-mail address above or by fax to 202-395-3640.

FOR FURTHER INFORMATION CONTACT: Amber L. Cottle, Assistant General Counsel, Office of the United States Trade Representative, 600 17th Street, NW., Washington, DC, (202) 395-3581.

SUPPLEMENTARY INFORMATION: Pursuant to section 127(b) of the Uruguay Round Agreements Act (“URAA”) (19 U.S.C. 3537(b)(1)), USTR is providing notice that, on August 19, 2002, the United States received a request from the Government of Canada for the establishment of a WTO dispute settlement panel regarding the DOC final countervailing duty determination concerning certain softwood lumber from Canada. The panel was established on October 1, 2002.

Major Issues Raised and Legal Basis of the Complaint

The notice of the DOC final countervailing duty determination concerning certain softwood lumber from Canada was published in the **Federal Register** on April 2, 2002, and the notice of the DOC amended final determination was published on May 22, 2002. The notices explain the basis for the DOC’s final determination that Canada provides countervailable subsidies to the Canadian lumber industry.

In its panel request, Canada describes its claims in the following manner:

1. Initiation of the Investigation

In initiating the *Lumber IV* investigation, the United States violated Articles 10, 11.4 and 32.1 of the SCM Agreement. Specifically, contrary to Article 11.4, the initiation of the *Lumber IV* investigation was not based on an objective and meaningful examination and determination of the degree of support for the application by the domestic industry, because the “Continued Dumping and Subsidy Offset Act of 2000” (CDSOA), by requiring that a member of the U.S. industry support the application as a condition of receiving payments under the CDSOA, made impossible an objective and meaningful examination of industry support for the application.

2. Commerce’s Final Countervailing Duty Determination

In making the final determination, the United States acted inconsistently with Articles 1, 2, 10, 14, 19, 22 and 32 of the SCM Agreement and Article VI of GATT 1994. Specifically:

(a) Commerce violated Articles 10, 19.1, 19.4 and 32.1 of the SCM Agreement and Article VI:3 of GATT 1994 by imposing countervailing duties in respect of practices that are not subsidies because there is no “financial contribution” by government.

Commerce found that Canadian provincial stumpage programs provide goods or services and are, therefore, financial contributions by government under Article 1.1(a) of the SCM Agreement. Commerce erred in this finding. Canadian provincial stumpage programs do not constitute the provision of goods or services within the meaning of Article 1.1(a) of the SCM Agreement and are not “financial contributions” by a government;

(b) Commerce violated Articles 10, 14, 14(d), 19.1 19.4 and 32.1 of the SCM Agreement and Article VI:3 of GATT 1994 by imposing countervailing duties in respect of practices that are not subsidies because there is no “benefit conferred”;

Commerce erred by:

(i) Determining and measuring the adequacy of remuneration for the alleged provision of goods or services in relation to purported prevailing market conditions in a country other than the country of provision,

(ii) Incorrectly assessing and comparing evidence related to those purported market conditions, and

(iii) Rejecting evidence of prevailing market conditions for the alleged good or service in question in the country of provision within the meaning of Article 14(d) of the SCM Agreement;

(c) Commerce violated Articles 10, 19.1, 19.4 and 32.1 of the SCM Agreement and Article VI:3 of GATT 1994 by imposing countervailing duties in instances where no subsidy exists. Commerce erroneously and impermissibly *presumed* that an alleged subsidy passes through an arm’s s-length transaction to a downstream user of an input;

(d) Commerce violated Articles 1.2, 2.1, 2.4, 10, 19.1, 19.4 and 32.1 of the SCM Agreement by imposing countervailing duties where the alleged subsidies are not