

review of all campaign finance cases in the Commission's datafile, the Commission chose 30 transactions as the number best illustrative of a "large number" in that context. This enhancement also responds to a specific directive in the BCRA to the effect that the Commission provide enhanced sentencing for cases involving "a large number of illegal transactions."

Fifth, the new guideline provides a four level enhancement, at § 2C1.8(b)(5), if the offense involves the use of "intimidation, threat of pecuniary or other harm, or coercion." This enhancement responds to information received from the Federal Election Commission and the Public Integrity Section of the Department of Justice which characterizes offenses of this type as some of the most aggravated offenses committed under the FECA.

The new guideline also provides a cross reference, at subsection (c), which directs the sentencing court to apply either § 2C1.1 or § 2C1.2, as appropriate, if the offense involved a bribe or a gratuity and the resulting offense level would be greater than that determined under § 2C1.8.

Section 3D1.2 (Groups of Closely Related Counts) has been amended, consistent with the principles underlying the rules for grouping multiple counts of conviction, to include § 2C1.8 offenses among those in which the offense level is determined largely on the basis of the total amount of harm or loss or some other measure of aggregate harm. (See § 3D1.2(d)).

Finally, § 5E1.2 (Fines for Individual Defendants) has been amended to specifically reflect fine provisions unique to the FECA. This part of the amendment also provides that the defendant's participation in a conciliation agreement with the Federal Election Commission may be an appropriate factor for use in determining the specific fine within the applicable fine guideline range unless the defendant began negotiations with the Federal Election Commission after the defendant became aware that he or it was the subject of a criminal investigation.

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## SMALL BUSINESS ADMINISTRATION

### Data Collection Available for Public Comments and Recommendations

**ACTION:** Notice and request for comments.

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**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, this notice announces the Small Business Administration's intentions to request approval on a new, and/or currently approved information collection.

**DATES:** Submit comments on or before March 24, 2003.

**ADDRESSES:** Send all comments regarding whether this information collections is necessary for the proper performance of the function of the agency, whether the burden estimates are accurate, and if there are ways to minimize the estimated burden and enhance the quality of the collections, to Radwan Saade, Economist, Office of Advocacy, Small Business Administration, 409 3rd Street, SW., Suite 7800, Washington, DC 20416.

**FOR FURTHER INFORMATION CONTACT:** Radwan Saade, Economist, (202) 205-6878 or Curtis B. Rich, Management Analyst, (202) 205-7030.

**SUPPLEMENTARY INFORMATION:**

*Title:* Small Business Use of Telecommunication Services.

*Form No:* N/A.

*Description of Respondents:* Small Businesses.

*Annual Responses:* 5,000.

*Annual Burden:* 416.

**Jacqueline White,**

*Chief, Administrative Information Branch.*

[FR Doc. 03-1299 Filed 1-21-03; 8:45 am]

BILLING CODE 8025-01-P

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## OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. WTO/DS-264]

### WTO Dispute Settlement Proceeding Regarding the U.S. Department of Commerce Final Antidumping 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 of the request by the Government of Canada for the establishment of a dispute settlement panel under the Marrakesh Agreement Establishing the World Trade Organization ("WTO Agreement") to examine the U.S. Department of Commerce ("DOC") final determination of sales at less than fair value with respect to certain softwood lumber from Canada. The panel request alleges that the initiation of the investigation, the conduct of the investigation, and the

final determination are inconsistent with various provisions of the General Agreement on Tariffs and Trade 1994 ("GATT 1994") and the Agreement on Implementation of Article VI of 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 February 21, 2003 to be assured of timely consideration by USTR.

**ADDRESSES:** Comments should be submitted (i) electronically, to [FR0064@ustr.gov](mailto:FR0064@ustr.gov), Attn: "DS264 Dispute" in the subject line, or (ii) by fax, to Sandy McKinzy at 202-395-3640, with a confirmation copy sent electronically to the email address above.

**FOR FURTHER INFORMATION CONTACT:** Theodore R. Posner, Assistant General Counsel, Office of the United States Trade Representative, 600 17th Street, NW., Washington, DC 20508 (202) 395-3582.

**SUPPLEMENTARY INFORMATION:** Pursuant to section 127(b) of the Uruguay Round Agreements Act ("URAA") (19 U.S.C. 3537(b)(1)), the USTR is providing notice that on December 6, 2002, the Government of Canada submitted a request for establishment of a dispute settlement panel to examine the U.S. Department of Commerce ("DOC") final determination of sales at less than fair value with respect to certain softwood lumber from Canada.

### Major Issues Raised and Legal Basis of the Complaint

The notice of the DOC final determination of sales at less than fair value with respect to 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 certain softwood lumber from Canada is being sold, or is likely to be sold, in the United States at less than fair value.

In its request for establishment of a dispute settlement panel, Canada describes its claims in the following manner:

The measures at issue include the initiation of the investigation, the conduct of the investigation, the Final Determination and the resulting Anti-dumping Order on Softwood Lumber from Canada. The Government of Canada considers these measures and, in particular, the determinations made and methodologies

adopted therein by the United States Department of Commerce under authority of the United States Tariff Act of 1930, including section 732(c)(4)(E), to violate the Anti-Dumping Agreement and the GATT 1994 for, among others, the following reasons:

1. The application filed by the U.S. domestic industry and the subsequent initiation of the investigation by Commerce did not comply with Article 5 of the Anti-Dumping Agreement, including Articles 5.1, 5.2, 5.3, 5.4 and 5.8. Specifically:

(a) The application submitted by the U.S. domestic industry did not include evidence reasonably available to it, including pricing of Canadian exports to the United States, pricing of the like products sold in Canada by Canadian producers, and Canadian cost data in respect of the production in Canada of the like products. By Commerce's failure to determine whether the application contained all information reasonably available to the applicant, and by Commerce initiating the investigation where the application failed to contain evidence reasonably available to the applicant, and by Commerce's failure to terminate the investigation when Commerce became aware that the application failed to contain evidence reasonably available to the applicant, the United States violated Articles 5.2, 5.3 and 5.8 of the Anti-Dumping Agreement.

(b) The application submitted by the U.S. domestic industry did not include sufficient evidence of dumping to justify initiation of the investigation. Commerce failed to examine the accuracy and adequacy of the evidence provided in the application and failed to reject the application in view of the lack of sufficient evidence of dumping required to justify the initiation of an investigation, and failed to terminate the investigation when it became evident that the application did not contain sufficient evidence, thereby resulting in violations by the United States of Articles 5.1, 5.2, 5.3 and 5.8.

(c) 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 an objective and meaningful examination of industry support for the application impossible. The United States violated Articles 5.4 and 5.8 in that Commerce's initiation of the investigation was not based on an objective and meaningful examination and determination of the degree of support for the application by the domestic industry.

(d) The initiation by Commerce was made without a proper establishment of the facts, was based on an evaluation of the facts that was neither unbiased nor objective and does not rest on a permissible interpretation of the Anti-dumping Agreement. Accordingly, the initiation by Commerce cannot be upheld in light of the applicable standard of review under Article 17.6.

2. Commerce erroneously determined there to be a single like product (under U.S. law, termed "class or kind" of merchandise) rather than several distinct like products, thereby failing to assess domestic industry

support in respect of each distinct like product and failing to assess the sufficiency of evidence of dumping in respect of each distinct like product, thereby resulting in violations by the United States of Articles 2.6, 4.1, 5.1, 5.2, 5.3, 5.4 and 5.8 of the Anti-Dumping Agreement and Article VI:1 of the GATT 1994. The like product and industry support determinations by Commerce were made without a proper establishment of the facts, were based on an evaluation of the facts that was neither unbiased nor objective and do not rest on a permissible interpretation of the Anti-dumping Agreement. Accordingly, the like product and industry support determinations by Commerce cannot be upheld in light of the applicable standard of review under Article 17.6.

3. In making the final determination, the United States acted inconsistently with Article VI of the GATT 1994 and Articles 1, 2.1, 2.2, 2.2.1, 2.2.1.1, 2.2.2, 2.3, 2.4, 2.4.1, 2.4.2, 2.6, and 9.3 of the Anti-Dumping Agreement. Specifically, Commerce improperly applied a number of methodologies based on improper and unfair comparisons between the export price and the normal value, resulting in artificial and/or inflated margins of dumping: (a) The United States violated Article 2 of the Anti-Dumping Agreement, including Articles 2.4 and 2.4.2, and Article VI:1 of the GATT 1994 by Commerce's application of the practice of "zeroing" negative dumping margins, the effect of which was to inflate margins of dumping and which, in the recommendations and rulings of the Dispute Settlement Body in an earlier dispute, was found to be inconsistent with the Anti-Dumping Agreement. A fair comparison was therefore not made by Commerce between the export price and the normal value and a distorted margin of dumping was calculated, thereby resulting in violations by the United States of Articles 2.4 and 2.4.2 of the Anti-Dumping Agreement.

(b) The United States violated Article 2 of the Anti-dumping Agreement, including Article 2.4, and Article VI:1 of the GATT 1994 by Commerce's failure, when conducting comparisons between prices of products sold in the United States and prices of products with different physical characteristics sold in the Canadian market, to make due allowance for differences that affect price comparability, including differences in physical characteristics. A fair comparison was therefore not made by Commerce between the export price and the normal value and a distorted margin of dumping was calculated, thereby resulting in violations by the United States of Articles 2.4 and 2.4.2 of the Anti-Dumping Agreement.

(c) The United States violated Article 2 of the Anti-Dumping Agreement including Articles 2.2, 2.2.1, 2.2.1.1 and 2.2.2, and Article VI:1 of the GATT 1994 by Commerce's failure to apply a reasonable method in calculating amounts for administrative, selling and general expenses for specific exporters, including an improper allocation of general and administrative expenses including financial expenses. A fair comparison was therefore not made by Commerce between the export price and the normal value and a distorted margin of

dumping was calculated, thereby resulting in violations by the United States of Articles 2.4 and 2.4.2 of the Anti-Dumping Agreement.

(d) The United States violated Article 2 of the Anti-Dumping Agreement, including Articles 2.2, 2.2.1, 2.2.1.1, 2.2.2 and paragraph 7 of Annex I, and Article VI:1 of the GATT 1994 by Commerce's failure to apply a reasonable method to account for revenues, including by-product and futures contract revenues, as offsets in calculating costs and export price for specific exporters. A fair comparison was therefore not made by Commerce between the export price and the normal value and a distorted margin of dumping was calculated, thereby resulting in violations by the United States of Articles 2.4 and 2.4.2 of the Anti-Dumping Agreement.

(e) The methodologies, calculations, comparisons and determinations by Commerce were made without a proper establishment of the facts, was based on an evaluation of the facts that was neither unbiased nor objective and does not rest on a permissible interpretation of the Anti-dumping Agreement. Accordingly, the methodologies, calculations, comparisons and determinations by Commerce cannot be upheld in light of the applicable standard of review under Article 17.6.

(f) The methodologies, calculations, comparisons and determinations by Commerce violated Articles VI:1 and VI:2 of the GATT 1994 and Article 9.3 of the Anti-Dumping Agreement by levying an anti-dumping duty on softwood lumber from Canada in an amount greater than the margin of any dumping.

#### Public Comment: Requirements for Submissions

Interested persons are invited to submit written comments concerning the issues raised in the dispute. Persons submitting comments may either send one copy by fax to Sandy McKinzy at 202-395-3640, or transmit a copy electronically to [FR0064@ustr.gov](mailto:FR0064@ustr.gov), with "DS264" in the subject line. For documents sent by fax, USTR requests that the submitter provide a confirmation copy electronically. USTR encourages the submission of documents in Adobe PDF format, as attachments to an electronic mail. Interested persons who make submissions by electronic mail should not provide separate cover letters; information that might appear in a cover letter should be included in the submission itself. Similarly, to the extent possible, any attachments to the submission should be included in the same file as the submission itself, and not as separate files.

A person requesting that information contained in a comment submitted by that person be treated as confidential business information must certify that such information is business confidential and would not customarily be released to the public by the submitter. Confidential business

information must be clearly marked "BUSINESS CONFIDENTIAL" in a contrasting color ink at the top of each page of each copy.

Information or advice contained in a comment submitted, other than business confidential information, may be determined by USTR to be confidential in accordance with section 135(g)(2) of the Trade Act of 1974 (19 U.S.C. 2155(g)(2)). If the submitting person believes that information or advice may qualify as such, the submitting person—

(1) Must so designate the information or advice;

(2) Must clearly mark the material as "SUBMITTED IN CONFIDENCE" in a contrasting color ink at the top of each page of each copy; and

(3) Is encouraged to provide a non-confidential summary of the information or advice.

Pursuant to section 127(e) of the URAA (19 U.S.C. 3537(e)), USTR will maintain a file on this dispute settlement proceeding, accessible to the public, in the USTR Reading Room, which is located at 1724 F Street, NW., Washington, DC 20508. The public file will include non-confidential comments received by USTR from the public with respect to the dispute; the U.S. submissions to the panel in the dispute, the submissions, or non-confidential summaries of submissions, to the panel received from other participants in the dispute, as well as the report of the panel; and, if applicable, the report of the Appellate Body. An appointment to review the public file may be made by calling the USTR Reading Room at (202) 395-6186. The USTR Reading Room is open to the public from 9:30 a.m. to 12 noon and 1 p.m. to 4 p.m., Monday through Friday.

**Daniel E. Brinza,**

*Assistant United States Trade Representative for Monitoring and Enforcement.*

[FR Doc. 03-1308 Filed 1-21-03; 8:45 am]

BILLING CODE 3190-01-P

## OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

### WTO Dispute Settlement Proceeding Regarding the United States International Trade Commission Final Determination of Threat of Material Injury in the Investigation 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 of the request by the Government of Canada for consultations under the Marrakesh Agreement Establishing the World Trade Organization ("WTO Agreement") to examine the United States International Trade Commission ("ITC") final determination of threat of material injury with respect to certain softwood lumber from Canada. The request for consultations alleges that the ITC's determination is inconsistent with various provisions of the General Agreement on Tariffs and Trade 1994 ("GATT 1994"), the Agreement on Implementation of Article VI of GATT 1994 ("Anti-dumping Agreement"), and the Agreement on Subsidies and Countervailing Measures ("SCM Agreement"). 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 January 15, 2003 to be assured of timely consideration by USTR.

**ADDRESSES:** Comments should be submitted (i) electronically, to [fr0062@ustr.gov](mailto:fr0062@ustr.gov), Attn: "Lumber Injury Dispute" in the subject line, or (ii) by fax, to Sandy McKinzy at 202-395-3640, with a confirmation copy sent electronically to the email address above.

**FOR FURTHER INFORMATION CONTACT:** Theodore R. Posner, Assistant General Counsel, Office of the United States Trade Representative, 600 17th Street, NW., Washington DC, 20508 (202) 395-3582.

**SUPPLEMENTARY INFORMATION:** Section 127(b) of the Uruguay Round Agreements Act ("URAA") (19 U.S.C. 3537(b)(1)) requires that notice and opportunity for comment be provided after the United States submits or receives a request for the establishment of a WTO dispute settlement panel. Consistent with this obligation, but in an effort to provide additional opportunity for comment, USTR is providing notice that on December 20, 2002, the Government of Canada requested consultations pursuant to the WTO Dispute Settlement Understanding. If such consultations should fail to resolve the matter and a dispute settlement panel is established pursuant to the DSU, such panel, which would hold its meetings in Geneva, Switzerland, would be expected to issue a report on its findings and recommendations within six to nine months after it is established.

## Major Issues Raised and Legal Basis of the Complaint

In its determination of May 16, 2002, published in the **Federal Register** on May 22, 2002, the ITC found that imports of softwood lumber from Canada, which the U.S. Department of Commerce found to be subsidized and sold at less than fair value, threatened an industry in the United States with material injury. The reasons for the ITC's determination are set forth in USITC Publication No. 3509 (May 2002).

By letter dated December 20, 2002, Canada requested consultations with the United States under the WTO Dispute Settlement Understanding regarding the ITC's determination.

In its request for consultations, Canada alleges that the United States has violated Article VI:6(a) of the GATT 1994; Articles 1, 3.1, 3.2, 3.3, 3.4, 3.5, 3.7, 3.8, 12 and 18.1 of the Anti-dumping Agreement; and Articles 10, 15.1, 15.2, 15.3, 15.4, 15.5, 15.7, 15.8, 22 and 32.1 of the SCM Agreement. Canada alleges that these violations stem from certain errors in the ITC's determination. In particular, Canada claims that the ITC:

(i) Based its determination on "allegation, conjecture and remote possibility";

(ii) Failed to establish that "a change in circumstances which would create a situation in which the subsidy and dumping would cause injury is clearly foreseen and imminent";

(iii) Failed "to properly consider all factors relevant to determining the existence of a threat of material injury"; and

(iv) Failed "to properly consider the effects of the dumped and subsidized imports, their impacts on the domestic industry, and whether the dumped and subsidized imports would cause injury or threat of injury."

Canada further alleges that the ITC failed to include in its report "sufficient detail, relevant information and considerations, and proper reasons" for its determination.

## Public Comment: Requirements for Submissions

Interested persons are invited to submit written comments concerning the issues raised in Canada's request for consultations. Persons submitting comments may either send one copy by fax to Sandy McKinzy at 202-395-3640, or transmit a copy electronically to [fr0062@ustr.gov](mailto:fr0062@ustr.gov), with "Lumber Injury Dispute" in the subject line. For documents sent by fax, USTR requests that the submitter provide a