

responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and subsequent assessment of double antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with section 351.305(a)(3) of the Department's regulations. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This new shipper review and notice are in accordance with sections 751(a)(2)(B) and 777(i)(1) of the Act.

Dated: October 24, 2003.

**James J. Jochum,**

*Assistant Secretary for Import Administration.*

## Appendix I

### Comments Discussed in Issues and Decision Memorandum

1. Bona Fides of Wuhan Bee Healthy Co., Ltd.'s U.S. Sale.
2. Surrogate Value for Raw Honey.
3. Factory Overhead, SG&A, and Profit Ratios.
4. Surrogate Value for Coal.
5. Surrogate Value for Electricity.
6. Exclusion of Certain Import Data in Calculating Certain Surrogate Values.

[FR Doc. 03-27493 Filed 10-30-03; 8:45 am]

BILLING CODE 3510-DS-P

## DEPARTMENT OF COMMERCE

### International Trade Administration

[C-122-839]

#### Certain Softwood Lumber Products From Canada: Preliminary Results of New Shipper Countervailing Duty Review

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**ACTION:** Notice of preliminary results of countervailing duty new shipper review.

**SUMMARY:** The Department of Commerce (the Department) is conducting a new shipper review of Scierie La Pointe &

Roy Ltee. (La Pointe & Roy) under the countervailing duty order on certain softwood lumber products from Canada for the period January 1, 2002, through December 31, 2002. If the final results remain the same as the preliminary results of this new shipper review, we will instruct the U.S. Customs and Border Protection (CBP) to assess countervailing duties as detailed in the "Preliminary Results of New Shipper Review" section of this notice. Interested parties are invited to comment on the preliminary results of this new shipper review. (See the "Public Comment" section of this notice).

**EFFECTIVE DATE:** October 31, 2003.

**FOR FURTHER INFORMATION CONTACT:** Eric B. Greynolds or Meg Ward, AD/CVD Enforcement, Office VI, Group II, Import Administration, U.S. Department of Commerce, Room 4012, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482-2786.

#### SUPPLEMENTARY INFORMATION:

##### Background

On May 22, 2002, the Department published in the **Federal Register** the countervailing duty order on certain softwood lumber products from Canada. See *Notice of Amended Final Affirmative Countervailing Duty Determination and Countervailing Duty Order: Certain Softwood Products From Canada*, 67 FR 36070 (May 22, 2002). On November 26, 2002, we received a request for a new shipper review from La Pointe & Roy, the respondent company in the proceeding. On December 31, 2002, we initiated a new shipper review covering the period January 1, 2002, through December 31, 2002. See *Certain Softwood Products From Canada: Notice of Initiation of Antidumping Duty New Shipper Review for the Period May 22, 2002, Through October 31, 2002; Notice of Initiation of Countervailing Duty New Shipper Review for the Period January 1, 2002, Through December 31, 2002; and Rescission of Countervailing Duty Expedited Review*, 68 FR 1030 (January 8, 2003).

On February 24, 2003, we issued a questionnaire to La Pointe & Roy. On May 28, 2003, we extended the period for the completion of the preliminary results pursuant to section 751(a)(2)(B)(iv) of the Tariff Act of 1930, as amended (the Act). See *Certain Softwood Lumber Products From Canada: Notice of Extension of Time Limit for the Preliminary Results of Countervailing Duty New Shipper Review*, 68 FR 33921 (June 6, 2003). On April 4, 2003, La Pointe & Roy

submitted its questionnaire response. On September 5, 2003, the Department issued a questionnaire to the Government of Canada (GOC) and the Government of Quebec (GOQ). On September 22, 2003, the GOC and GOQ submitted a combined questionnaire response.

In accordance with 19 CFR 351.214(a), this new shipper review covers only those producers or exporters for which a review was specifically requested. Accordingly, this new shipper review covers subject merchandise produced and exported by La Pointe & Roy.

#### Scope of Review

The products covered by this order are softwood lumber, flooring and siding (softwood lumber products). Softwood lumber products include all products classified under headings 4407.1000, 4409.1010, 4409.1090, and 4409.1020, respectively, of the Harmonized Tariff Schedule of the United States (HTSUS), and any softwood lumber, flooring and siding described below. These softwood lumber products include:

(1) Coniferous wood, sawn or chipped lengthwise, sliced or peeled, whether or not planed, sanded or finger-jointed, of a thickness exceeding six millimeters;

(2) Coniferous wood siding (including strips and friezes for parquet flooring, not assembled) continuously shaped (tongued, grooved, rabbeted, chamfered, v-jointed, beaded, molded, rounded or the like) along any of its edges or faces, whether or not planed, sanded or finger-jointed;

(3) Other coniferous wood (including strips and friezes for parquet flooring, not assembled) continuously shaped (tongued, grooved, rabbeted, chamfered, v-jointed, beaded, molded, rounded or the like) along any of its edges or faces (other than wood moldings and wood dowel rods) whether or not planed, sanded or finger-jointed; and

(4) Coniferous wood flooring (including strips and friezes for parquet flooring, not assembled) continuously shaped (tongued, grooved, rabbeted, chamfered, v-jointed, beaded, molded, rounded or the like) along any of its edges or faces, whether or not planed, sanded or finger-jointed.

Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise subject to this order is dispositive.

As specifically stated in the Issues and Decision Memorandum accompanying the *Notice of Final Determination of Sales at Less Than Fair Value: Certain Softwood Lumber*

*Products from Canada* (67 FR 15539; April 2, 2002) (see comment 53, item D, page 116, and comment 57, item B-7, page 126), available at <http://www.ia.ita.doc.gov>, drilled and notched lumber and angle cut lumber are covered by the scope of this order.

The following softwood lumber products are excluded from the scope of this order provided they meet the specified requirements detailed below:

(1) *Stringers* (pallet components used for runners): if they have at least two notches on the side, positioned at equal distance from the center, to properly accommodate forklift blades, properly classified under HTSUS 4421.90.98.40.

(2) *Box-spring frame kits*: if they contain the following wooden pieces—two side rails, two end (or top) rails and varying numbers of slats. The side rails and the end rails should be radius-cut at both ends. The kits should be individually packaged, they should contain the exact number of wooden components needed to make a particular box spring frame, with no further processing required. None of the components exceeds 1" in actual thickness or 83" in length.

(3) *Radius-cut box-spring-frame components*, not exceeding 1" in actual thickness or 83" in length, ready for assembly without further processing. The radius cuts must be present on both ends of the boards and must be substantial cuts so as to completely round one corner.

(4) *Fence pickets* requiring no further processing and properly classified under HTSUS heading 4421.90.70, 1" or less in actual thickness, up to 8" wide, 6' or less in length, and have finials or decorative cuttings that clearly identify them as fence pickets. In the case of dog-eared fence pickets, the corners of the boards should be cut off so as to remove pieces of wood in the shape of isosceles right angle triangles with sides measuring  $\frac{3}{4}$  inch or more.

(5) *U.S. origin lumber* shipped to Canada for minor processing and imported into the United States, is excluded from the scope of this order if the following conditions are met: (1) The processing occurring in Canada is limited to kiln-drying, planing to create smooth-to-size board, and sanding, and (2) if the importer establishes to CBP satisfaction that the lumber is of U.S. origin.

(6) *Softwood lumber products contained in single family home packages or kits*,<sup>1</sup> regardless of tariff

<sup>1</sup> To ensure administrability, we clarified the language of exclusion number 6 to require an importer certification and to permit single or multiple entries on multiple days as well as

classification, are excluded from the scope of this order if the importer certifies to items 6 A, B, C, D, and requirement 6 E is met:

A. The imported home package or kit constitutes a full package of the number of wooden pieces specified in the plan, design or blueprint necessary to produce a home of at least 700 square feet produced to a specified plan, design or blueprint;

B. The package or kit must contain all necessary internal and external doors and windows, nails, screws, glue, sub floor, sheathing, beams, posts, connectors, and if included in the purchase contract, decking, trim, drywall and roof shingles specified in the plan, design or blueprint.

C. Prior to importation, the package or kit must be sold to a retailer of complete home packages or kits pursuant to a valid purchase contract referencing the particular home design plan or blueprint, and signed by a customer not affiliated with the importer;

D. Softwood lumber products entered as part of a single family home package or kit, whether in a single entry or multiple entries on multiple days, will be used solely for the construction of the single family home specified by the home design matching the entry.

E. For each entry, the following documentation must be retained by the importer and made available to the CBP upon request:

i. A copy of the appropriate home design, plan, or blueprint matching the entry;

ii. A purchase contract from a retailer of home kits or packages signed by a customer not affiliated with the importer;

iii. A listing of inventory of all parts of the package or kit being entered that conforms to the home design package being entered;

iv. In the case of multiple shipments on the same contract, all items listed in E(iii) which are included in the present shipment shall be identified as well.

Lumber products that the CBP may classify as stringers, radius cut box-spring-frame components, and fence pickets, not conforming to the above requirements, as well as truss components, pallet components, and door and window frame parts, are covered under the scope of this order and may be classified under HTSUS subheadings 4418.90.45.90, 4421.90.70.40, and 4421.90.97.40.

Finally, as clarified throughout the course of the investigation, the

instructing importers to retain and make available for inspection specific documentation in support of each entry.

following products, previously identified as Group A, remain outside the scope of this order. They are:

1. Trusses and truss kits, properly classified under HTSUS 4418.90;
2. I-joint beams;
3. Assembled box spring frames;
4. Pallets and pallet kits, properly classified under HTSUS 4415.20;
5. Garage doors;
6. Edge-glued wood, properly classified under HTSUS item 4421.90.98.40;
7. Properly classified complete door frames;
8. Properly classified complete window frames;
9. Properly classified furniture.

In addition, this scope language has been further clarified to now specify that all softwood lumber products entered from Canada claiming non-subject status based on U.S. country of origin will be treated as non-subject U.S.-origin merchandise under the countervailing duty order, provided that these softwood lumber products meet the following condition: upon entry, the importer, exporter, Canadian processor and/or original U.S. producer establish to CBP's satisfaction that the softwood lumber entered and documented as U.S.-origin softwood lumber was first produced in the United States as a lumber product satisfying the physical parameters of the softwood lumber scope.<sup>2</sup> The presumption of non-subject status can, however, be rebutted by evidence demonstrating that the merchandise was substantially transformed in Canada.

#### Analysis of Programs

##### *I. Program Preliminarily Determined To Be Countervailable*

###### A. Private Forest Development Program (PFDP)

In the underlying investigation, the Department found the PFDP to be countervailable. See "Program Administered by the Province of Quebec," in the March 21, 2002, Issues and Decision Memorandum that accompanied the *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) (*Lumber Final*). Specifically, in the underlying investigation, the Department determined that the PFDP provides silviculture support to private

<sup>2</sup> See the scope clarification message (# 3034202), dated February 3, 2003, to the CBP, regarding treatment of U.S. origin lumber on file in the Central Records Unit, Room B-099 of the main Commerce Building.

woodlot owners through payments, either made directly to forest engineers or via reimbursement to the woodlot owner, for silviculture treatments executed on private land. Thus, we found that payments under the PFDP constitute a financial contribution under section 771(5)(D)(i) of the Act and that the benefit conferred under the PFDP is equal to the grant of funds provided during the review period. We further found in the underlying investigation that because the PFDP is limited to private woodlot owners, the assistance is specific under section 771(5A)(D) of the Act.

In its April 4, 2003, questionnaire response, La Pointe & Roy reported that it received assistance from an agency known as the Agence de Mise en Valeur de la Forêt Privée de L'Estrie (AMFE) during calendar year 2002, the period of review (POR). Specifically, AMFE arranged for a company called the A.F.A. Des Appalaches Inc. (AFA) to perform silviculture work on a private woodlot held by La Pointe & Roy. La Pointe & Roy paid AFA for a portion of the work while AMFE directly compensated AFA for the remaining amount. La Pointe & Roy received similar assistance from the Agence de Mise en Valeur des Forêts Privées de Chaudière (AMFC) in 1999. In its questionnaire response, La Pointe & Roy stated that it did not know whether AMFE paid for the work performed by AFA with assistance from the GOQ-run PFDP. It stated the same with respect to the assistance received from AMFC.

According to the GOQ, AMFE and AMFC are two of 17 private regional agencies established in 1996 for the protection and development of private forest land in Quebec. Specifically, these agencies promote private forest development by providing information, education, and reimbursement to private woodlot owners for silviculture work. Each regional agency has a board of directors comprised of representatives from the municipality concerned, forest producer groups, holders of wood processing plant permits, and the GOQ's Ministry of Natural Resources (MRN). The agencies are funded by the MRN, via the PFDP, as well as by fees the MRN collects from holders of wood processing plant permits. Silviculture reimbursements made by the regional agencies cover a maximum of 80 percent of the cost of the silviculture work performed by or on behalf of the private woodlot owners. Private woodlot owners receiving the assistance are responsible for funding the difference.

La Pointe & Roy received assistance from AMFE and AMFC. We

preliminarily determine that the PFDP assistance is countervailable. While the GOQ states that AMFE and AMFC are private organizations with no governmental ties, this does not appear to be the case. We note that all of the funding for these organizations is either provided by the MRN/GOQ or is provided by means of government-mandated private contributions and, as such, AMFE and AMFC appear to be government authorities. Consequently, we preliminarily find the existence of a subsidy in the form of a government financial contribution within the meaning of section 771(5)(B)(i) of the Act (direct transfer of funds). To the extent that AMFE and AMFC are non-governmental, however, we preliminarily find the existence of a subsidy in the form of a government "payment to a funding mechanism to provide a financial contribution" or government action that "entrusts or directs" a financial contribution within the meaning of section 771(5)(B)(iii) of the Act. Further, we preliminarily determine that the assistance received by La Pointe & Roy conferred a benefit in the form of a grant. Finally, we continue to find that this program is specific under section 771(5A)(D) of the Act, because assistance under this program is limited to private woodlot owners.

In accordance with 19 CFR 351.524(b)(2), we have allocated all of the grants provided under the PFDP to the year of receipt because the total amounts approved under the program are less than 0.5 percent of the company's total sales of softwood lumber products in the year of receipt, net of resales. Using this methodology, the net subsidy rate attributable to La Pointe & Roy under the PFDP is 0.08 percent *ad valorem*.

## II. Programs Preliminarily Determined To Be Not Used

### A. Provincial Stumpage Program

In the underlying investigation, the Department determined that the stumpage fees paid to harvest and cut Crown timber by softwood lumber producers, which are set by the provincial governments, conferred a countervailable benefit on the production and exportation of the subject merchandise. See "Provincial Stumpage Programs Determined To Confer Subsidies," in the March 21, 2002, Issues and Decision Memorandum that accompanied the *Lumber Final*. In this new shipper review, La Pointe & Roy stated that it acquired all of its logs, its sole input, from private lands. Because La Pointe & Roy has stated that

it did not utilize any inputs from the Crown during the POR, we preliminarily determine that it did not use the program.

### B. Export Assistance Under the Societe de Developpement Industriel du Quebec (SDI)/Investissement Quebec(IQ)

La Pointe & Roy stated in its questionnaire response that it did not apply for, use or benefit from SDI/IQ during the POR, therefore, we preliminarily determine that it did not use the program. In the underlying investigation, the Department determined that the export assistance under SDI/IQ established, in part, to facilitate export activities, did not confer a countervailable benefit on the exportation of subject merchandise, given that the interest rates paid under this program were equal to or higher than the interest rates charged on comparable commercial loans at the time of the investigation. See "Programs Determined Not to Confer a Benefit," in the March 21, 2002, Issues and Decision Memorandum that accompanied the *Lumber Final*. As no benefit was conferred during the POI, a final determination of this program's countervailability was not made. We are not further examining this program in the instant review because La Pointe & Roy did not use it.

### C. Assistance Under Articles 7 and 28 of the SDI

La Pointe & Roy stated in its questionnaire response that it did not apply for, use or benefit from loans, loan guarantees or grants issued under Articles 7 and 28 of the SDI during the POR, therefore, we preliminarily determine that it did not use the program. In the underlying investigation, the Department determined that no benefit was provided by loans issued under Article 7 and 28 of the SDI because the interest rates charged under this program were equal to or higher than the interest rates charged on comparable commercial loans at the time of the investigation. See "Programs Determined Not to Confer a Benefit," in the March 21, 2002, Issues and Decision Memorandum that accompanied the *Lumber Final*. As no benefit was conferred during the POI, a final determination of this program's countervailability was not made. We are not further examining this program in the instant review because La Pointe & Roy did not use it.

D. Assistance from the Societe de Recuperation d'Exploitation et de Developpement Forestiers du Quebec (Rexfor)

La Pointe & Roy stated in its questionnaire response that it did not apply for, use or benefit from loans or loan guarantees from Rexfor during the POR, therefore, we preliminarily determine that it did not use the program. In the underlying investigation, the Department determined that no benefit was provided by loans issued under Rexfor because the interest rates charged under this program were equal to or higher than the interest rates charged on comparable commercial loans at the time of the investigation. See "Programs Determined Not to Confer a Benefit," in the March 21, 2002, Issues and Decision Memorandum that accompanied the *Lumber Final*. As no benefit was conferred during the POI, a final determination of this program's countervailability was not made. We are not further examining this program in the instant review because La Pointe & Roy did not use it.

#### Preliminary Results of New Shipper Review

In accordance with section 751(a)(2)(B)(i) of the Act, we have determined an individual rate for the manufacturer of the subject merchandise participating in this new shipper review. We preliminarily determine the total estimated net countervailable subsidy rate to be:

Producer/Exporter	Net subsidy rate
Scierie La Pointe & Roy Ltee.	0.08 percent <i>ad valorem</i>

As provided for in the Act and 19 CFR 351.106(c)(1) of the Department's regulations, any rate less than 0.5 percent *ad valorem* in a new shipper review is *de minimis*. Accordingly, if the final results of this new shipper review remain the same as the preliminary results, no countervailing duties will be assessed. The Department will instruct CBP to liquidate without regard to countervailing duties, shipments of the subject merchandise (e.g., certain softwood lumber from Canada) produced and exported by La Pointe & Roy entered, or withdrawn from warehouse, for consumption on or after May 22, 2002 and on or before December 31, 2002. Also, the cash deposit rates will be set at zero for this company. The Department will issue appropriate appraisal instructions directly to the CBP within 15 days of

publication of the final results of this review.

#### Public Comment

Pursuant to 19 CFR 351.224(b), the Department will disclose to parties to the proceeding any calculations performed in connection with these preliminary results within five days after the date of publication of this notice. Pursuant to 19 CFR 351.309, interested parties may submit written comments in response to these preliminary results. Case briefs must be submitted within 30 days after the date of publication of this notice, and rebuttal briefs, limited to arguments raised in case briefs, must be submitted no later than five days after the time limit for filing case briefs. Parties who submit argument in this proceeding are requested to submit with the argument: (1) a statement of the issue, and (2) a brief summary of the argument. Case and rebuttal briefs must be served on interested parties in accordance with 19 CFR 351.303(f).

Also, pursuant to 19 CFR 351.310, within 30 days of the date of publication of this notice, interested parties may request a public hearing on arguments to be raised in the case and rebuttal briefs. Unless the Secretary specifies otherwise, the hearing, if requested, will be held two days after the date of submission of rebuttal briefs, that is, thirty-seven days after the date of publication of these preliminary results.

Representatives of parties to the proceeding may request disclosure of proprietary information under administrative protective order no later than 10 days after the representative's client or employer becomes a party to the proceeding, but in no event later than the date the case briefs, under 19 CFR 351.309(c)(ii), are due. The Department will publish the final results of this administrative review, including the results of its analysis of issues raised in any case or rebuttal brief or at a hearing.

This administrative review and notice are issued and published in accordance with section 751(a)(1) and 777(i)(1) of the Act (19 U.S.C. 1675(a)(1) and 19 U.S.C. 1677f(1)).

Dated: October 24, 2003.

**James J. Jochum,**

*Assistant Secretary for Import Administration.*

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**BILLING CODE 3510-DS-P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### Federal Consistency Appeal by Millennium Pipeline Company From an Objection by the New York Department of State

**AGENCY:** National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (Commerce).

**ACTION:** Notice of extension of time—administrative appeal decision.

**SUMMARY:** This notice announces that the due date for a decision of an administrative appeal filed with the Department of Commerce by the Millennium Pipeline Company (Consistency Appeal of Millennium Pipeline Company, L.P.) has been extended.

**DATES:** A decision for the Millennium Pipeline Company's administrative appeal is to be issued no later than December 15, 2003.

**ADDRESSES:** Materials from the appeal record are available at the Internet site <http://www.ogc.doc.gov/czma.htm> and at the Office of the General Counsel for Ocean Services, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, 1305 East-West Highway, Silver Spring, MD 20910.

**FOR FURTHER INFORMATION CONTACT:** Branden Blum, Senior Counselor, Office of the General Counsel for Ocean Services, via e-mail at [gcos.inquiries@noaa.gov](mailto:gcos.inquiries@noaa.gov), or at 301-713-2967, extension 186.

**SUPPLEMENTARY INFORMATION:** This notice announces an extension of the 90-day deadline for issuing a final decision of an administrative appeal filed by the Millennium Pipeline Company, L.P. (Millennium) pursuant to the Coastal Zone Management Act of 1972 (CZMA), as amended, 16 U.S.C. 1451 *et seq.* The appeal was taken from an objection by the New York Department of State to Millennium's proposed natural gas pipeline project that would span approximately 420 miles from the U.S. Canada border to a terminus outside of New York City.

A **Federal Register** notice published on August 4, 2003, triggered the start of the 90-day decision period for this appeal. As indicated by that notice, the deadline may be extended before the end of the 90 day period, one time, by up to 45 days. See 16 U.S.C. 1465. Taking account of the extension, the deadline for a decision in the Millennium appeal is now December 15,