

### Duty Assessment

The Department will determine, and CBP shall assess, antidumping duties on all appropriate entries, pursuant to 19 CFR § 351.212(b). If we determine in the final results that this review should be rescinded with respect to JFE, NKK, Nippon and SMI because these companies had no sales of subject merchandise to the United States during the POR, we will direct CBP to liquidate all entries of subject merchandise manufactured by these four companies, and entered or withdrawn from warehouse for consumption during the POR, at the "all others" rate, 44.20 percent, as all such sales were made by intermediary companies (e.g., resellers) not covered in this review, a prior review, or the less than fair value (LTFV) investigation. *See Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003).

### Cash Deposit Requirements

The following cash deposit rates will be effective with respect to all shipments of OCTG from Japan entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results, as provided for by section 751(a)(1) of the Act: (1) For all four companies, JFE, NKK, Nippon and SMI, the cash deposit rate will remain unchanged and will be the company-specific rate established for the most recent period; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will be the company-specific rate established for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the LTFV investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the subject merchandise; and (4) if neither the exporter nor the manufacturer is a firm covered by this review, a prior review, or the LTFV investigation, the cash deposit rate shall be the all others rate established in the LTFV investigation, which is 44.20 percent. *See Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Oil Country Tubular Goods from Japan*, 60 FR 155 (August 11, 1995). These deposit rates, when imposed, shall remain in effect until publication of the final results of the next administrative review.

### Public Comment

Pursuant to section 351.309 of the Department's regulations, interested

parties may submit written comments in response to this notice of intent to rescind the administrative review. Unless the deadline is extended by the Department, case briefs are to be submitted within 30 days after the date of publication of this notice, and rebuttal briefs, limited to arguments raised in case briefs, are to be submitted no later than five days after the time limit for filing case briefs. Parties who submit arguments in this proceeding are requested to submit with the argument: (1) A statement of the issues, and (2) a brief summary of the argument. Case and rebuttal briefs must be served on interested parties in accordance with section 351.303(f) of the Department's regulations.

Also, pursuant to section 351.310(c) of the Department's regulations, 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 Department specifies otherwise, the hearing, if requested, will be held two days after the date for submission of rebuttal briefs. Parties will be notified of the time and location.

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, no later than 120 days after publication of these preliminary results, unless extended. *See* 19 CFR section 351.213(h).

### Notification to Importers

This notice serves as a preliminary reminder to importers of their responsibility under section 351.402(f) of the Department's regulations 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 the subsequent assessment of double antidumping duties.

This administrative review and notice are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Tariff Act of 1930, as amended.

Dated: June 15, 2006.

**David M. Spooner,**

*Assistant Secretary for Import Administration.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-122-838]

#### Notice of Preliminary Results of Antidumping Duty Changed Circumstances Review: Certain Softwood Lumber Products from Canada

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

**SUMMARY:** On April 10, 2006, the Department of Commerce published a notice of initiation of changed circumstances review of the antidumping duty order on certain softwood lumber products from Canada to determine the correct deposit rate for Ivis Partners Ltd. (IVIS). We have preliminarily determined that IVIS is the successor-in-interest to Ivis Wood Products Ltd. (Ivis Wood) and should, therefore, receive Ivis Wood's cash deposit rate.

**EFFECTIVE DATE:** June 22, 2006.

**FOR FURTHER INFORMATION CONTACT:** Constance Handley or David Layton, AD/CVD Enforcement, Office 1, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-0631 or (202) 482-0371, respectively.

#### SUPPLEMENTARY INFORMATION:

##### Background

On February 16, 2006, in accordance with section 751(b)(1) of the Act and 19 CFR 351.216(b) (2004), IVIS, a Canadian producer of softwood lumber products and interested party in this proceeding, filed a request for a changed circumstances review. In response to this request, the Department of Commerce (the Department) initiated a changed circumstances review of the antidumping duty order on certain softwood lumber from Canada. *See Initiation of Antidumping Duty Changed Circumstances Review: Certain Softwood Products from Canada*, 71 FR 18072 (April 10, 2006) (*Initiation Notice*). On April 4, 2006, the Department issued a questionnaire to IVIS requesting further details on its purchase of Ivis Woods. IVIS' response was received by the Department on April 13, 2006. On May 10, 2006, the Department issued an additional supplemental questionnaire to IVIS. IVIS' response was received on May 17, 2006. The petitioner, the Coalition of Fair Lumber Imports Executive Commission, did not file comments with respect to the request.

### Scope of the Order

The products covered by this order are softwood lumber, flooring and siding (softwood lumber products). Softwood lumber products include all products classified under subheadings 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 mouldings 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 U.S. 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 and comment 57, item B-7) available at [www.ia.ita.doc.gov/frn](http://www.ia.ita.doc.gov/frn), 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 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 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 the satisfaction of U.S. Customs and Border Protection (CBP) 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 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 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 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 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;

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

2. I-joist 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 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 was further clarified to 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 antidumping and countervailing duty orders, 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.

On March 3, 2006 the Department issued a scope ruling that any product entering under HTSUS 4409.10.05 which is continually shaped along its end and/or side edges which otherwise conforms to the written definition of the scope is within the scope of the order.<sup>3</sup>

#### Preliminary Results of the Review

In an antidumping duty changed circumstances review involving a successor-in-interest determination, the Department typically examines several factors including, but not limited to, changes in: (1) Management; (2) production facilities; (3) supplier relationships; and (4) customer base. *See Brass Sheet and Strip from Canada; Preliminary Results of Antidumping Duty Administrative Review*, 57 FR 5128 (February 12, 1992) (*Canada Brass*). Although no single factor or combination of factors will necessarily be dispositive, the Department generally

will consider the new company to be the successor to the predecessor company if the resulting operations are essentially the same as those of the predecessor company. Thus, if the record evidence demonstrates that, with respect to the production and sale of the subject merchandise, the new company operates as the same business entity as the predecessor company, the Department may assign the new company the cash deposit rate of its predecessor. *See, e.g., Fresh and Chilled Atlantic Salmon from Norway: Final Results of Changed Circumstances Antidumping Duty Administrative Review*, 64 FR 9979-980 (March 1, 1999).

In its review request of February 16, 2006, and in its April 13, 2006<sup>4</sup> questionnaire response, IVIS reported that on September 30, 2005, IVIS was incorporated in the Province of British Columbia. On September 30, 2005, IVIS purchased the Ivis Wood business, including equipment and inventory. As a result of the purchase, all lumber-related assets held by Ivis Wood were transferred to IVIS. The purchase and sale agreement between Ivis Wood and IVIS indicates that the business was sold as a going concern. The Board of Directors of Ivis Wood was made up of its owners. Therefore, after the sale, IVIS installed a completely new Board of Directors, and senior management positions were occupied by the new owners. IVIS reported that all of its facilities are those it purchased from Ivis Wood and that it does not own, in whole or in part, any other company involved in the production or sale of subject softwood lumber. IVIS continues to be supplied by the same suppliers as Ivis Wood, and continues to sell to Ivis Wood's customers.

Based on our review of IVIS' questionnaire responses and initial submission, we preliminarily determine that IVIS is the successor-in-interest to Ivis Wood. Although the board of directors and senior management changed significantly, information on the record indicates that Ivis Wood was purchased as a going concern and that IVIS continued to do business with the same suppliers and customers as Ivis Wood, using the same production assets. Therefore, based on the totality of the circumstances, we preliminarily determine that IVIS should be assigned Ivis Wood's cash deposit rate of 3.78

percent, established in the first administrative review.<sup>5</sup>

If the above preliminary results are affirmed in the Department's final results, the cash deposit rate from this changed circumstances review will apply to all entries of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this changed circumstances review. *See Granular Polytetrafluoroethylene Resin from Italy; Final Results of Antidumping Duty Changed Circumstances Review*, 68 FR 25327 (May 12, 2003). This deposit rate shall remain in effect until publication of the next administrative review in which IVIS participates.

#### Public Comment

Any interested party may request a hearing within 30 days of publication of this notice. *See* 19 CFR 351.310(c). Any hearing, if requested, will be held 44 days after the date of publication of this notice, or the first working day thereafter. Interested parties may submit case briefs not later than 30 days after the date of publication of this notice. *See* 19 CFR 351.309(c)(ii). Rebuttal briefs, which must be limited to issues raised in such briefs, must be filed not later than 37 days after the date of publication of this notice. *See* 19 CFR 351.309(d). Parties who submit arguments are requested to submit with the argument (1) a statement of the issue, (2) a brief summary of the argument, and (3) a table of authorities. In accordance with 19 CFR 351.216(e), we will issue the final results of this changed circumstances review no later than December 28, 2006.

This notice is in accordance with sections 751(b) and 777(i)(1) of the Act and section 351.221(c)(3)(i) of the Department's regulations.

Dated: June 15, 2006.

**David M. Spooner,**

*Assistant Secretary for Import Administration.*

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<sup>2</sup> See the scope clarification message (1 3034202), dated February 3, 2003, to CBP, regarding treatment of U.S. origin lumber on file in Room B-099 of the Central Records Unit (CRU) of the Main Commerce Building.

<sup>3</sup> See memorandum from Constance Handley, Program Manager to Stephen J. Claeys, Deputy Assistant Secretary regarding: Scope Request by the Petitioner Regarding Entries Made Under HTSUS 4409.10.05, dated March 3, 2006.

<sup>4</sup> The dates on IVIS' review request and questionnaire response were February 2, 2006, and April 6, 2006, however, they were not received by the Department until February 16 and April 13, respectively.

<sup>5</sup> See *Notice of Amended Final Results of Antidumping Duty Administrative Review: Certain Softwood Lumber Products from Canada*, 70 FR 3358 (January 24, 2005).