

Minister of Export Promotion,
International Trade and
Economic Development



Ministre de la Promotion des exportations,
du Commerce international
et du Développement économique

Ottawa, Canada K1A 0G2

March 18, 2024

The Honourable Judy A. Sgro, P.C., M.P.
Chair
Standing Committee on International Trade
House of Commons
Ottawa, ON K1A 0G6

Dear Ms. Sgro:

Pursuant to Standing Order 109 of the House of Commons, I welcome the opportunity to respond on behalf of the Government of Canada to the recommendations made in the Twelfth Report of the Standing Committee on International Trade, entitled: *Anti-dumping and Countervailing Duties Being Applied on Certain Canadian Softwood Lumber Products*, tabled in the House of Commons on November 20, 2023.

The Government of Canada greatly values the work done by the Committee, which involved engaging with a wide range of stakeholders through several hearings and led to thorough analysis and recommendations. The Government of Canada also expresses its appreciation to the stakeholders who appeared as witnesses over the course of the Committee's study.

The report demonstrates the Committee's commitment to supporting the continued success of the softwood lumber industry, including through a durable and fair outcome to the trade dispute with the United States. I wish to thank you and your colleagues for your contributions to this process.

Please find enclosed a copy of the Government's Response to the recommendations in the Report.

Sincerely,

A handwritten signature in black ink that reads "Mary Ng".

The Honourable Mary Ng, P.C., M.P.

Enclosure

Canada 

Government Response to the Twelfth Report of the House of Commons Standing Committee on International Trade (CIIT) entitled, Anti-dumping and Countervailing Duties Being Applied on Certain Canadian Softwood Lumber Products

The Government of Canada welcomes the opportunity to respond to the Twelfth Report of the House of Commons Standing Committee on International Trade (CIIT), *Anti-dumping and Countervailing Duties Being Applied on Certain Canadian Softwood Lumber Products*. The Government shares the CIIT's concern over the prolonged application of unwarranted anti-dumping and countervailing duties imposed by the United States on Canadian softwood lumber products and their impacts on Canada's softwood lumber industry.

The Government of Canada values the work of the Committee and appreciates its thorough analysis, engagement with a wide range of softwood lumber stakeholders, and its recommendations. The Government has reviewed the CIIT's report and is pleased to respond to each of the Committee's recommendations individually.

Canada's softwood lumber industry

The softwood lumber industry is an important component of Canada's highly integrated forest sector and an economic anchor for communities, many of them rural, across the country. Indeed, the softwood lumber industry contributes to the 212,000 jobs and more than \$22 billion in GDP provided by Canada's forest sector.

Canada is a trading country, and our highly innovative and competitive softwood lumber industry is no exception. The United States is Canada's largest export destination for softwood lumber products. In 2022, almost 90% of Canada's total softwood lumber exports went to the United States, at a value of close to \$12 billion. The United States is unable to produce enough softwood lumber to meet domestic demand, and therefore relies on imports to fill that gap. As a trusted and reliable partner, Canada has traditionally provided the large majority of the softwood lumber supply to address the domestic shortage in the United States. However, the United States has frequently succumbed to the protectionist lobbying efforts of its lumber industry, unjustly applying anti-dumping and countervailing duties on imports of Canadian softwood lumber since the 1980s, leading to five rounds of this trade dispute. International trade tribunals have repeatedly ruled that the U.S. lumber industry's claims are without merit. In the most recent round of the dispute, in 2017 the United States imposed a new round of trade remedy measures on Canadian exports, which unduly compromise the ability of Canada's softwood lumber industry to compete. In response to the unfair and unwarranted duties, Canada has launched legal challenges under the NAFTA and CUSMA, at the WTO, and before the U.S. Court of International Trade. In addition, Canada has repeatedly advocated for a mutually beneficial negotiated resolution to the dispute, though the United States has not demonstrated any concrete interest in meaningful negotiations.

The report highlights the Committee's concerns that U.S. duties hinder the softwood lumber industry's ability to invest and create jobs in Canada. The Committee recognizes that a new softwood lumber agreement could provide a stable framework for trade in this commodity between Canada and the United States, and issued various recommendations that may facilitate reaching such an agreement, including ensuring the proper functioning of dispute settlement mechanisms, government-to-government engagement, and advocacy with potential U.S. allies.

RECOMMENDATIONS

Recommendation 1: That the Government of Canada continue with and enhance its engagement with the Government of the United States concerning the United States' anti-dumping and countervailing duties that are currently being applied on certain Canadian softwood lumber products. In part, the engagement should focus on efforts to ensure that dispute-settlement processes both at the World Trade Organization and under trade agreements are fair and impartial, and lead to timely decisions.

The Government of Canada supports this recommendation. The Government concurs that the United States should respect the importance of fair and impartial dispute settlement processes, thereby allowing for timely decisions. Furthermore, the Government agrees that fair and impartial dispute settlement processes are a key element of Canada's response to unfair U.S. anti-dumping and countervailing duties on softwood lumber products. In past rounds of the softwood lumber dispute, repeated successes in litigation led to managed trade agreements that provided predictable access to the U.S. market for significant periods of time, as well as a return of a large majority of the duty deposits that had been unduly collected from Canadian exporters by the U.S. government.

In the current round of the dispute, the Government of Canada is actively pursuing a number of legal challenges to the U.S. duties under Chapter 19 of the North American Free Trade Agreement (NAFTA), under Chapter 10 of the Canada-United States-Mexico Agreement (CUSMA), before the World Trade Organization (WTO) and at the U.S. Court of International Trade. There are a total of 13 ongoing cases in all these different fora. Progress in litigation has been delayed by the lack of quorum in the WTO Appellate Body and the protracted binational panel composition process. Despite these obstacles, there have been some positive legal outcomes wherein independent panels found fault with the U.S. measures being applied to Canadian softwood lumber. For instance, in August 2020, a WTO panel found overwhelmingly in Canada's favour and determined that U.S. countervailing duties are inconsistent with U.S. international trade obligations. More recently, in October 2023, a NAFTA Chapter 19 panel expressed concerns over the lawfulness of the U.S. methodology used to calculate the anti-dumping duties applied to Canadian softwood lumber.

The Government expects more favourable decisions in the future as these legal processes continue to unfold. The Government of Canada, both at the Ministerial and senior officials' level, engages at every opportunity with U.S. counterparts to work through issues to improve the functioning of the NAFTA/CUSMA binational panel review process. The Government is also actively engaged in the WTO dispute settlement reform discussions. The Government will continue to engage the United States to accelerate the pace of impartial dispute settlement processes with the ultimate objective of resolving the softwood lumber dispute.

Recommendation 2: That the Government of Canada continue with and enhance its collaboration with sectors in the United States that support an end to the anti-dumping and countervailing duties that country is applying on certain Canadian softwood lumber products. As part of this collaboration, the Government should discuss options for effectively advocating in the United States and should support initiatives that would increase these sectors' ability to participate directly in dispute-settlement processes.

The Government of Canada supports this recommendation. The Government agrees that vocal support from stakeholders in the United States for a mutually acceptable resolution to the softwood lumber dispute will increase the chances of achieving such an outcome. The Government regularly engages with groups that support the revocation of U.S. measures on Canadian softwood lumber and continually seeks to identify new interest groups that could be aligned with Canada on this matter.

Advocacy is a key diplomatic tool used to protect and promote Canada's interests. Advocacy efforts in the United States on softwood lumber are led at the highest levels, with personal involvement from Ministers and Canada's Ambassador to the United States. These efforts target stakeholders both inside and outside of the U.S. political apparatus. In addition, Global Affairs Canada engages its network of consulates general across the United States in its softwood lumber advocacy efforts. Canada's message is clear – that U.S. duties are unduly harming both Canadian communities and U.S. consumers solely to benefit a few protectionist U.S. softwood lumber producers. Government representatives stress at every opportunity that Canada is ready to discuss creative approaches to resolve the softwood lumber dispute. Government representatives also encourage U.S. allies to express their perspectives, as appropriate, in the context of ongoing dispute settlement proceedings and certain stakeholders have taken advantage of procedural opportunities to provide their views in support of Canada's arguments.

The Government will continue to engage with U.S. groups whose positions align, or could align, with Canada in seeking a way forward to resolve this long-standing trade irritant.

Recommendation 3: That the Government of Canada appoint an official softwood lumber emissary for Canada to engage with United States officials to enhance Canada's efforts designed to encourage the U.S. administration to negotiate a resolution to the current softwood lumber dispute.

The Government of Canada supports this recommendation. The Government consistently raises the need for a durable, mutually acceptable resolution to the softwood lumber dispute with the United States. Unfortunately, the United States has yet to demonstrate a genuine interest in resolving the dispute. The Prime Minister, the Minister of Export Promotion, International Trade and Economic Development, Canada's Ambassador to the United States and senior government officials will continue to engage the U.S. Administration to seek a resolution of the dispute. Furthermore, the Government agrees that, in the right circumstances – when both countries are willing to engage meaningfully toward resolution – it would be appropriate to identify and authorize a special representative to advance Canadian interests in the softwood lumber dispute and achieve a favourable outcome for Canada. Indeed, in the past the Government has engaged special representatives to advance specific aspects of Canada's interests in resolving the softwood lumber dispute, among other issues. The Government of Canada is open to considering how a special representative on softwood lumber could support its efforts and will continue to evaluate opportunities to leverage such a resource to make progress towards resolving the dispute.

Recommendation 4: That the Government of Canada acknowledge that achieving an agreement with the United States regarding trade in softwood lumber products ultimately will occur only through direct head-of-government negotiation. Efforts to achieve a fair, reasonable and durable resolution of the current softwood lumber dispute should be made a high-level priority in dealings with the U.S. government at the leader-to-leader level.

The Government of Canada supports this recommendation. Resolving the softwood lumber dispute is a top priority. The Government has deployed significant efforts and resources to achieve a mutually beneficial and durable resolution to the dispute, and to defend the interests of the Canadian softwood lumber industry through litigation and in U.S. trade remedy proceedings.

Prime Minister Trudeau consistently engages with President Biden on this matter, as he did with former Presidents Obama and Trump. In these engagements, the Prime Minister highlights both the negative impacts the dispute has on Canadian and U.S. stakeholders, and the joint benefits of a negotiated solution that brings predictability to the sector on both sides of the border. In March 2023, Prime Minister Trudeau took the opportunity of President Biden's visit to Canada to again remind

President Biden of the need for a mutually acceptable outcome and to encourage active U.S. engagement toward a resolution.

The Prime Minister's efforts are complemented by engagement and outreach from the Minister of Export Promotion, International Trade and Economic Development, other Cabinet Ministers, Canada's Ambassador to the United States and senior government officials. The Government will continue to actively pursue a durable resolution to the softwood lumber dispute that is in the best interests of Canadian industry.

Recommendation 5: That the Government of Canada establish a strategy for investment in value-added transformations of wood within Canada.

The Government of Canada supports this recommendation. The Government recognizes that increasing value from Canada's sustainable timber harvests will allow Canada to position itself as a leader in the growing global bioeconomy and enhance the economic resilience of its forest sector. For these reasons, the Government of Canada continues to support value-added transformation in the forest sector through dedicated funding programs and coordination with the Canadian Council of Forest Ministers (CCFM).

In 2017, the Government of Canada, along with provincial and territorial partners under the CCFM, endorsed the Forest Bioeconomy Framework for Canada, which set out a vision and pillars to enhance policy coherence and collaboration across jurisdictions. In 2022, a renewed Framework followed, identifying actions to accelerate development of the forest bioeconomy with the vision that Canada will be a global leader in the use of forest biomass for advanced bioproducts and innovative solutions. These frameworks, and their collaborative development, point to the shared role the federal, provincial and territorial governments have in establishing a path for value-added transformation of wood in Canada.

In Budget 2023, the Government of Canada provided \$368.4 million over three years, starting in 2023-24, to Natural Resources Canada to renew and update forest sector support. This included funding for the Forest Innovation Program (FIP), the Investments in Forest Industry Transformation (IFIT) program, and the Green Construction through Wood (GCWood) program.

The FIP received more than \$104 million over three years to support early-stage innovation through investments in research, development, and technology transfer activities in the forest sector. The IFIT program was renewed with an additional \$139 million over three years. This program supports Canada's forest sector in becoming more competitive, resilient and environmentally sustainable through targeted investments that accelerate the adoption of innovative technologies and products. The latter includes value-added products such as bioenergy, bioplastics, biochemicals, and next generation building materials. The GCWood program was renewed with an additional \$38 million over three years. GCWood encourages the use of innovative wood-based building technologies in construction projects, helping to accelerate the adoption of innovative value-added construction materials, while decarbonizing Canada's built environment.

Finally, in the 2023 Fall Economic Statement, the Government of Canada announced expansion of the Clean Technology and Clean Electricity Tax Credits to include technologies that generate heat and electricity from waste biomass. This expansion will incentivize the development of solid biofuels from wood waste (including scrap wood, sawdust, wood chips and other waste materials) and providing additional support for value-added activity in the forest sector while promoting renewable energy to support Canada's climate goals.

Recommendation 6: That the Government of Canada ensure recognition of the specific characteristics of Quebec's forestry regime, which—since the implementation of the province's *Sustainable Forest Development Act* in 2013—has established a market-based system for the pricing of timber and related products from Quebec's public forests, and has resulted in full compliance with North American free trade rules.

The Government of Canada supports this recommendation. The Government strongly believes that U.S. anti-dumping and countervailing duties on Canadian softwood lumber products are unfair and unwarranted. The Government of Canada, both directly with U.S. counterparts and as part of our litigation efforts, has sought to convince the United States that softwood lumber products from all Canadian provinces, including Quebec, and territories should not be subject to U.S. trade remedy measures. Canada's forests are sustainably and responsibly managed. Independent tribunals have consistently found that Canada's various forestry regimes, including in Quebec, do not provide countervailable subsidies. This point is a cornerstone of Canada's messaging with U.S. stakeholders and arguments in the numerous ongoing legal challenges under NAFTA Chapter 19, CUSMA Chapter 10 and before the WTO in relation to the current U.S. duties on Canadian softwood lumber. The Government will continue to work closely with the Government of Quebec to actively defend its forestry sector, as well as with other provinces and territories to defend the interests of the Canadian softwood lumber industry across all regions of Canada.

Recommendation 7: That the Government of Canada take immediate actions designed to ensure that products from private forests in Canada are not subject to U.S. anti-dumping or countervailing duties.

The Government of Canada supports this recommendation. In the context of the current softwood lumber dispute, the Government has advocated for an exclusion from duties for softwood lumber products made from logs that originate from private lands. Decisions regarding the scope of products to which U.S. duties apply rest solely with the U.S. Department of Commerce. The Government of Canada will continue to look for opportunities, including within ongoing legal proceedings, to secure stable and duty-free access to the U.S. market for Canadian softwood lumber products, including those stemming from private lands.