

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.

EFFECTIVE DATE: January 13, 2006.

FOR FURTHER INFORMATION CONTACT: Shane Subler or David Neubacher at (202) 482-0189 or (202) 482-5823, respectively; AD/CVD Operations, Office 1, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street & Constitution Avenue, NW., Washington, DC 20230.

SUMMARY: On June 21, 2005, the Department of Commerce (the Department) published a notice of initiation of a changed circumstances review of the antidumping duty order on certain softwood lumber products from Canada. *See Initiation of Antidumping Duty Changed Circumstances Review: Certain Softwood Products from Canada*, 70 FR 35632, dated June 21, 2005 (*Initiation Notice*). The Department initiated this review to determine the appropriate cash deposit rate for West Fraser Mills Limited (West Fraser), which acquired Weldwood of Canada Limited (Weldwood) on December 31, 2004. We preliminarily determine that the post-acquisition West Fraser is the successor-in-interest to the pre-acquisition West Fraser. Therefore, we preliminarily conclude that the post-acquisition West Fraser should be assigned the same cash deposit rate as West Fraser prior to the acquisition. Interested parties are invited to comment on these preliminary results.

SUPPLEMENTARY INFORMATION:**Background**

On April 29, 2005, the Coalition for Fair Lumber Imports Executive Committee (the Coalition), a domestic interested party to this proceeding, submitted a request that the Department initiate a changed circumstances review of the antidumping duty order on certain softwood lumber products from Canada pursuant to Section 751(b) of the Tariff Act of 1930, as amended (the Act). On June 21, 2005, the Department published the *Initiation Notice* in the **Federal Register**. Also on June 21, 2005, the Department issued West Fraser a

questionnaire requesting further details on its acquisition of Weldwood. On July 1, 2005, the Department granted West Fraser an extension until July 19, 2005, to file its response. The Department received West Fraser's response on July 19, 2005. The Coalition submitted comments to the Department on August 1, 2005.

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 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 under review is dispositive.

Softwood lumber products excluded from the scope:

- trusses and truss kits, properly classified under HTSUS 4418.90
- I-joist beams
- assembled box spring frames
- pallets and pallet kits, properly

classified under HTSUS 4415.20

- garage doors
 - edge-glued wood, properly classified under HTSUS 4421.90.97.40 (formerly HTSUS 4421.90.98.40)
 - properly classified complete door frames
 - properly classified complete window frames
 - properly classified furniture
- Softwood lumber products excluded from the scope only if they meet certain requirements:
- *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 4421.90.97.40 (formerly HTSUS 4421.90.98.40).
 - *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.
 - *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.
 - *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.
 - *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 U.S. Customs and Border Protection's (CBP's) satisfaction that the lumber is of U.S. origin.

- **Softwood lumber products contained in single family home packages or kits,**¹ regardless of tariff classification, are excluded from the scope of the orders if the following criteria are 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, subfloor, sheathing, beams, posts, connectors and if included in 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) The whole package must be imported under a single consolidated entry when permitted by CBP, whether or not on a single or multiple trucks, rail cars or other vehicles, which shall be on the same day except when the home is over 2,000 square feet;
 - (E) The following documentation must be included with the entry documents:
 - a copy of the appropriate home design, plan, or blueprint matching the entry;
 - a purchase contract from a retailer of home kits or packages signed by a customer not affiliated with the importer;
 - a listing of inventory of all parts of the package or kit being entered that conforms to the home design package being entered;
 - in the case of multiple shipments on the same contract, all items listed immediately above which are included in the present shipment shall be identified as well.

We have determined that the excluded products listed above are outside the scope of this order provided

the specified conditions are met. 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 4418.90.40.90, 4421.90.70.40, and 4421.90.98.40. Due to changes in the 2002 HTSUS whereby subheading 4418.90.40.90 and 4421.90.98.40 were changed to 4418.90.45.90 and 4421.90.97.40, respectively, we are adding these subheadings as well.

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 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.² The presumption of non-subject status can, however, be rebutted by evidence demonstrating that the merchandise was substantially transformed in Canada.

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*). The Department has discretion in determining successorship because there is no explicit legal standard for determining whether one company is a successor to another under the Act or under the Department's regulations. See *Industrial Phosphoric Acid from Israel: Final Results of Changed Circumstances Review*, 59 FR 6944-945 (February 14, 1994) (*Industrial Phosphoric Acid*).

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

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. See, e.g., *Canada Brass*, 57 FR 5128; see also *Industrial Phosphoric Acid*, 59 FR 6944-945. 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 July 19, 2005, questionnaire response,³ West Fraser stated that it purchased the sole Weldwood share from International Paper Company (IP) on December 31, 2004. The acquisition agreement and related amendments located at Exhibits 3 and 4 of the CCR Response indicate that IP transferred its sole outstanding share in Weldwood to West Fraser on the closing date of December 31, 2004. The certificate of amalgamation located at Exhibit 5 of the CCR Response indicates that West Fraser and Weldwood were amalgamated as one company as of January 1, 2005.

As shown in Exhibit 7 of the *CCR Response*, West Fraser's board of directors did not change as a result of the acquisition. Weldwood had a single-member board that ceased to exist as of January 1, 2005. The board member accepted a position with IP. In addition, as detailed in Exhibit 8 of the *CCR Response*, the acquisition of Weldwood resulted in minimal changes to the composition of West Fraser's top management. Weldwood's vice-president of sales became West Fraser's vice-president for export lumber sales and market development (i.e., sales outside of North America). Two of Weldwood's remaining eight management officers accepted non-officer positions in operations for West Fraser. Weldwood's other five officers did not accept positions with West Fraser. The original 11 management

¹ To ensure administrability, we clarified the language of this exclusion 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.

³ See Letter from West Fraser to the Department, Re: Changed Circumstances Questionnaire - West Fraser's Questionnaire Response, dated July 19, 2005 (*CCR Response*).

officers of West Fraser all continued as officers following the acquisition.

West Fraser's customer base also did not change significantly following the acquisition. At Exhibit 12 of the *CCR Response*, West Fraser provided a list of all of its U.S. and Canadian customers during the first five months of 2005 and the sales volume to these customers. The list also identifies whether these customers were customers of Weldwood or West Fraser prior to the acquisition. The list shows a strong similarity between the customer base of Weldwood and the customer base of West Fraser prior to the acquisition. A high percentage of the post-acquisition West Fraser's sales volume was to customers that were customers of West Fraser prior to the acquisition. Furthermore, West Fraser states that a number of its customers in 2005 that purchased only from Weldwood in 2004 had purchased from West Fraser in prior years.

West Fraser's supplier base also did not change significantly after the acquisition. On page 9 of the *CCR Response*, West Fraser states that all of Weldwood's largest suppliers also supplied West Fraser prior to the acquisition. West Fraser provides examples of these suppliers, including the provinces of Alberta and British Columbia (stumpage), Canadian National railway, and major energy suppliers. West Fraser acknowledges that many local suppliers to Weldwood mills have continued to supply the same mills after the acquisition.

Of the four specific changed circumstances review analysis criteria listed in *Canada Brass*, the criterion that changed most significantly for West Fraser was its production capacity. Prior to the acquisition, West Fraser's production capacity for softwood lumber was 2,530 million board feet (MBF). This figure includes West Fraser's proportionate share of production at four mills that it owned jointly with Weldwood and other parties. Weldwood's production capacity at the time of the acquisition was 1,297 MBF, which also includes Weldwood's proportionate share of production at three jointly-owned mills. As a result of adding Weldwood's capacity, West Fraser increased its production capacity by 48.7 percent immediately following the acquisition. West Fraser adds, however, that it will finish reconstructing and expanding its mill in Quesnel, British Columbia, in 2006. It claims that the 119 MBF expansion was planned before the acquisition of Weldwood and does not relate to the acquisition. Furthermore, West Fraser states that it has an

agreement with the Canadian Commissioner of Competition to sell its interest in two mills that it owned jointly with Weldwood. It states that the sale of the mills will decrease its capacity by approximately 343 MBF. Therefore, West Fraser calculates that its net increase in softwood lumber production capacity as a result of the acquisition is 36 percent, which includes the effect of the Quesnel reconstruction and the sale of the jointly-owned mills.

In addition to the four CCR criteria specified in *Canada Brass*, the questionnaire to West Fraser requested details on other aspects of the company's operations. First, the *CCR Response* indicates that West Fraser's product line did not change significantly as a result of the acquisition. In Exhibit 10 of the *CCR Response*, West Fraser listed the total volume of U.S. and Canadian sales by species and grade for Weldwood, for West Fraser prior to the acquisition, and for West Fraser during the first five months following the acquisition. The sales information shows that approximately 2.5 percent of West Fraser's combined U.S. and Canadian sales volume during the first five months of 2005 was of a grade and species combination that West Fraser did not sell in 2004. Although Weldwood sold some products that West Fraser did not sell prior to the acquisition, the sales volumes for these products were much lower than for the products sold by both companies prior to the acquisition. In addition, West Fraser's top 10-selling products in the United States and Canada during the first five months of 2005 were sold by both companies prior to the acquisition. A review of the other top-selling products for Weldwood and for West Fraser prior to the acquisition shows a close similarity.

Furthermore, other information in the *CCR Response* indicates that West Fraser's operations did not change significantly as a result of the acquisition. First, Weldwood no longer exists as a corporate entity. West Fraser does not sell products under the Weldwood brand. Furthermore, West Fraser is expanding its headquarters in Quesnel, British Columbia, and will close Weldwood's Vancouver headquarters upon completion of the expansion. West Fraser explains that its sales personnel now manage all sales activity at Weldwood's former Vancouver office. As a result of the headquarters closure, only one of Weldwood's North American sales employees has accepted a position with West Fraser in Quesnel. The others have

either left the company or have announced plans to leave by the end of 2005. Also, West Fraser will continue to use Lumbertrak, its product management software, for all sales operations. Finally, West Fraser has maintained three Weldwood sales personnel in Japan, but it has consolidated all export sales operations (*i.e.*, sales outside of the United States and Canada) at its export sales office in Vancouver, which West Fraser operated prior to the acquisition.

Based on our review of West Fraser's questionnaire response, we preliminarily determine that the post-acquisition West Fraser is the successor-in-interest to the pre-acquisition West Fraser. In its analysis of changes to the respondent's management in *Industrial Phosphoric Acid*, the Department stated, "The changes in (the respondent's) personnel are well within the normal range of personnel changes that one would expect over time within the same operation."⁴ We find that the overall changes to West Fraser's operations are well within the range of changes that one would expect over time in the same operation.

The most significant change to West Fraser's operations is the increase in its production capacity. In analyzing whether West Fraser's operations have changed significantly as a result of the acquisition, however, the Department must consider West Fraser's operations as a whole. We find that the capacity increase is outweighed by the absence of significant changes to West Fraser's board of directors, top management, suppliers, customer base, product line, corporate structure, brand identification, sales process, and sales operations. Therefore, we preliminarily determine that the post-acquisition West Fraser should be assigned the same cash deposit rate of West Fraser prior to the acquisition.

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 final results of the third

⁴ See *Industrial Phosphoric Acid* at 6944.

antidumping duty administrative review.

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 March 10, 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: January 9, 2006.

David M. Spooner,

Assistant Secretary for Import Administration.

[FR Doc. E6-332 Filed 1-12-06; 8:45 am]

BILLING CODE 3510-DS-S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Availability of Seats for the Florida Keys National Marine Sanctuary Advisory Council

AGENCY: National Marine Sanctuary Program (NMSP), National Ocean Service (NOS), National Oceanic and Atmospheric Administration, Department of Commerce (DOC).

ACTION: Notice and request for applications.

SUMMARY: The Florida Keys National Marine Sanctuary (FKNMS or Sanctuary) is seeking applicants for the following vacant seats on its Sanctuary Advisory Council (Council): Citizen-at-Large, Middle Keys; Maritime Heritage; Research & Monitoring Alternate; Marine Life Alternate; Education Alternate and South Florida Ecosystem Restoration Alternate. Applicants are chosen based upon their particular expertise and experience in relation to the seat for which they are applying; community and professional affiliations;

philosophy regarding the protection and management of marine resources; and possibly the length of residence in the area affected by the Sanctuary.

Applicants who are chosen as members should expect to serve 2 or 3 year terms, pursuant to the Council's Charter.

DATES: Applications are due by March 31, 2006.

ADDRESSES: Application kits may be obtained from Fiona Wilmot, Florida Keys National Marine Sanctuary, P.O. Box 500368, Marathon, FL 33050, or electronically from Fiona.Wilmot@noaa.gov. They may also be downloaded from the Web site www.fknms.noaa.gov. Completed applications should be returned to the same address.

FOR FURTHER INFORMATION CONTACT:

Fiona Wilmot at the above address or by telephone at (305) 743-2437, extension 27.

SUPPLEMENTARY INFORMATION:

The FKNMS Advisory Council was established in 1991, and is the oldest of the 13 councils in the NMSP. It has 20 members covering a wide spectrum of interests in the Florida Keys community, including boating, conservation, diving, education, Everglades restoration, fishing (commercial and recreational), government, maritime heritage, research, tourism and the community-at-large. The Council meets bimonthly and also has a number of working groups focusing on specific issues at any given time. Ad hoc committees are formed to deal with one-time issues. The Council deals with emergent issues, acts as a conduit to the community with the Sanctuary, and advises Federal and State sanctuary managers on a consensus basis.

Authority: 16 U.S.C. Sections 1431, *et seq.* (Federal Domestic Assistance Catalog Number 11.429 Marine Sanctuary Program)

Dated: January 9, 2006.

Daniel J. Basta,

Director, Office of National Marine Sanctuaries, National Oceanic and Atmospheric Administration.

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DEPARTMENT OF DEFENSE

Office of the Secretary

[No. DoD-2006-OS-0004]

Proposed Collection; Comment Request

AGENCY: Marine Corps Marathon Office, Marine Corps Base Quantico, DoD.

ACTION: Notice.

In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Marine Corps Marathon Office, Marine Corps Base Quantico announces the proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by March 14, 2006.

ADDRESSES: You may submit comments, identified by docket number and or RIN number and title, by any of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>.
- Mail: Federal Docket Management System Office, 1160 Defense Pentagon, Washington, DC 20301-1160.

Instructions: All submissions received must include the agency name and docket number or Regulatory Information Number (RIN) for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at <http://www.regulations.gov> as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to Marine Corps Marathon office, Attn: Angela Huff, PO Box 188, Quantico, VA 22134, or call the Marine Corps Marathon office at 703-432-1159. E-mail is marine.marathon@usmc.mil.

Title and OMB Number: Marine Corps Marathon Race Applications: OMB Number 0703-TBD.

Needs and Uses: The information collection requirement is necessary to obtain and record the information of runners to conduct the races, for timing purposes and for statistical use.

Affected Public: Individuals or households.