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November 29, 2011

<u>BY HAND DELIVERY</u>

The Honorable John E. Bryson
Secretary of Commerce
Attn: James Terpstra
Import Administration
APO/Dockets Unit, Room 1870
U.S. Department of Commerce
14th Street and Constitution Avenue, N.W.
Washington, D.C. 20230

Re: <u>Subsidies Provided by Certain Countries Exporting Softwood Lumber and Softwood Lumber Products to the United States</u>

Dear Secretary Bryson:

On behalf of the U.S. Lumber Coalition (the "Coalition"),[1] we hereby submit these comments in response to the request by the Department of Commerce (the "Department") for comments on subsidies provided by certain countries exporting softwood lumber to the United States.[2]

[1] The Coalition is an association of domestic entities interested in preventing unfairly traded imports of softwood lumber. Members of the Coalition have been petitioners in several antidumping and countervailing duty proceedings and have a strong interest in maintaining the effectiveness of U.S. trade laws.

[2] Subsidy Programs Provided by Countries Exporting Softwood Lumber and Softwood Lumber Products to the United States; Request for Comment, 76 Fed. Reg. 67,148 (Dep't Commerce Oct. 31, 2011).

Please do not hesitate to contact either of the undersigned should you have any questions concerning this submission.

Respectfully submitted,

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SUBSIDIES TO SOFTWOOD LUMBER PRODUCTION

Comments of the U.S. Lumber Coalition

Submitted Pursuant to Section 805 of the Softwood Lumber Act of 2008

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I. CANADA

A. Provincial Stumpage Programs

The large majority of timber used in the production of softwood lumber in Canada is harvested from "Crown lands" owned and managed by the several Canadian provincial governments. This timber is provided by the provincial governments to lumber producers (or, relatively rarely, to logging contractors who in turn sell the harvested logs to lumber producers) under a variety of contractual arrangements. While the details vary from one province to another, all of these provincial systems set an administered price for most, if not all, Crown timber at levels that are demonstrably well below market prices. Further, the provincial systems are structured so that the government's administered price for Crown timber suppresses market pricing mechanisms for private timber (and, in some provinces, a small share of Crown timber sold competitively). Domestic processing requirements ensure that the benefit of this below-market timber is provided exclusively to softwood lumber producers in Canada.

As the Department has previously established, the provision of Crown timber by provincial governments constitutes the government provision of goods and therefore a financial contribution within the meaning of Section 771(5)(D) of the Tariff Act of 1930, as amended (19 U.S.C. § 1677(5)(D) (2006)) (the "Act"). Further, the Department has repeatedly found that because the number of industries making use of Crown timber is limited, the provision of timber is specific within the meaning of Section 771(5A)(D)(iii) of the Act. The WTO Dispute Settlement Body has confirmed that both of these findings are consistent with U.S. international obligations, and a binational panel under the North American Free Trade Agreement (NAFTA) concluded that both findings are consistent with U.S. law as well. Therefore, the provision of Crown timber to softwood lumber producers is a countervailable subsidy if it confers a benefit – that is, if the provision is made for "less than adequate remuneration" as set forth in Section 771(5)(E)(iv) of the Act and the Department's implementing regulations.

British Columbia (BC). The BC government provides Crown timber under a wide variety of arrangements. The province sells a small portion of this timber in auctions, but participation in these auctions is limited, and the ultimate price that bidders are willing to pay is determined by the virtually unlimited amounts of timber available to BC lumber mills at administered prices. Most of the Crown timber is sold at prices set on the basis of a complex statistical modeling exercise deemed to produce the "estimated winning bid" for a given timber stand, had the stand been sold under the auction system.

Average prices are one-third or less of the market price for identical species just south of the BC border, where all timber is sold competitively. For example, according to BC government data, average "stumpage" – that is, prices for provincially-owned timber – has averaged less than C$2/$m^3$ for most of the last two years. By contrast, timber auctions conducted in September 2011 by the State of Washington's Department of Natural Resources (WDNR) for timber of the same species in highly similar forests produced winning bids ranging from US$317.20/MBF to US$511.06/MBF.[1] These are equivalent to C$56.18/m^3 to C$90.52/m^3.[2] Although BC harvesters incur additional expenses that WDNR harvesters do not, such as road construction and tree replanting ("silviculture"), the cost of these activities does not even begin to approach the price differential in the stumpage rates.

Moreover, the pricing model still in use on the BC Coast has not been updated since January 2009, and is based on timber auction results from 2004 to 2008 indexed to current BC log prices (excluding log exports). The Coalition understands that the BC government has told the industry that an updated model has been prepared based on more recent auction results, and that this model is expected to result in a C$7/m^3 increase in average Coast stumpage levels. The BC government has not denied the accuracy of this information, but neither has it given any public indication as to when, or even whether, the model will be updated and stumpage reset accordingly.

In the Interior, the pricing model has been distorted since 2007 by a massive increase in the share of the harvest that has been classified as "lumber reject" and sold for C$0.25/m^3 instead of the sawlog price resulting from the Interior pricing model. Although BC claims that the increase was caused by a mountain pine beetle epidemic, there has been no significant increase in the amount of timber not being used for lumber or in the amount of "low-grade" lumber (#3 and economy) being produced in the BC Interior, which are the only legitimate reasons within the BC system for timber to be sold at "lumber reject" prices. This misgrading, and resulting mispricing, of BC Interior timber is the subject of an ongoing arbitration under the Softwood Lumber Agreement 2006 (SLA).

Alberta, Saskatchewan, Manitoba, Ontario, Quebec. In these provinces, virtually all Crown timber is provided to softwood lumber producers at fixed rates.

In Alberta, regulations prescribe that holders of Forest Management Agreement (FMA) and Coniferous Timber Quota licenses pay a flat fee of C$1.90/m^3 for all softwood timber harvested, regardless of species, end use, or almost all market conditions, and just C$0.95/m^3 for certain low-quality timber.[3] However, Alberta's disclosures under the SLA suggest that *average* timber prices have been well below C$1.90/m^3 – and sometimes even below C$0.95/m^3 – for several years now.[4] The reason for these apparently very low actual stumpage prices is unknown. In addition, testimony before Canada's Senate Committee on Agriculture and

[1] RISI, Log Lines (Oct. 2011) at 7.

[2] Using the Department's Coast conversion factor of 5.66 m^3/MBF and a September 2011 exchange rate of C$1.0025/US$.

[3] Alberta Timber Management Regulation §§ 80-81, *available at* http://www.canlii.org.

[4] Disclosures under Article XV(17) of the Softwood Lumber Agreement 2006.

Forestry in November 2010 indicated that in Alberta "large companies are purchasing wood for 54 cents a cubic metre."[5]

In Ontario, sawmills currently pay C$4.60/$m^3$ to harvest most Crown softwood timber.[6] The forest industry succeeded in amending the Ontario Forest Tenure Modernization Act, approved by Ontario's Legislative Assembly in May 2011,[7] to ensure that sawmills will continue to have guaranteed access to Crown timber (at administered price levels) for at least the next five years. As industry representatives explained in testimony on this legislation, guaranteed timber access plays an essential role in the lumber industry's access to investment. For example, EACOM Timber Corp. stated that it recently invested in six Ontario lumber mills "based in large measure on secure, predictable, and affordable supplies of committed crown timber. That was the basis of the offer and the transaction."[8]

In Quebec, Crown timber prices are set by district using a complex modeling methodology. The most recent data available to the Coalition, from the third quarter of 2010, suggest that the provincial average Crown timber price in Quebec was C$6.89/$m^3$.[9] In April 2010, Quebec enacted a new Sustainable Forest Development Act, under which existing tenures will be withdrawn and replaced with new "timber supply guarantees" as of April 2013. In January 2011, new "Bureau de mise en marché des bois" (Timber Sales Office) announced a "Programme d'implementation d'un marché libre des bois" (Implementation Program for an Open Timber Market).[10] Under this program, the BMMB announced an initial auction of twelve timber stands on April 27, 2011. According to David Paterson, former CEO of AbitibiBowater, a major Quebec lumber producer, "there will be more of a free market component to wood in Quebec under the governmental plan."[11] However, it remains to be seen whether these steps will reduce the level of the subsidy provided to Quebec softwood lumber producers.

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[5] Hearing Before the Standing Senate Committee on Agriculture and Forestry, Nov. 2, 2010 (testimony of Bob Austman, First Vice-President, Canadian Federation of Woodlot Owners), *at* http://www.parl.gc.ca/40/3/parlbus/commbus/senate/Com-e/agri-e/48419-e.htm?Language=E&Parl=40&Ses=3&comm_id=2.

[6] *At* http://forest.lrc.gov.on.ca/itrees/stumpage/stumpage/stumpage_1112_8.html (visited Nov. 27, 2011).

[7] Bill 151, *available at* http://www.ontla.on.ca/bills/bills-files/39_Parliament/Session2/b151rep.pdf, was approved on third reading on May 17, 2011.

[8] Official Report of Debates (Hansard), Standing Committee on General Government, at G-303, Apr. 13, 2011, at (testimony of Brian Nicks, director of forestry for Ontario, EACOM Timber Corp.).

[9] Disclosures under Article XV(17) of the Softwood Lumber Agreement 2006.

[10] *At* http://bmmb.gouv.qc.ca/pdf/programme-marche-libre.pdf.

[11] Hearing Before the House of Commons Standing Committee on Industry, Science and Technology, Sept. 10, 2010 (testimony of Mr. David Paterson, then President and CEO of AbitibiBowater, Inc.), *available at*

Most of the softwood timber in these provinces is "SPF" timber, which is also found in the U.S.-Canada border regions of Minnesota and Maine, where it is always sold competitively. The most recently available data for Minnesota are for 2009, where sawtimber prices for SPF species were \$58.34/MBF (C\$13.84/m^3) for Balsam Fir, \$87.05/MBF (C\$20.65/m^3) for Spruce, and \$106.19/MBF (C\$25.19/m^3) for Jack Pine.[12] For Maine, the most recent data are for 2010, where Spruce and Fir sawlogs averaged \$113/MBF (C\$24.19/m^3).[13] These market-determined prices are many multiples of the administered stumpage rates charged in these provinces.

Although Crown timber harvesters often assume responsibilities for road construction and silviculture that are not reflected in typical market-determined prices for otherwise comparable timber in U.S. border regions, the costs incurred are generally a few dollars per cubic meter, leaving a large gap between the administered stumpage prices in these Canadian provinces and average market-based prices for comparable timber in jurisdictions where market forces are allowed to operate. Further, the provincial governments in Ontario and Quebec assumed many of the responsibilities previously borne by tenure holders, after the conclusion of the Department's most recent CVD proceedings on softwood lumber from Canada. Several of these programs were found to be subsidies that violate the terms of the SLA by a London Court of International Arbitration (LCIA) tribunal in January 2011. More recently, press reports from Quebec indicate that a number of tenure-holding sawmills failed to fulfill their silviculture obligations in 2011, forcing the province to step in and fund necessary silviculture at its own expense.[14]

New Brunswick. Crown timber plays a much smaller role in New Brunswick than in the six Canadian provinces mentioned above, accounting for just over half of the harvest; the other half of the timber harvest is divided roughly equally between industrial freehold land owned by major lumber producers and private woodlots owned by thousands of small holders. Crown prices are derived from periodic surveys of timber prices obtained by small woodlot owners. However, many in New Brunswick – including the woodlot owners themselves – believe that the terms of access to Crown timber by lumber producers actually forces private timber prices to

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http://www2.parl.gc.ca/HousePublications/Publication.aspx?DocId=4652345&Language=E&Mode=1&Parl=40&Ses=3.

[12] Minnesota Department of Natural Resources, "Minnesota's Forest Resources 2010," at 57, *at* http://files.dnr.state.mn.us/forestry/um/forestresourcesreport_10.pdf. Conversion based on the Department's conversion factor of 4.81 m^3/MBF and a 2009 exchange rate of US\$0.876271 = C\$1.

[13] Maine Forest Service, "2010 Stumpage Prices by Maine County," at http://www.maine.gov/doc/mfs/pubs/pdf/stumpage/10stump.pdf. Conversion based on the Department's conversion factor of 4.81 m^3/MBF and a 2010 exchange rate of US\$0.97106 = C\$1.

[14] Radio-Canada, "L'industrie sylvicole reçoit une aide de 35M\$," June 1, 2011; Radio-Canada, "Une nouvelle crise est à prévoir dans l'industrie forestière selon Nathalie Normandeau," May 17, 2011.

conform to the administered price of Crown timber, rather than the reverse.[15] A report by the provincial Auditor General concluded: "The fact that the [lumber] mills directly or indirectly control so much of the source of timber supply in New Brunswick means that the [timber] market is not truly an open market. In such a situation it is not possible to be confident that the prices paid in the market are in fact fair market value."[16] Accordingly, it is possible that the provision of Crown timber in New Brunswick is also made for less than adequate remuneration.

B. <u>Federal and Provincial Log Export Restrictions</u>

All Canadian provinces prohibit the export of unprocessed logs harvested from Crown timber. These prohibitions may take the form of direct restrictions on log exports or a domestic processing requirement imposed as a condition on harvesters of Crown timber. In either case, exceptions are granted rarely, usually as a result of exceptional conditions such as a large amount of timber damaged by fire or disease. The Canadian federal government also restricts exports of logs harvested from most private land in British Columbia.

Section 127 of the BC Forest Act requires that timber harvested from the following sources must be either used or manufactured in British Columbia: (1) Crown land, (2) private land granted by the province after March 12, 1906, or (3) private land in a tree farm license area, regardless of the date granted must. Section 128(3) of that Act provides that exemptions from this requirement may only be given if the province is satisfied that (a) the timber is surplus to the requirements of BC mills, (b) the timber cannot be processed economically in the vicinity of the harvest or elsewhere in BC, and (c) the exemption would prevent waste of or improve the utilization of Crown timber.

As a practical matter, persons wishing to export logs in BC must first advertise the logs or the standing timber. Any BC processor wishing to bid for the logs may do so. If no bid is received, an export permit may be issued – but if a bid is received that the province deems to be an acceptable price (even if it is well below the export price that is otherwise available), the

[15] *See* Nov. 2 Senate Hearing, *supra* note 5 (testimony of Andrew Clark, President, New Brunswick Federation of Woodlot Owners):

> We had rules in place that said, basically, the annual allowable cut at one time from the private woodlot sector had to be purchased before industry's access to Crown wood. In the last few years, that has become reversed. In the 1982 act, it was envisioned that the Crown would become the residual supplier. Now it is the private woodlot owners that are becoming the residual suppliers; they are cutting all of their Crown land, and we are working diligently to try to get that corrected.
>
> There is an initiative under way. Last year, we harvested only 600,000 cubic metres out of 2.5 million available cubic [metres], and this year we have a target of 1.1 [million] cubic metres, which the provincial government is supporting by cutting back some Crown availability. Yes, we do have a problem there that needs to be corrected.

[16] Province of New Brunswick, "Report of the Auditor General 2008," para. 5.36.

export permit will be denied. The timber or log owner then has the option of selling domestically or not harvesting the timber at all. Logs exported from Crown land are subject to a "fee in lieu of provincial manufacture," which may be as high as 100 percent of the difference between the domestic and the export price.

Professor David Haley of the University of British Columbia describes the BC log export regime as amounting to "a transfer of wealth from timber owners, both the Crown and private sector, to forest products manufacturing companies. In other words, manufacturers receive a subsidy at the expense of timber growers."[17] The result, he explains, is that:

> By lowering domestic log prices, restrictions on log exports reduce the revenue flowing to British Columbians from stumpage sales on public forestland and also the returns to those who harvest timber on public land and sell their logs in domestic markets. . . . The benefits of log export restrictions on private land are reaped by the timber products processing sector, which enjoys lower raw material costs than it would experience in the absence of such restrictions.[18]

Other provincial government policies amount to at least a *de facto* restriction on the export of logs in other provinces as well. For example, there is a substantial amount of private forestland in Quebec along the U.S. border, and domestic log prices in Quebec are significantly lower than just across the border in Maine, New Hampshire, Vermont, and New York. This price differential would lead one to expect that, absent government restrictions, Quebec would export logs from private lands into the United States – but such exports do not actually occur. The sale of private logs in Quebec is governed by a number of regional marketing boards or "syndicates," which develop marketing plans that must be approved by a Quebec governmental agency. These marketing boards also facilitate the registration of private landowners in Quebec as "forestry producers" (*producteurs forestiers*), which gives private landowners access to four governmental subsidy programs: (1) the Private Forest Development Assistance Program (*Le programme d'aide à la mise en valeur des forêts privées*); (2) the Virginia Deer Damage Management Assistance Program (*Le programme d'aide à l'aménagement des ravages de cerfs de Virginie*); (3) the Property Tax Rebate Program (*Le programme de remboursement de taxes foncières*); and (4) the Forestry Finance Program (*Le programme de financement forestier*).[19] Thus, the marketing boards have the power to prevent, or at least to discourage, the export of logs from Quebec private lands.

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[17] David Haley, "Are Log Export Restrictions on Private Forestland Good Public Policy? An Analysis of the Situation in British Columbia" (2002), at 10. In response to a subsequent media inquiry about the applicability of his 2002 paper to the present situation of log exports from BC Crown land, Professor Haley stated: "The arguments used in 2002 are equally applicable today and while this paper focuses on private land most of the arguments are equally applicable to public lands." Ian MacNeill, "Log Export," Truck Logger BC, Fall 2010, at 16, 19.

[18] Haley, *supra* note 17, at 15.

[19] Syndicat des Producteurs de Bois de l'Estrie, "Frequently Asked Questions," *at* http://www.spbestrie.qc.ca/fr/faq/ (last visited Dec. 3, 2010).

These export restrictions and prohibitions are countervailable subsidies to Canadian softwood lumber producers, as the Department has found in prior lumber CVD investigations as well as in other CVD determinations.[20] Through these policies, the provincial and federal governments either directly provide timber, or entrust or direct harvesting companies to provide timber, to domestic producers, thus providing a financial contribution. Because this timber is provided to domestic processors at below-market prices, a benefit is conferred. And because this timber is provided only to domestic processing industries, the log export restrictions are *de jure* specific.[21]

C. Other Subsidy Programs

Additional subsidy programs also provide benefits to softwood lumber producers in Canada.

1. Preferential Tax Schemes

In past softwood lumber CVD proceedings, the Department found that the British Columbia Private Forest Property Tax Program provided countervailable subsidies. Under this program, BC imposes differential tax rates on the two classes of forest land: Class 3, "unmanaged forest land," and Class 7, "managed forest land." Property tax rates for Class 7 land are generally lower than for Class 3 land. To qualify for the lower Class 7 rates, land must be "used for the production and harvesting of timber."

In addition, a new Quebec Capital Tax Credit Program provides tax credits of 15 percent of eligible expenses related to the acquisition of capital equipment used in the processing of forest products and acquired before January 1, 2013. The Quebec provincial government estimated that the program would reduce the taxes paid by Quebec forest products producers by C$120 million over four years. A recent report by the Quebec Auditor General found that another Quebec tax subsidy, the Quebec Road Tax Credit Program, was poorly administered and that funds were disbursed even to companies that had failed to prove eligibility.[22] This program was also found to be a subsidy in breach of the SLA by an LCIA tribunal in January 2011.

Other tax programs that appear to provide subsidies have been identified in prior Coalition submissions to the Department, incorporated herein by reference.

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[20] *E.g.*, Certain Coated Paper Suitable for High-Quality Print Graphics Using Sheet-Fed Presses from Indonesia, 75 Fed. Reg. 59,209 (Dep't Commerce Sept. 27, 2010) (final affirmative CVD determ.), Issues & Decision Memorandum at 12-14.

[21] *Id.*, Issues & Decision Memorandum at 12.

[22] Rapport du Vérificateur général du Québec à l'Assemblée nationale pour l'année 2010-2011, tome II, ch. 5 (2011), *available at* http://www.vgq.gouv.qc.ca/fr/fr_publications/fr_rapport-annuel/fr_2010-2011-T2/fr_Rapport2010-2011-T2-Chap05.pdf.

2. Unearned Compensation for Tenure Rights

The principal form of Crown timber harvesting rights in most Canadian provinces involves some type of long-term arrangement. Guaranteed long-term access to timber assists lumber producers in obtaining financing for capital investments to improve efficiencies, as industry observers have long recognized.[23] In recent years when provinces have withdrawn these rights prior to the expiration of the tenure arrangement, significant compensation has been paid to the tenure holder. Such payments provide substantial benefits to the former tenure holders, who paid little or nothing to obtain the long-term harvesting rights in the first place. The payments also demonstrate the high value of the tenure rights that continue to be enjoyed by the vast majority of tenure holders whose rights have not been taken back by the governments.

In British Columbia, the Department has previously found countervailable compensation paid for tenure takebacks under the Protected Areas Forest Compensation Act and the Forest Revitalization Act. The Forest Revitalization Act remains in effect, and compensation continues to be paid (although details are usually not made public).

In Newfoundland and Labrador, the provincial expropriation of a pulp and paper mill, together with its associated tenure rights, was the subject of a claim under Chapter 11 of the North American Free Trade Agreement. In August 2010, the federal Canadian government agreed to settle these claims for C$130 million, one of the largest payments ever made in a Chapter 11 dispute.

In Alberta, holders of major tenures (Forest Management Agreement or FMA) are routinely compensated when timber on land associated with the tenure is removed as a result of activities by energy and mining companies. This is because FMA holders receive property rights against third parties (but not the Crown) in standing timber on their tenures – property rights that they do not pay for, but nonetheless receive as part of their tenure. This amounts to ongoing compensation for lost harvesting rights on a continuous basis – essentially, compensation for tenure takebacks in another form.

To the extent that tenure reform being planned in Quebec and under consideration in Ontario lead to modifications of existing long-term tenure arrangements in those provinces, it is possible that any compensation paid by those provinces will constitute further tenure compensation subsidies to their softwood lumber producers.

3. Grants, Loans, and Loan Guarantees

Prior submissions by the Coalition address a number of programs by which the federal and provincial Canadian governments provide grants, loans, loan guarantees, and other support, directly and indirectly, to Canadian softwood lumber producers. These submissions are incorporated herein by reference.

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[23] *E.g.*, Halifax Global, Inc., "Newfoundland Forest Sector Strategy," Nov. 2008, at 13 n.2 (report commissioned by the Newfoundland & Labrador Department of Natural Resources).

As detailed in those submissions, the Department has found a number of these programs to be countervailable in prior softwood lumber proceedings. Further, the Ontario Forest Sector Prosperity Fund, the Ontario Forest Sector Loan Guarantee Program, and the Quebec Forest Industry Support Program have provided benefits that are currently the subject of ongoing arbitration between the United States and Canada under the Softwood Lumber Agreement 2006.

With respect to new programs, it is not always clear from publicly available information whether programs that provide benefits to the "forest industry" or the "forest products industry" necessarily provide benefits to softwood lumber producers. The prohibitions in the SLA on new subsidy programs benefitting softwood lumber producers appear to have restrained somewhat, but certainly not eliminated, the provision of benefits to softwood lumber producers under these programs. In addition to those previously identified programs, the Coalition notes the following additional information regarding programs that may be providing benefits to softwood lumber producers.

Export Development Canada. On November 5, 2010, the Honorable Denis Lebel, Minister of State (Economic Development Agency of Canada for the Regions of Quebec) stated in the federal House of Commons that "as of October 31, 2010, Export Development Canada had helped Quebec's forest industry by providing credit support, accounts receivable insurance and loan guarantees totaling [C]$7.6 billion."[24]

Pulp and Paper Green Transformation Program. Nearly C$1 billion in grants have been made available under this program for capital investments in pulp and paper mills to promote energy efficiency. Many of these mills are affiliated with, or co-located with, softwood lumber producers. Several of these companies, including West Fraser and Canfor, have publicly announced major capital investment programs that they have been able to target almost completely softwood lumber production, given the large grants received to fund pulp and paper investment under this program.

AbitibiBowater Restructuring. The governments of Quebec and Ontario provided extraordinary support during the 2009-2011 restructuring of AbitibiBowater, now known as Resolute Forest Products, a major lumber producer in those provinces. These included an emergency loan guarantee of C$100 million from Investissement Québec announced by Quebec's Minister of Finance on April 17, 2009, the day AbitibiBowater filed for bankruptcy.[25] Clearly no commercial lender would have provided financing to the company on this basis. In 2010, both Quebec and Ontario issued special regulations that relieved the company of around C$200 million in pension obligations over a period of 5-10 years, while continuing government support and guarantees for the company's pension plans. In return, the company pledged to invest in production facilities in those provinces. As then-CEO David Paterson summarized:

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[24] Hansard, Nov. 5, 2010 (12:05 p.m.).

[25] "AbitibiBowater: The Quebec Government Reiterates Its Support-Ministers Raymond Bachand and Claude Bechard Announce Emergency Assistance," Investissement Quebec, Apr. 17, 2009.

"AbitibiBowater has worked closely with regulators and elected officials in Quebec and Ontario on a number of relief measures …. We appreciate the support and collaborative spirit demonstrated by governments …."[26] In addition, through a debt-for-equity swap, provincial and local government entities took an equity stake in the company as it emerged from bankruptcy.

Buchanan Stumpage Forgiveness. It has been widely reported that Buchanan Forest Products, a major Ontario lumber producer, received stumpage deferrals and forgiveness from the government of Ontario over a long period. In February 2009, a member of Ontario's Parliament explained: "For the longest time, people were not aware of what we have done for the sawmill. … We [deferred] their stumpage costs to help them stay viable. Their industry has no market, so we have been deferring for some time so they can have cash and maintain operations."[27] In September 2010, the company signed an agreement with Ontario acknowledging that it owed C$33.61 million to the province and made commitments to repay some of these arrears in return for additional government loans and grants under the Forest Sector Prosperity Fund program.[28]

Provincial Grant Programs. Many provinces provide subsidies to softwood lumber production through a number of business incentive programs. For example, a significant portion of loans and loan guarantees provided by the Nova Scotia Industrial Expansion Fund are directed to forest products industries,[29] including payments to softwood lumber producers identified in prior Coalition submissions as well as more recently announced payments.[30]

II. CHILE

Most of Chile's softwood lumber exports to the United States are of radiata pine from timber plantations. These plantations were largely developed through the use of massive subsidies, including a "wildly successful" 75 percent subsidy for plantation establishment and tree care costs enacted in Decree Law 701 of 1974.[31] Although these subsidies were discontinued in 1995, given typical rotation schedules it is very likely that the plantations established with the assistance of these subsidies are the source of much of the timber used to

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[26] "AbitibiBowater Could Be Reborn in Weeks after Finalizing Pension Deals," Canadian Press, Nov. 19, 2010.

[27] "Buchanan Forest Products Is Behind in Stumpage Payments," ForestTalk, Feb. 20, 2009 (quoting William Mauro, Member of Provincial Parliament for Thunder Bay-Atikokan).

[28] Stumpage Repayment Agreement, Sept. 15, 2010.

[29] Nova Scotia Industrial Expansion Fund Annual Report 2010 at 20, *at* http://www.gov.ns.ca/econ/ief/IEFreport/docs/IEF_Report_2010.pdf.

[30] "Province Loans $750K to Queens Lumber Mill," The Chronicle Herald (Halifax, N.S.), Dec. 4, 2010.

[31] Roger A. Clapp, "Creating Comparative Advantage: Forest Policy as Industrial Policy in Chile," 71 Economic Geography 273 (1995).

manufacture the softwood lumber that Chile is presently exporting to the United States. However, the Coalition is not aware of any other subsidies being provided that would significantly distort the harvesting or pricing of softwood timber in Chile.