

Canadian Subsidy Policy:
An Analysis of the Canada-U.S. Softwood Lumber
Dispute

By

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Abstract

The Canada-U.S. softwood lumber dispute has continued for many years. It began in 1982 and has experienced four periods. This paper focuses on the importance of Canada's stumpage policy and the U.S. countervailing and antidumping policies in the dispute. After studying the effects of these policies according to the definition of a subsidy and related issues, we obtain a better understanding of the policies' harms and benefits. This phenomenon, which has become a worldwide problem and has had a significant impact on the global softwood lumber industry and economy, is a complex issue. After discussing the history of the dispute and analyzing its underlying causes and problems we present recommendations for resolving this long-standing trade conflict.

Key words: stumpage, subsidy, softwood lumber, countervailing and antidumping

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Chapter 1: Introduction

1.1 Overview

In this paper I refute the main allegations made against Canada during the Canada-U.S. softwood lumber dispute by analyzing their underlying issues. Based on these analyses and the discussion on the effects of the Canada-U.S. softwood lumber dispute, I then provide recommendations on how to resolve the dispute and compensate the losses caused by the dispute.

Issues surrounding the dispute of Canada's softwood lumber being exported to the U.S. have been raised for around three decades. In Canada, 90 percent of the timberlands are owned by the province, while in the United States only 42 percent of the timberlands are publicly owned. At the same time, intense competition exists when the governments do timber business. Therefore, the two countries' different land configurations create a complex situation. U.S. lumber producers realize that Canada carries out the subsidy policy to its producers and restricts log exports to prevent others from getting access to Canadian timber. As a result, lumber products in the United States are less competitive compared to those from Canada. From Canada's view, its stumpage system is not a form of subsidy and the attitude of the United States to the restrictions of Canada's export violates the WTO Agreement on Subsidies and Countervailing Measures.

The United States brought forth lawsuits to fight for its own benefit, which claimed that Canada's subsidy policy seriously does harm to the U.S. softwood

lumber industry's operation. They also argued that Canada's policies led to unfair competition in this industry. Recently, however, an international business court dismissed the claims by the U.S. rivals that B.C. provides a subsidy to its lumber producers. This is not the first time a court or an agency favors Canada in the softwood lumber dispute, but the U.S. keeps arguing.

Each national government uses different policies to encourage and facilitate domestic industries' production. If used properly, it will promote trade with other countries, while excessive use, such as touching a provision of the WTO and serious injury to other countries' interests by introducing subsidies and duties will bring trouble to domestic market. Therefore, a careful analysis of the Canada-U.S. softwood lumber dispute has a very practical significance.

1.2 Structure of the Study

There are six chapters in this study, including this introduction. A review of the Canada-U.S. softwood lumber dispute history forms the contents of Chapter 2. Chapter 3 introduces the U.S. Countervailing and Antidumping Policies. Chapter 4 illustrates both the direct and indirect effects that the softwood lumber dispute has on the Canadian economy. Chapter 5 presents a discussion of the main issues underlying the dispute and suggestions based on the result of the discussion. Finally Chapter 6 summarizes the entire study and concludes.

Chapter 2: Background

The falling share of softwood lumber in the domestic market has been a major concern of the U.S. softwood lumber industry and has resulted in a complaint about subsidies to Canadian softwood producers provided by its government. The complaint has further evolved into a controversial trade dispute between the two countries. This softwood lumber dispute can be divided into four periods. The following paragraphs introduce each period chronologically.

Lumber I began in 1982 when a group of U.S. softwood lumber producers filed a countervailing duty petition. Lumber I indicated the modern softwood lumber dispute has begun. This petition claimed that the Canadian government subsidized its softwood lumber industry through its stumpage program. The Department of Commerce ("DOC") made a negative countervailing duty determination after an examination of the stumpage programs of Canada and no further appeal was filed against this decision.

Lumber II experienced two years, 1986 and 1987. In this period, a group of American softwood lumber producers filed another countervailing duty petition against Canada. This time, a 15% subsidy rate was determined by the DOC under a new guideline which was issued after Lumber I. Through investigations, a five-year Memorandum of Understanding ("MOU") was signed by the governments of Canada and the U.S., under which the Canadian government agreed to impose a 15 percent tax on softwood lumber exports to the United States. The MOU opened the door for Canadian provinces and territories to use alternate ways of collecting export charges,

such as the policy of increasing stumpage fees. According to this, the export tax was eliminated in British Columbia and decreased in Quebec. In 1991, Canada claimed again that there is no subsidization in its lumber industry and withdrew from the MOU after revising its stumpage system.

The period between 1991 and 1996 is the third passage, Lumber III. After Canada unilaterally terminated the MOU in October 1991, the DOC initiated another investigation to the provincial/territorial stumpage system in British Columbia and determined a subsidy rate of 6.5%. As a result, countervailing duties were collected from the Canadian softwood lumber products. The Canadian government challenged the countervailing duty determination based on the free trade agreement between the two countries and appealed to a binational panel. The conclusion made by the binational panel stated that the DOC's determination lacked solid evidences and was inconsistent with the Canada-U.S. free trade agreement. Then, the United States requested a review of the decision from an Extraordinary Challenge Committee. However, the committee affirmed the binational panel's decision. Eventually, the DOC revoked the countervailing duty order and refunded about \$800 million to Canadian exporters.

In 1994, Canada and the U.S. decided to find a durable solution and started to negotiate a settlement for this dispute. After two years, the first Canada-U.S. Softwood Lumber Agreement (SLA) was signed between the two countries that would take effect on April 1, 1996 and last for a minimum of five years. This SLA allows an annual lumber export of 14.7 billion board feet from British Columbia,

Quebec, Ontario and Alberta without duties. Lumber exports which over 14.7 billion board feet need to pay duties: for first additional 0.65 billion board feet, Canadian exporters have to pay \$50 per thousand board feet; for all volumes beyond that, the fee is \$100 per thousand board feet. However, the agreement did not bring peace as expected.

In 2001, the SLA was not extended due to the conflicts between Canada and the United States and Lumber IV began. An antidumping petition along with another countervailing duty petition was filed by the U.S. softwood lumber producers immediately after the expiration of the SLA. During the investigation, the United States' Department of Commerce adopted the price in Washington and Maine as a baseline to determine whether there is a subsidy. On March 25, 2002, the DOC made the final ruling for softwood lumber products originating in Canada, identifying that the softwood lumber products from Canada receive subsidies. As a result, the DOC determined an 18.79% countervailing duty rate, an 8.43% antidumping duty rate and a combined duty rate of 27.22%. Canada challenged DOC's determination and the North American Free Trade Agreement (NAFTA) panel concluded that the duty rate was too high. In 2005, the NAFTA panel ruled against the duties imposed by the United States. At the same time, the combined countervailing and antidumping duty was recalculated and dropped to 10.8%. Between 2002 and 2006, the U.S. argued that "imports of softwood will damage the interests of the American Forestry Industry" and unilaterally imposed an import tax on Canadian softwood lumber, and taxes accumulated up to \$5 billion.

In 2006, a new 7-year Canadian-U.S. Softwood Lumber Agreement was signed and came into effect on October 12, 2006 with an option to renew for another two years. This agreement was intended to create a stable environment for the softwood lumber producers in both countries. Under the SLA 2006, the United States cannot launch any new trade actions and agreed to terminate its countervailing and antidumping duties on Canadian lumber exports. The U.S. government also returned over \$4 billion duties collected from Canadian exporters between 2002 and 2006. The agreement provides two export charge options to Canadian lumber exporters based on different price ranges. When the price of the lumber is above \$355 per thousand board feet, the Canadian exporters do not need to pay any charge. When the price is between \$336 and \$355, the Canadian exporters can either pay a 5% charge or pay a 2.5% charge plus a U.S. consumption regional share of 34%. When the price is between \$316 and \$335, the Canadian exporters can either pay a 10% charge or pay a 3% charge plus a U.S. consumption regional share of 32%. When the price is below \$315, the Canadian exporters can either pay a 15% charge or pay a 5% charge plus a U.S. consumption regional share of 30%. In 2007, the U.S. government claimed that the Canadian government has violated certain clauses of the agreement by providing beneficial programs to its softwood lumber industry. In order to settle the differences in execution of the SLA 2006, Canada requested consultations with the United States, but only a little progress has been made. As a result, both the countries have filed arbitrations and lawsuits to each other for their own interests. On January 23, 2012, Canada and the United State extended the SLA for another two years.

Chapter 3: The U.S. Countervailing and Antidumping Polices

The Countervailing and Antidumping laws protect domestic companies from foreign competition. U.S. Countervailing law was legislated in 1897 and it is the first legislation of the United States in unequal trade and imposes extra duties on subsidized imports. The law has not changed very much, but it has become more inclusive over time. The U.S. Department of Commerce has the authority to enforce the countervailing duty law. While the DOC is responsible for determining whether the imported goods are being subsidized, the International Trade Commission ("ITC") is responsible for determining whether the American industry is either injured or threatened by the imported goods. If any agency concludes a negative determination while performing its responsibilities, the proceedings will be terminated and a conclusion of the law will be reported. In the process of the Tokyo Round and the Uruguay Round of multilateral trade negotiations, the Agreement on Subsidies and Countervailing Measures, which is based on Subsidies Code, requires that before imposing a countervailing duty, it must provide damage evidence for damage assessment. The U.S. law also requires evidence for the existence of a subsidy and the fact that the subsidy benefits a certain industry in the investigated country before imposing a countervailing duty. Therefore, countries usually challenge the determinations made by the DOC and the ITC to avoid countervailing duties.

Unlike the Countervailing law, the changes in U.S. Antidumping law and its procedures are substantial. In 1916, Congress passed the first law that targeting

dumping. In 1921, an Antidumping Act which forms the basis for today's U.S. antidumping law was passed by Congress. The revisions of the law made through 1930 to 1988 allow American companies to file dumping complaints easier. They also made it easier for the U.S. government to restrict foreign imports. Some multilateral agreements also have affected the antidumping law of the United States. The General Agreement on Tariffs and Trade (GATT) Antidumping Code was implemented during the Kennedy Round of the GATT. It creates a guideline on which countries whose domestic industries are injured by foreign companies' predatory pricing can adopt their own antidumping laws. During the Tokyo Round, the GATT Antidumping Code was amended, but only the U.S. and other 24 members of GATT have signed on the amended code. The antidumping proceedings in the U.S. are also performed by the DOC and the ITC. The DOC determines whether a foreign good is being sold at an unfair price in the American market while the ITC determines whether an American industry is injured or threatened by a dumping. Other stages after the investigations include administrative reviews which are available annually to determine the actual value being dumped and the Sunset reviews of antidumping duty orders.

As the protection from the Countervailing and Antidumping laws became easier to obtain, American companies more frequently use these laws in uncompetitive industries. Many countries have accused the U.S. of not following the GATT guideline and making punitive tariffs too easy to get for American companies.

Chapter 4: The Effects of the Softwood Lumber Dispute

The Canadian lumber industry has been under pressure from the softwood lumber dispute between Canada and the United States. In this chapter I discuss the effects of the dispute in Canada. In particular, I examine the effects by outlining the behavior of several economic variables, including lumber production, sales, prices, exports and employment.

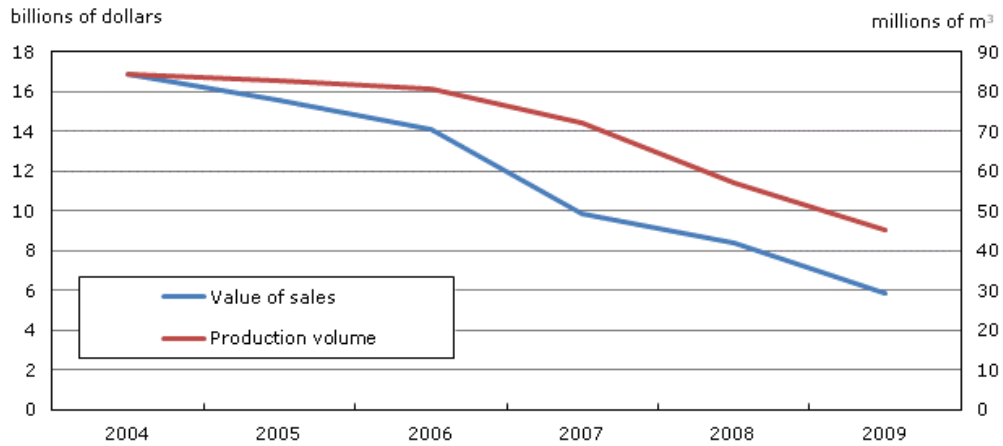
4.1 Direct Effect

The softwood lumber dispute directly affected the Canadian lumber sector. The effects can be shown through changes in production, sales, prices and exports. Canada's lumber production faced a large decline from 85 million cubic meters to 45 million cubic meters for a total decline of 47 percent as for the dispute between Canada and the United States from 2004 to 2009 (see Figure 1). During the same period, the sales value also fell from \$17 billion to \$6 billion for a total decline of 65 percent (see Figure 1).

In April 2006, the WTO Working Group ruled that in the Canada-U.S. softwood trade dispute, the United States' action of imposing antidumping duties and countervailing duties on Canada for Canadian softwood exports to the United States was in line with WTO requirements. The chairman of the U.S. softwood imports fair trade federation said any objective person can see and has to admit that the Government of Canada heavily subsidized Canadian softwood exports to the United States. Although Canada expressed strong opposition against the decision, the United States continued to impose high antidumping tariffs and countervailing duties on

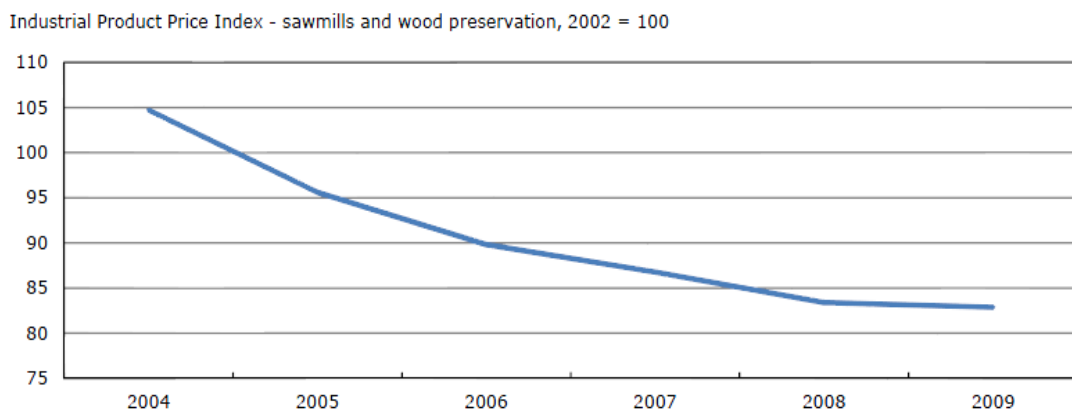
Canada. Therefore, the year 2006 became a turning point from which the lumber sales in Canada began to decline at a much faster rate.

Figure 1 - Sales and production volume



The dispute caused the prices to fall as well. Figure 2 shows the price index change between 2004 and 2009. The decline in prices coincided with the decline in the production and sales. Take the period between 2004 and 2006 as an example (see Figure 1): the changes in production were relatively stable, but the value of sales dropped significantly, which implies the decline in prices.

Figure 2 - Price Index between 2004 and 2009



Another economic variable directly affected by the dispute is lumber exports. One way to show the effect is to compare, from the point of view of trends, the different sectors' share of exports in Canada. From Figure 3, it can be seen that wood accounted for the second-largest share of exports at the beginning. As time went by, almost all the smaller industries were expanding: Nonmetallic minerals exports grew rapidly; high-technical industries, like electricity, aircraft and television, developed gradually too. The vehicles and chassis and parts sector had a huge increase in exports after the late 1960s in year 2005. In contrast with other industries, the wood sector gradually declined in relative importance. In 1980, before Lumber I, the share of wood exports in Canada dropped to the third place. After experiencing Lumber I, II and III, wood exports had only the fourth largest share by year 2005.

The lumber exports share shrank because not only the exports in other industries increased but also the lumber exports fell. As shown in Table 1, between 2004 and 2009, the Canadian lumber exports to the United States dropped by 72.7 percent, from 9.6 billion to 2.6 billion. Since the U.S. is the largest trading partner of Canada, the total Canadian softwood lumber exports have also decreased by 64.8 percent, from 11.9 billion to 4.2 billion.

Figure 3 - Share of exports in Canada, 1870 to 2010

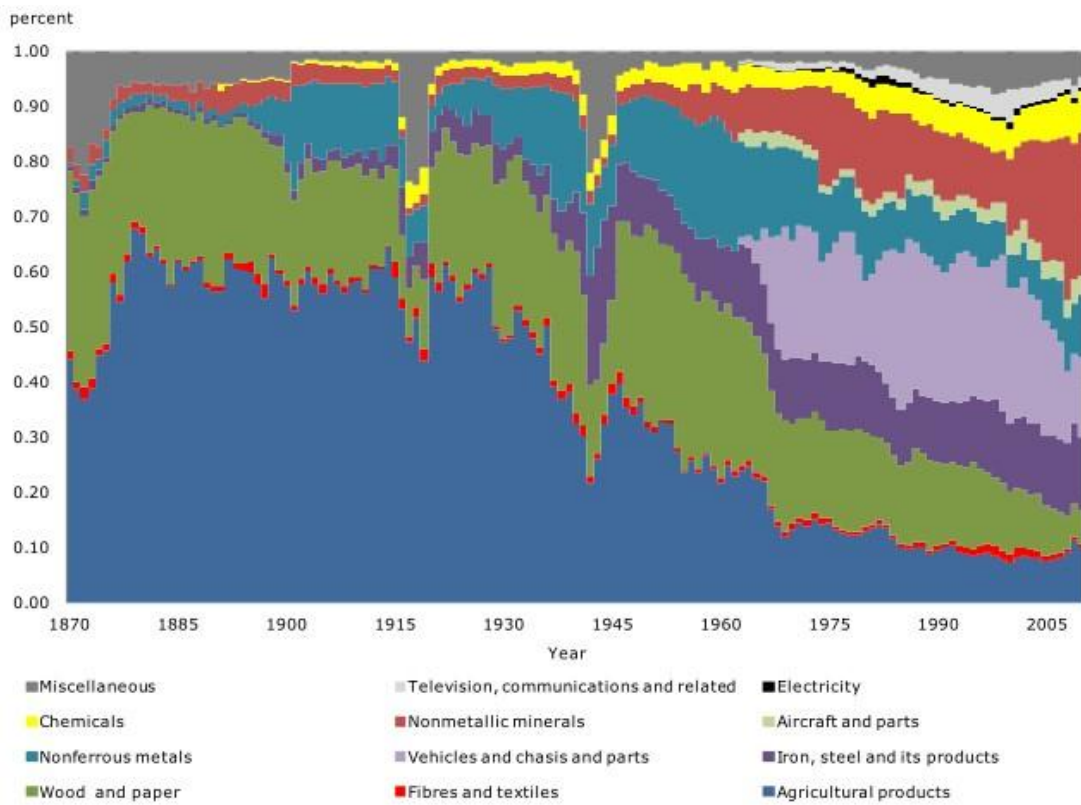


Table 1 - Canadian Softwood Lumber Exports between 2004 and 2009

| Years | Exports | |
|-------|---------|---------------|
| | Total | United States |
| 2004 | 11.891 | 9.647 |
| 2005 | 10.798 | 8.947 |
| 2006 | 9.564 | 7.644 |
| 2007 | 7.735 | 5.868 |
| 2008 | 5.647 | 3.876 |
| 2009 | 4.183 | 2.638 |

4.2 Indirect Effect

Employment in the Canadian lumber industry may react to the declines in production, sales and exports in the lumber industry.

Table 2 - Forestry Employment numbers between 2004 and 2009

| Years | Employment | | | | |
|-------|------------|------------------|--------|---------|---------|
| | Total | British Columbia | Quebec | Ontario | Alberta |
| 2004 | 50,176 | 20,240 | 14,574 | 5,652 | 3,786 |
| 2005 | 48,856 | 19,380 | 14,263 | 5,873 | 3,731 |
| 2006 | 45,880 | 19,065 | 12,709 | 5,635 | 3,319 |
| 2007 | 38,869 | 16,532 | 10,692 | 3,925 | 3,240 |
| 2008 | 32,108 | 13,461 | 9,018 | 3,030 | 3,187 |
| 2009 | 26,369 | 10,746 | 7,779 | 2,259 | 2,662 |

The data in Table 2 is Canadian forestry employment from 2004 to 2009. Employees in Canada are most concentrated in four provinces: British Columbia, Quebec, Alberta and Ontario. The decreasing amount of jobs in the lumber industry also reflects the declines in sales and production volume. However, whether as a whole or for each province, there is a downward trend year after year. It is clear that from 2006 onwards, employment suddenly decreased: overall employment fell by 15.3 percent. From 2004 to 2009, the number of direct and indirect employment across Canada dropped from 50,176 to 26,369 by -47.4 percent. Each province suffered different levels of declination, especially British Columbia, which lost 9,494 direct and indirect jobs. Quebec and Ontario also faced a great loss of employment shrinking by 6,795 (-46.6 percent) and 3,393 (-60.0 percent), respectively. In Alberta, the amount of employees declined by 1,124 (-29.7 percent), less than the other three provinces between 2004 and 2009 (see Table 2).

From the data shown above, it is easy to see that the operation of Canada's lumber industry has been greatly affected by the lumber dispute. It originates from the

high countervailing duty, the United States levy on Canada, which restricts the lumber exports of Canada. There is no doubt that the lumber sector was not the only one suffering substantial losses and the effects will be seen in the long term. But, the effects on the lumber industry also forced the development of other creative and technical industries in Canada.

Chapter 5: Analyses and Recommendations

In this chapter I provide a critical analysis of the Canada-U.S. softwood lumber dispute. I focus the analysis mainly on Countervailing Duties, stumpage fees and several other issues including: environment, exchange rate and export log restriction. I also discuss the political economy issues of the dispute. I then give some recommendations for the future regarding the dispute.

5.1 Stumpage Fees

An underlying problem of the Canada-U.S. softwood lumber dispute is that the United States accuses Canada of subsidizing its lumber industry. The main issue which the United States uses to support its accusation against Canada is the stumpage fee. The U.S. argues that the Canadian provincial and federal governments set the stumpage fee lower than the real market value of lumber to subsidize their lumber industry. Does the Canadian stumpage fee constitute subsidies?

The stumpage fee in Canada does not constitute subsidies because it does not meet the legal definition of a subsidy. Black's Law Dictionary defines the subsidy as “the necessary funds that are provided by the government to support *a particular* enterprise, business, or an improvement government who wishes to participant in. It is the necessary funds that are deemed to give to the target the government should assist, which mostly aims to seek the public interest.” Also, according to U.S. law and WTO rules, what can be considered subsidized is that a good from another country gets access to *only a specific* industry. However, Canada’s stumpage programs were not only available to the softwood lumber industry, but to the entire timber sector. As a

result, in 1983, after completing the investigation on British Columbia, Alberta, Ontario and Quebec's stumpage programs, the United States Department of Commerce ("DOC") ruled that the provincial stumpage programs in Canada did not provide subsidies, as stumpage was not limited to a specific industry and even generally available.

Another way to interpret the United States' argument is "Because the stumpage fees in Canada are lower than the real market value of lumber, it constitutes subsidies." This is not true either because the Canadian stumpage fee matches the market value of lumber in Canada. In Canada, a tenure agreement should be signed with the provincial government if the companies want to enter the softwood lumber market. The companies can get licenses to harvest trees from the government-owned land under the agreement, and at the same time, those companies need to pay a stumpage fee for the wood they harvest. Each province or territory has the responsibility to set the terms of tenure, agreement and determine the stumpage fee. They also need to find a holder who is responsible for conservation and forest management practices to be in charge of certain forest areas for them. The stumpage fee covers one province's revenue goals and the cost of the following responsible forest management policies, which encourage the companies to do a good job in protecting and managing the forest in order to maintain the timber. In this way, the stumpage fee fully reflects the Canadian lumber market value.

The United States compares the stumpage fee in Canada to the U.S. market instead of the Canadian market. This is impractical because the stumpage fee is

influenced by various factors which differ from one country to the other. The United States is the third largest by both land area and population in the world. There are about 3 million square kilometers of forests covering the land in the U.S. and 90% of the lands are privately owned. In other words, the numbers of lumber sellers and buyers are potentially high. Therefore, the stumpage fees in the U.S. market are determined in competitive auctions and are usually high.

Canada has a similar amount of land and forest as the United States. It has the second largest land area in the world and there are about 3.1 million square kilometers of forests covering those lands, which is about 10 percent of the world's forests. What differentiates Canada from the U.S. is that the majority of land in Canada is owned by the Canadian government on behalf of the monarchy and is called Crown Lands. The federal and provincial governments own about 90% of the land area and only 10% is privately owned. Also, Canada only has the thirty-fifth largest population in the world. The differences in land tenure and population imply that the lumber market in Canada essentially has only one seller, the government, and only few buyers. Moreover, softwood lumber companies are willing to harvest the wood from the land owned by the government because in this way they can reduce the competition with each other. Therefore, the stumpage fee in Canada is determined through an administrative system and usually less than the price in the American market, by which the United States argued that Canada's provincial and territorial governments give the subsidy to forestry companies.

The forest marketing and resources management are essentially different in

Canada and the United States. Even the DOC once stated that comparing Canadian and U.S. stumpage prices would be "arbitrary and capricious in view of the wide differences between species composition; size, quality, and density of timber; terrain and accessibility of the standing timber throughout the United States and Canada." The Canadian stumpage fees are set in a way to reflect the market conditions in Canada and it is difficult to compare it with the American market value.

5.2 Other Issues

Environmental issues are also brought forward by the United States against Canada. The U.S. complained that the low stumpage fees in Canada encourage the Canadian producers to export to and compete in the American market which may lead to over harvesting. However, this is not the case. First, the foregoing analysis has shown that the stumpage fees in Canada are set to cover the cost of protecting and maintaining the forests. Second, Canada is one of the biggest lumber producers in the world due to its substantial forest resources and developed lumber industry. The leading technologies used in Canadian lumber industry and the high environment standard set by the Canadian government ensure greater efficiency. Even if Canada limits its exports to the United States, the U.S. would import softwood lumber from other countries because the U.S. needs more lumber than it produces and it imports about one-third of its lumber from Canada. Chances are that the other countries, where the lumber technologies and environmental standards are less progressive, would cause more environmental problems.

Another two issues, as claimed by the U.S., are the exchange rate and log exports

restrictions on the Crown Land. As the Canadian dollar is lesser in value than the U.S. dollar, the United States suggested that the exchange rate advantage confers a subsidy to the Canadian lumber exporters. Recall that a subsidy is something applies to one specific industry. However, the exchange rate is not a form of subsidy because it is provided to all industries in Canada. The U.S. also argues that the restrictions on log exports prevent American producers from getting licenses to harvest on low price land and give Canadian producers an advantage over the producers in the United States. Regarding this, it is noteworthy that not only Canada but also the United States itself sets log exports restrictions.

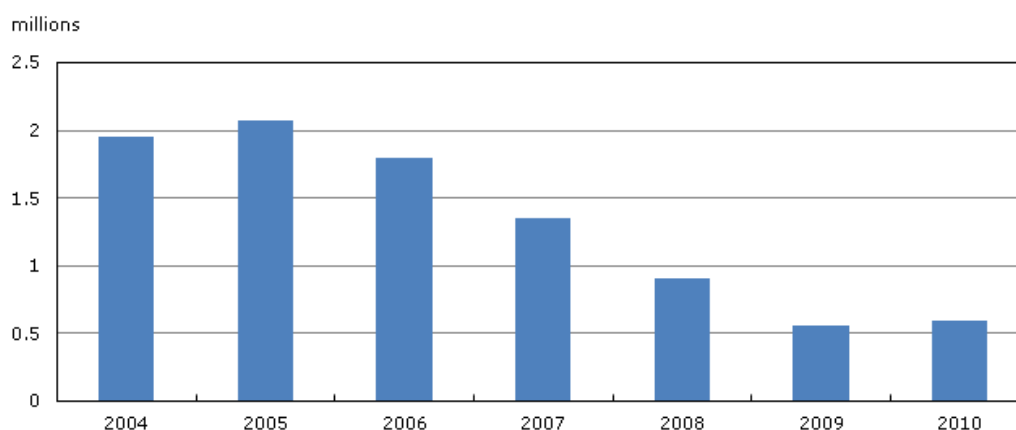
One question arises: does the United States simply try to protect its domestic lumber industry, or are there really subsidies to the Canadian lumber industry? The analyses above indicated that the arguments on which the United States support its accusation against Canadian subsidies are not necessarily correct. The Canadian lumber industry would have been making unusually large profits if there was an advantage to it from subsidies. However, there is no evidence to show that the profits of the Canadian lumber industry are larger than normal. The U.S. claimed that the closures of many lumber companies in the United States are the results of Canadian subsidies and emphasized that Canadian subsidies are harming the American lumber industry. The fact is, a large number of lumber companies have been shut down in Canada as well. Therefore, the subsidization allegations of the United States have no basis in fact, and they are about protectionism.

5.3 Countervailing Duties and Antidumping Tariffs

Despite all evidence and results in favor of Canada, the United States repeatedly fought against Canadian policies on the lumber industry and implemented countervailing duties and antidumping tariffs on Canadian softwood lumber exports. The countervailing duties and antidumping tariffs pushed up the price and reduced advantage of Canadian lumber in the American market. However, they brought negative impacts to the U.S. too.

Although the employment of the American lumber industry has not been affected to the same degree as the Canadian employment, the impact on the relevant industries in the United States cannot be ignored. For example, the housing market heavily depends on the lumber industry. When the cost of lumber increased, new home prices went up. It then caused decreases in the number of people who are eligible for a mortgage and able to buy new houses (See Figure 4). Fewer home owners led to fewer home constructions. Consequently, the unemployment rate in construction companies rose. So did the unemployment rate in companies that sell lumber and other industries that uses lumber as input material. In the United States, the lumber related industries provide far more jobs than the lumber producing industry. So, the impact is huge. Consumers in the U.S. are hurt too because they are the ones who bear the costs of higher lumber prices. Therefore, countervailing duties and antidumping tariffs may protect domestic lumber producers, but it may also harm other industries and consumers in the United States.

Figure 4 - New privately owned housing units in the United States



5.4 Political Economy

The unique geographical positions have made Canada and the United States the largest trading partners to each other. They are also two most important members and supporters to the free trade agreements of the GATT and the WTO. Many trade barriers including duties and tariffs have been reduced or even removed between the two countries. However, the trade barrier reduction did not include the softwood lumber trade. Quota restrictions, export taxes and import tariffs have been imposed to Canadian softwood lumber over the years. This is because the softwood lumber is considered different from other goods in political economy.

It is clear that the softwood lumber producers with common interests are easier organized together than a large number of individual consumers in both Canada and the United States. The organized softwood lumber producers form interest groups with different financial and information resources. Such groups, especially the ones with abundant resources, can easily influence politicians and lobby for their interests successfully. According to their own interests, the politicians respond to different

interest groups by evaluating and comparing them. In fact, Interest groups and politicians play important roles in the Canada-U.S. softwood lumber dispute.

The political influences made by these interest groups are different in Canada and the United States. In Canada, most of the land is publicly owned. Therefore, the Canadian softwood lumber producer interest groups are interested in keeping the low price of lumber provided by the government and increasing their share in the U.S. market. In the United States, the majority of the land is privately owned. Therefore, the American softwood lumber producer interest groups are interested in raising the price of lumber and reducing lumber imports from Canada. Another group needs to be considered is the American consumers. They are interested in a great variety of softwood lumber with lowest prices. Moreover, they are the ones who bear the losses of higher prices. Therefore, they are against barriers to the Canadian lumber. However, as I mentioned earlier, the softwood lumber producer groups are better organized with more resources. As a result, the producer groups have more influence on the politicians and government when it comes to the negotiations for resolution of disputes.

The unequal political influences among different interest groups explain a possible cause for the long lasting Canada-U.S. softwood lumber dispute. Both the Canadian and American lumber producers have used their political powers to pursue their interests. Therefore, politics is one of the dominating issues in the dispute.

5.5 Recommendations

Will the softwood lumber dispute ever end? Over the past few decades, the

differences in the policies and structures of the lumber industry between Canada and the United States have kept the dispute going. Because there has not been enough evidence to support the claim that Canada is subsidizing its lumber industry, the United States should primarily seek solutions at home. Canada, on the other hand, cannot solely rely on the U.S. to solve the problem and should change its strategies regarding the lumber dispute to reduce losses.

Canada and the U.S. have brought several lawsuits and arbitrations to each other throughout the history of the dispute. The litigation process is long and costly and its outcome is uncertain to both parties. Even if Canada wins litigation, the United States can still take further legal actions against softwood lumber imports from Canada. What Canada should do is to avoid pursuing litigation with the United States. Instead, settlements should be negotiated in order to minimize losses for both countries in the dispute. Take the Memorandum of Understanding as an example. Because of MOU, the Canadian softwood industry had to pay a 15 percent tax when exporting their products to the U.S. However, everything should be looked at from both sides. This also benefitted Canada, as the export charges were kept within the country. What's more, the power of controlling the charges was held by Canada itself, so that Canadian companies could obtain some measure of predictability.

The 2006 Canada-U.S. Softwood Lumber agreement (2006 SLA) is another example of such settlement. The outcome of the 2006 SLA benefited both parties: the Canadian producers got duty refund from previous years; the Canadian share in the American lumber market was reduced. Although losing shares in the American market

and jobs domestically after signing the 2006 SLA seemed unsuccessful, their effects would have been even worse if litigation is pursued. Therefore, both Canadian and American governments need to weigh the gains and losses and give more attention to agreement settlement in order to reduce the losses and improve problem solving efficiency in the dispute.

While the agreement settlement is slightly better than litigation, Canada should diversify its export market by seeking new trading partners and shift its trading shares towards them to compensate the losses in the dispute. The boom of developing countries creates a great opportunity for Canada to expand its lumber export. China is the fastest growing market among the developing countries for sawmills, wood preservation. The import volume of timber into China in 2008 is about 103 million cubic meters, increased from 32.4 million cubic meters in 1992. The lumber imports to China also began to expand from low-value timber to higher-grade products in recent years. Canada's abundant forestry resources and clean and high quality lumber products will ensure that Canada is going to come out on top when competing for the lumber market share. Other than exporting lumber to new markets directly, Canada can further promote lumber export by exporting its advanced technologies. For example, Canada's housing system is affordable, environmentally responsible, and energy efficient. With the rapid economic development and the improvement of the people's living standard in developing countries, demand for better construction products is becoming greater. The opportunity of investing and developing the Canadian housing system abroad offers another potential lumber export market.

Therefore, the government of Canada should invest in new trading activities which open up new markets for lumber exports.

The forestry industry is a cornerstone of the Canadian economy. It is also the most important component of the employment base and industrial structure of the country. The Canadian government should vigorously develop the industries which are still in their emerging and growth phase. These industries will provide more job opportunities and revenue when the forestry industry suffers from trade dispute. However, the short term effect will not be remarkable and the result can only be seen in the long run. The Canadian government also needs to reform its taxation system to develop new industries. The new taxation system has to be more competitive with that of the U.S. such that it balances the pressures on forestry and other industries. Therefore, the government should be less dependent on the forestry industry and diversify the revenue income from all industries through the taxation system.

Chapter 6: Conclusions

An understanding of the underlying issues of the trade dispute between two countries is critical for finding solutions between the two countries. In this essay, detailed analyses of subsidy, countervailing duty and their effects of the Canada-U.S. softwood lumber dispute has been presented. Based on the analyses, the following conclusions can be drawn.

First, Canada and the U.S. have different general legal principles to determine the real market price for lumber industry. The United States stresses the commerciality and the free market concept. Once it identifies Canada does not have a comparable market-determined stumpage fee for softwood lumber, the U.S. government calculates the interests of subsidies by using the general price outside of Canada. The Canadian stumpage fee is designed in a way that fully reflects the cost of social, environmental and economic needs in Canada and is used in the entire timber sector. This means the stumpage fee is based on national information and should be considered market-determined.

Second, the countervailing duties and antidumping tariffs benefit U.S. softwood lumber producers while hurting Canadian softwood producers. They eliminate the advantages of the Canadian softwood lumber products by raising their prices after entering the U.S. market. This is unfair to the Canadian exporters since their low price advantage does not come from subsidization.

Third, The countervailing duties and antidumping tariffs hurt American consumers and other industries too. While the price of softwood lumber rises, the cost

for relevant industries that use softwood lumber as input material goes up. Consumers need to pay more due to the increased price.

Fourth, the underlying causes of the Canada-U.S. softwood lumber dispute are different land ownership and log export restrictions. As the causes remain, the dispute between the two countries is likely to continue. Litigation and settlement, the traditional ways of solving the dispute, rarely generate positive results. Finding new markets and remodeling the industry structure can compensate the damages made by litigation and settlements. Together, a better solution to the dispute can be found.

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