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EFFECTIVE DATE: COURT CASE #:

PERIOD OF REVIEW: TO

PERIOD COVERED: 05/28/1992 TO

Notice of Lifting of Suspension Date: 03/12/1992

TO: { Directors Of Field Operations, Port Directors }

FROM: { Director AD/CVD & Revenue Policy & Programs }

RE: FINAL COUNTERVAILING DUTY DETERMINATION: SOFTWOOD LUMBER FROM CANADA

MESSAGE NO: 2153111 DATE: 06 01 1992

CATEGORY: CVD TYPE: FIN

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CASES: C - 122 - 816 - -

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PERIOD COVERED: 05 28 1992 TO

LIQ SUSPENSION DATE: 03 12 1992

TO: REGIONAL DIRECTORS, COMMERCIAL OPERATIONS
DISTRICT DIRECTORS, AREA AND PORT DIRECTORS

FROM: DIRECTOR, IMPORT SPECIALIST DIVISION

RE: FINAL COUNTERVAILING DUTY DETERMINATION: SOFTWOOD LUMBER FROM CANADA

1. THE DEPARTMENT OF COMMERCE PUBLISHED ITS FINAL AFFIRMATIVE COUNTERVAILING DUTY DETERMINATION IN THE INVESTIGATION OF SOFTWOOD LUMBER FROM CANADA ON MAY 28, 1992.

2. THE PRODUCTS COVERED BY THIS INVESTIGATION ARE:

A) CONIFEROUS WOOD, SAWN OR CHIPPED LENGTHWISE, SLICED OR PEELED, WHETHER OR NOT PLANED, SANDED OR FINGER JOINTED, OF A THICKNESS EXCEEDING SIX MILLIMETERS;

B) CONIFEROUS WOOD SIDING (INCLUDING STRIPS AND FRIEZES FOR PARQUET FLOORING NOT ASSEMBLED) CONTINUOUSLY SHAPED (TONGUED, GROOVED, RABBITTED, CHAMFERED, V-JOINTED, BEADED, MOLDED, ROUNDED OR THE LIKE) ALONG ANY OF ITS EDGES OR FACES, WHETHER OR NOT PLANED, SANDED OR FINGER JOINTED;

C) OTHER CONIFEROUS WOOD (INCLUDING STRIPS AND FRIEZES FOR PARQUET FLOORING, NOT ASSEMBLED) CONTINUOUSLY SHAPED (TONGUED, GROOVED, RABBITTED, CHAMFERED, V-JOINTED, BEADED, MOLDED, ROUNDED OR THE LIKE) ALONG ANY OF ITS EDGES OR FACES, WHETHER OR NOT PLANED, SANDED OR FINGER JOINTED;

D) CONIFEROUS WOOD FLOORING (INCLUDING STRIPS AND FRIEZES FOR PARQUET FLOORING NOT ASSEMBLED) CONTINUOUSLY SHAPED (TONGUED, GROOVED, RABBITTED, CHAMFERED, V-JOINTED, BEADED, MOLDED, ROUNDED OR THE LIKE) ALONG ANY OF ITS EDGES OR FACES, WHETHER OR NOT PLANED, SANDED OR FINGER JOINTED.

SUCH PRODUCTS ARE CURRENTLY PROVIDED FOR UNDER SUBHEADINGS 4407.1000, 4409.1010, 4409.1090 and 4409.1020 RESPECTIVELY OF THE HARMONIZED TARIFF SCHEDULE (HTS). ALTHOUGH THE HTS SUBHEADINGS ARE PROVIDED FOR CONVENIENCE AND CUSTOMS PURPOSES, THE WRITTEN DESCRIPTION OF THE SCOPE OF THIS PROCEEDING REMAINS DISPOSITIVE.

3. FIELD OFFICES SHOULD CONTINUE TO SUSPEND LIQUIDATION OF ALL ENTRIES OF CERTAIN SOFTWOOD LUMBER PRODUCTS FROM CANADA THAT ARE ENTERED, OR WITHDRAWN FROM WAREHOUSE, FOR CONSUMPTION, ON OR AFTER MARCH 12, 1992. EFFECTIVE MAY 28, 1992, A CASH DEPOSIT OR BOND IS REQUIRED ON ENTRIES OF THESE PRODUCTS IN AN AMOUNT EQUAL TO 6.51 PERCENT AD VALOREM FOR ALL COMPANIES EXCEPT THE FOLLOWING WHICH ARE EXCLUDED FROM THE AFFIRMATIVE DETERMINATION, THE SUSPENSION OF LIQUIDATION AND ALL CASH DEPOSIT AND BONDING REQUIREMENTS:

1. J.A. FONTAINE ET FILS, INC.

2. J.D. IRVING, LTD.
3. MARCEL LAUZON, INC.
4. LES PRODUITS FORESTIERS D&G, LTD.
5. FRANCOIS GIGUERE, INC.
6. REAL GRONDIN, INC.
7. BOIS DAQUAAM
8. RENE BERNARD, INC.
9. WILFRID PAQUET & FILS, LTEE.
10. GRONDIN INDUSTRIES
11. CARRIER & BEGIN, INC.
12. CLERMONT HAMMEL, LTEE.
13. PAUL VALLEE, INC.
14. SCIERIE TESSIER LACHANCE, INC.
15. SCIERIE LA PATRIE, INC.

LIQUIDATION IS NO LONGER SUSPENDED ON ANY ENTRIES FROM THESE 15 COMPANIES OF CERTAIN SOFTWOOD LUMBER PRODUCTS FROM CANADA AND ALL

CASH DEPOSITS SHOULD BE REFUNDED AND ENTRIES LIQUIDATED.

4. THE SUSPENSION OF LIQUIDATION AND DEPOSIT REQUIREMENT DOES NOT APPLY TO LUMBER PRODUCED IN THE MARITIME PROVINCES (PRINCE EDWARD ISLAND, NOVA SCOTIA, NEW BRUNSWICK AND NEWFOUNDLAND) UNLESS THAT LUMBER IS PRODUCED FROM CROWN TIMBER HARVESTED IN ANY CANADIAN PROVINCE OTHER THAN THE MARITIME PROVINCES.

5. AFTER DISCUSSIONS WITH THE U.S. DEPARTMENT OF COMMERCE, CUSTOMS HAS AGREED TO IMPLEMENT SPECIAL PROCEDURES TO ASSESS THE

6.51 PERCENT AD VALOREM RATE AGAINST THE FOB FIRST MILL VALUE. THE FOLLOWING SPECIAL PROCEDURES ARE EFFECTIVE MAY 28, 1992 (ENTRY SUMMARY DATE FOR IMMEDIATE DELIVERY).

A) YOU SHOULD CONTINUE TO APPRAISE THE SUBJECT MERCHANDISE IN ACCORDANCE WITH NORMAL VALUE PROCEDURES.

B) FOR THE PURPOSES OF CALCULATING THE CVD BOND OR CASH DEPOSIT

AMOUNT, THE IMPORTER MAY CLAIM THE FOB FIRST MILL VALUE IF THE APPRAISED VALUE IS HIGHER THAN THE FOB FIRST MILL VALUE. IF EVIDENCE EXISTS THAT INDICATES THE TRANSACTION BETWEEN THE TWO CANADIAN FIRMS WAS NOT AT "ARMS LENGTH", YOU SHOULD NOT ACCEPT THE FOB FIRST MILL PRICE. IF THERE IS A QUESTION AS TO WHETHER THE TRANSACTION WAS AT ARMS LENGTH, REQUIRE OF THE IMPORTER A STATEMENT ATTESTING THAT THE TRANSACTION WAS AT ARMS LENGTH.

C) THE FOB FIRST MILL VALUE MUST BE BASED ON APPROPRIATE DOCUMENTATION, SUCH AS A COMMERCIAL INVOICE FROM THE FIRST MILL, A PROFORMA INVOICE, AN EXPORT CERTIFICATE OR SHIPPERS DECLARATION OR AFFIDAVIT. THE DOCUMENTATION MUST BE PRESENTED AT THE TIME OF ENTRY SUMMARY. THE APPROPRIATE DOCUMENTS ARE NOT BONDABLE DOCUMENTS, AND IN THE ABSENCE OF THE APPROPRIATE DOCUMENTS YOU ARE TO ASSESS THE CVD RATE ON THE ENTERED VALUE.

D) IF CUSTOMS FIELD OFFICERS HAVE A QUESTION AS TO THE VALUE DECLARED AS THE FIRST MILL VALUE, THEY SHOULD REFER THE MATTER TO HQ OAB FOR TRANSMITTAL TO COMMERCE.

E) FOR NON-ABI ENTRIES, THE FOB FIRST MILL VALUE MUST BE ENTERED IN THE "CVD SPEC DEP VALUE" FIELD ON THE ENBA SCREEN.

F) FOR ABI ENTRIES, ABI FILERS SHOULD REFER TO THE CATAIR PAGE ENS-40-02 IN THE ENTRY SUMMARY CHAPTER, RECORD IDENTIFIER 40, DATA ELEMENT "CVD SPECIFIC DEPOSIT VALUE".

6. PLEASE NOTE THAT THE SUSPENSION OF LIQUIDATION FOR COUNTERVAILING DUTY PURPOSES ONLY APPLIES TO ENTRIES OF CERTAIN SOFTWOOD LUMBER PRODUCTS FROM CANADA THAT ARE ENTERED, OR WITHDRAWN, FOR CONSUMPTION ON OR AFTER MARCH 12, 1992.

THESE INSTRUCTIONS IN NO WAY HAVE ANY EFFECT ON THE ENTRIES THAT WERE SUSPENDED PRIOR TO MARCH 12, 1992 UNDER THE SEPERATE 301 ACTION. THEY SHOULD CONTINUE TO BE SUSPENDED UNTIL FURTHER NOTICE.

7. IF THERE ARE ANY FURTHER QUESTIONS REGARDING THIS MATTER BY

CUSTOMS OFFICERS, THEY SHOULD CONTACT THE IMPORT SPECIALIST DIVISION, OTHER AGENCY BRANCH (FTS 566-8651) OR SEND AN EMAIL TO ATTRIBUTE "HQ OAB". THE IMPORTING PUBLIC AND OTHER INTERESTED PARTIES SHOULD CONTACT KELLY PARKHILL OR NORBERT GANNON, OF THE OFFICE OF COUNTERVAILING COMPLIANCE, IMPORT ADMINISTRATION, INTERNATIONAL TRADE ADMINISTRATION, U.S. DEPARTMENT OF COMMERCE, TELEPHONE: (202) 377-2786.

8. THERE ARE NO RESTRICTIONS ON THE RELEASE OF THE ABOVE INFORMATION.

C.L. BRAINARD

Company Details

*Party Indicator Value:

I = Importer, M = Manufacturer, E = Exporter, S = Sold To Party