''specific'' within the meaning of Article 2 of the SCM Agreement.

Commerce erroneously and impermissibly made a finding of ''specificity'',

(i) Based solely on the unsupported and incorrect assertion that only three industries use provincial stumpage, and

(ii) Without taking into account the extent of diversification of economic activity within the jurisdiction of the alleged granting authority;

(e) Commerce violated Article 19.4 of the SCM Agreement and Article VI:3 of GATT 1994 by inflating the alleged subsidy rate through the use of impermissible methodologies, including by:

(i) Calculating the alleged stumpage benefit on the basis of the whole softwood log, and then attributing that benefit to only a portion of the products produced from that log,

(ii) Excluding relevant shipments from the denominator such that the numerator and the denominator of the alleged benefit calculation where not congruent,

(iii) Allocating the total alleged stumpage benefit over a sales value that had been demonstrated on the record to be inaccurate, and

(iv) Excluding from the denominator shipments of companies demonstrated to be unsubsidized; and

(f) Commerce violated Articles 10, 12, 22 and 32.1 of the SCM Agreement and Article X:3(a) of GATT 1994 because the investigation was not conducted in accordance with fundamental substantive and procedural requirements. In particular:

(i) Commerce refused to accept or consider relevant evidence offered on a timely basis, contrary to Article 12.1 of the SCM Agreement,

(ii) Commerce gathered and relied upon information not made available to the parties and not verified, contrary to Articles 12.2, 12.3, 12.5 and 12.8 of the SCM Agreement,

(iii) Commerce failed to address significant evidence and arguments in its determination, contrary to Article 22.5 (and Article 22.4 as it relates to Article 22.5) of the SCM Agreement,

(iv) Commerce failed to issue timely decisions and to provide reasonable schedules for questionnaire responses, briefings, and hearings contrary to Articles 12.1, 12.2, 12.3 and 22.5 (and Article 22.4 as it relates to Article 22.5) of the SCM Agreement, and

(v) Commerce improperly applied facts available to cooperative parties, contrary to Article 12.7 of the SCM Agreement.

3. Expedited and Administrative Reviews

(a) In initiating ''expedited reviews'' with respect to the *Lumber IV* investigation, the United States has violated Articles 10, 19.3, 19.4 and 32.1 of the SCM Agreement and Article VI:3 of GATT 1994 because:

(i) Commerce has failed to ensure that each exporter requesting an expedited review is granted a review and given an individual countervailing duty rate, and

(ii) Commerce's proposed methodology for calculating company-specific countervailing duty rates fails to properly establish an individual countervailing duty rate for each exporter granted a review.

(b) U.S. law specifically prohibits company-specific administrative reviews in aggregate cases. In conducting the Lumber IV investigation on an aggregate basis, the United States has therefore violated Articles 10, 19.3, 19.4, 21.1, 21.2 and 32.1 of the SCM Agreement and Article VI:3 of GATT 1994 because:

(i) Commerce is prohibited under U.S. law from conducting company-specific administrative reviews in this case except for companies with zero or *de minimis* rates, and

(ii) A rate obtained following an aggregate administrative review will replace any company-specific rates arrived at through the expedited review process.

Public Comment: Requirements for Submissions

Interested persons are invited to submit written comments concerning the issues raised in the dispute. Persons submitting comments may either send one copy by U.S. mail, first class, postage prepaid, to Sandy McKinzy at the address listed above or transmit a copy electronically to *FR0048@ustr.gov,* with ''DS257'' in the subject line. For documents sent by U.S. mail, USTR requests that the submitter provide a confirmation copy, either electronically or by fax to 202–395–3640. USTR encourages the submission of documents in Adobe PDF format, as attachments to an electronic mail. Interested persons who make submissions by electronic mail should not provide separate cover letters; information that might appear in a cover letter should be included in the submission itself. Similarly, to the extent possible, any attachments to the submission should be included in the same file as the submission itself, and not as separate files.

A person requesting that information contained in a comment submitted by the that person be treated as confidential business information must certify that such information is business confidential and would not customarily be released to the public by the submitter. Confidential business information must be clearly marked ''BUSINESS CONFIDENTIAL'' in a contrasting color ink at the top of each page of each copy.

Information or advice contained in a comment submitted, other than business confidential information, may be determined by USTR to be confidential in accordance with section 135(g)(2) of the Trade Act of 1974 (19 U.S.C. 2155(g)(2)). If the submitting person believes that information or advice may qualify as such, the submitting person—

(1) Must so designate the information or advice;

(2) Must clearly mark the material as ''SUBMITTED IN CONFIDENCE'' in a contrasting color ink at the top of each page of each copy; and

(3) Is encouraged to provide a non-confidential summary of the information or advice.

Pursuant to section 127(e) of the URAA (19 U.S.C. 3537(e)), USTR will maintain a file on this dispute settlement proceeding, accessible to the public, in the USTR Reading Room, which is located at 1724 F Street, NW., Washington, DC 20508. The public file will include nonconfidential comments received by USTR from the public with respect to the dispute; the U.S. submissions to the panel in the dispute, the submissions, or non-confidential summaries of submissions, to the panel received from other participants in the dispute, as well as the report of the panel; and, if applicable, the report of the Appellate Body. An appointment to review the public file may be made by calling the USTR Reading Room at (202) 395–6186. The USTR Reading Room is open to the public from 9:30 a.m. to 12 noon and 1 p.m. to 4 p.m., Monday through Friday.

Daniel E. Brinza,

Assistant United States Trade Representative for Monitoring and Enforcement.

[FR Doc. 02–26761 Filed 10–21–02; 8:45 am]

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OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. WTO/DS–264]

WTO Dispute Settlement Proceeding Regarding the U.S. Department of Commerce Final Antidumping Determination Concerning Certain Softwood Lumber From Canada

AGENCY: Office of the United States Trade Representative.

ACTION: Notice; request for comments.

SUMMARY: The Office of the United States Trade Representative (''USTR'') is providing notice that, on September 13, 2002, the United States received a request from the Government of Canada for consultations under the Marrakesh Agreement Establishing the World Trade Organization (''WTO Agreement'') regarding the U.S. Department of Commerce (''DOC'') final determination of sales at less than fair value with respect to certain softwood lumber from Canada. The panel request alleges that the initiation of the investigation, the conduct of the investigation, and the final determination are inconsistent with various provisions of the General Agreement on Tariffs and Trade 1994 (''GATT 1994'') and the Agreement on

Implementation of Article VI of GATT 1994. USTR invites written comments from the public concerning the issues raised in this dispute.

DATES: Although USTR will accept any comments received during the course of the dispute settlement proceedings, comments should be submitted on or before December 1, 2002 to be assured of timely consideration by USTR.

ADDRESSES: Comments should be submitted (i) electronically, to *FR00498@ustr.gov,* Attn: ''DS264 Dispute'' in the subject line, or (ii) by mail to Sandy McKinzy, Monitoring and Enforcement Unit, Office of the General Counsel, Room 122, Office of the Untied States Trade Representative, 600 17th Street, NW., Washington, DC 20508, Attn: DS264 Dispute, with a confirmation copy sent electronically to the email address above or by fax to 202–395–3640.

FOR FURTHER INFORMATION CONTACT: Amber L. Cottle, Assistant General Counsel, Office of the United States Trade Representative, 600 17th Street, NW., Washington, DC (202) 395–3581.

SUPPLEMENTARY INFORMATION: Section 127(b) of the Uruguay Round Agreements Act (''URAA'') (19 U.S.C. 3537(b)(1)) requires that notice and opportunity for comment be provided after the United States submits or receives a request for the establishment of a WTO dispute settlement panel. Consistent with this obligation, but in an effort to provide additional opportunity for comment, USTR is providing notice that consultations have been requested pursuant to the WTO Dispute Settlement Understanding (''DSU''). If such consultations should fail to resolve the matter and a dispute settlement panel is established pursuant to the DSU, such panel, which would hold its meetings in Geneva, Switzerland, would be expected to issue a report on its findings and recommendations within six to nine months after it is established.

Major Issues Raised and Legal Basis of the Complaint

The notice of the DOC final determination of sales at less than fair value with respect to certain softwood lumber from Canada was published in the **Federal Register** on April 2, 2002, and the notice of the DOC amended final determination was published on May 22, 2002. The notices explain the basis for the DOC's final determination that certain softwood lumber from Canada is being sold, or is likely to be sold, in the United States at less than fair value.

In its consultation request, Canada describes its claims in the following manner:

The measures it issue include the initiation of the investigation, the conduct of the investigation and the Final Determination. The Government of Canada considers these measures and, in particular, the determinations made and methodologies adopted therein by the United States Department of Commerce under authority of the United States Tariff Act of 1930, to violate the Anti-dumping Agreement and the GATT 1994 (in particular Articles 1 and 18.1 of the Anti-dumping Agreement and Article VI of the GATT 1994) for, among others, the following reasons:

1. The United States Department of Commerce improperly initiated the anti-dumping investigation that resulted in the Final Determination in contravention of Article 5 of the anti-dumping Agreement (including Articles 5.2, 5.3, 5.4 and 5.8). The application to initiate filed by the U.S. applicant failed to provide evidence of dumping, injury and causation that was reasonably available, including prices at which softwood lumber was sold in Canada. As a whole, the application did not contain ''sufficient evidence'' to justify the initiation of an investigation. Further, the initiation of the investigation was not based on an objective and meaningful examination and determination of the degree of support for the application by the domestic industry because the Continued Dumping and Subsidy Offset Act of 2000 (CDSOA), by requiring that a member of the U.S. industry support the application as a condition of receiving payments under the CDSOA, made an objective and meaningful examination of industry support for the application impossible.

2. The United States Department of Commerce improperly applied a number of methodologies inconsistent with Article VI of the GATT 1994 and Articles 1, 2 (including Articles 2.1, 2.2, 2.4 and 2.6) and 9.3 of the Antidumping Agreement as a result of improper and unfair comparisons between the export price and the normal value, resulting in artificial and/or inflated margins of dumping. These included:

(a) Reliance on unrepresentative home market prices and improper determinations that sales of the like products in Canada were not in the ordinary course of trade, the effect of which led the Department of Commerce to disregard a significant proportion of domestic sales of like products (identical or similar goods) for purposes of making price to price comparisons and for purposes of calculating profit in determining constructed values;

(b) Failure to properly allocate costs in calculating the cost of production of the like product in Canada, including the failure to extend the value-based cost allocation methodology to take into account differences in lumber dimension, the effect of which led to improperly determining constructed values and profit, distortions in the application of the sales below cost test, and limiting the use of like products for purposes of making price to price comparison;

(c) Application of the practice of ''zeroing'', the effect of which was to inflate margins of dumping and which, in the recommendations and rulings of the Dispute Settlement Body in an earlier dispute, was found to be consistent with the Anti-dumping Agreement when establishing the existence of margins of dumping;

(d) Failure, when conducting comparisons between like products, to make due allowance for differences that affect price comparability;

(e) The use of an unreasonable amount for profit in the calculation of constructed values;

(f) Failure to apply a reasonable method in calculating amounts for administrative, selling and general expenses, including improper adjustment to export price and an improper allocation of genral and administrative expenses financial expenses; and

(g) Failure to apply a reasonable method to account for by-product revenues as offsets in calculating cost of production.

3. The United States Department of Commerce failed to establish a clear, definitive and proper product scope for investigation and improperly initiated and pursued the investigation with regard to certain products contrary to Articles 5.1, 5.2, 5.4 and 5.8 of the Anti-dumping Agreement. The Department of Commerce further failed to give parties opportunity to defned their interests in contravention of Article X:3(a) of the GATT 1994 and Article 6 of the Anti-dumping Agreement (including Articles 6.1, 6.2, 6.4 and 6.9), by failing to issue timely decisions and provide reasonable schedules for briefing and hearings, and to adequately consider the representations of the parties.

Public Comment: Requirement for Submissions

Interested persons are invited to submit written comments concerning the issues raised in the dispute. Persons submitting commerns may either send one copy by U.S. mail, first class, postage prepaid, to Sandy McKinzy at the address listed above or transmit a copy electronically to *FR0049@ustr.gov*, with ''DS264'' in the subject line. For documents sent by U.S. mail, USTR requests that the submiter provide a confirmation copy, either electronically or by fax to 202–395–3640. USTR encourages the submission of documents in Adobe PDF format, as attachments to an electronic mail. Interested persons who make submissions by electronic mail should not provide separate cover letters; information that might appear in a cover letter should be included in the submission itself. Similarly, to the extent possible, any attachments to the submission should be included in the same file as the submission itself, and not as separate files.

A person requesting that informaiton contained in a comment submitted by that person be treated as confidential business information must certify that such informaton is business confidential

and would not customarily be released to the public by the submitter. Confidential business information must be clearly marked ''BUSINESS CONFIDENTIAL'' in a contrasting color ink at the top of each page of each copy.

Information or advice contained in a comment submitted, other than business confidential information, may be determined by USTR to be confidential in accordance with section 135(g)(2) of the Trade Act of 1974 (19 U.S.C. 2155(g)(2)). If the submitting person believes that information or advice may qualify as such, the submitting person—

(1) Must so designate the information or advice;

(2) Must clearly mark the material as ''SUBMITTED IN CONFIDENCE'' in a contrasting color ink at the top of each page of each copy; and

(3) Is encouraged to provide a non-confidential summary of the information or advice.

Pursuant to section 127(e) of the URAA (19 U.S.C. 3537(e)), USTR will maintain a file on this dispute settlement proceeding, accessible to the public, in the USTR Reading Room, which is located at 1724 F Street, NW., Washington, DC 20508. The public file will include non-confidential comments received by USTR from the public with respect to the dispute; the U.S. submissions to the panel in the dispute, the submissions, or non-confidential summaries of submissions, to the panel received from other participants in the dispute, as well as the report of the panel; and, if applicable, the report of the Appellate Body. An appointment to review the public file may be made by calling the USTR Reading Room at (202) 395–6186. The USTR Reading Room is open to the public from 9:30 a.m. to 12 noon and 1 p.m. to 4 p.m., Monday through Friday.

Daniel E. Brinza,

Assistant United States Trade Representative for Monitoring and Enforcement.

[FR Doc. 02–26762 Filed 10–21–02; 8:45 am]

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OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. WTO/DS–260]

WTO Dispute Settlement Proceeding Regarding EC Provisional Safeguard Measures Against Imports of Certain Steel Products

AGENCY: Office of the United States Trade Representative.

ACTION: Notice; request for comments.

SUMMARY: The Office of the United States Trade Representative (''USTR'') is providing notice that on September 16, 2002, pursuant to a request from the United States, a panel was established under the Marrakesh Agreement Establishing the World Trade Organization (''WTO'') to examine the provisional safeguard measures imposed by the European Communities (''EC'') against imports of certain steel products. These measures appear to be inconsistent with the EC's obligations under Article XIX of the GATT 1994 and Articles 2, 3, 4, 5, 6, and 12 of the Agreement on Safeguards. USTR invites written comment from the public concerning the issues raised in this dispute.

DATES: Although the USTR will accept any comments received during the course of the dispute settlement proceedings, comments should be submitted on or before October 30, 2002, to be assured of timely consideration by USTR.

ADDRESSES: Comments should be submitted (i) electronically, to *FR0038@USTR.GOV,* with ''Dispute on EC Safeguard Measures on Steel'' in the subject line, or (ii) by mail, to Sandy McKinzy, Monitoring and Enforcement Unit, Office of the General Counsel, Room 122, Office of the United States Trade Representative, 600 17th Street, NW., Washington, DC 20508, Attn: Dispute on EC Safeguard Measures on Steel, with a confirmation copy sent electronically or by fax to 202–395–3640.

FOR FURTHER INFORMATION CONTACT: L. Daniel Mullaney, Associate General Counsel, Office of the United States Trade Representative, 600 17th Street, NW., Washington, DC, (202) 395–3581.

SUPPLEMENTARY INFORMATION: Pursuant to Section 127(b) of the Uruguay Round Agreements Act (URAA) (19 U.S.C. 3537(b)(1)), USTR is providing notice that on September 16, 2002, a WTO panel was established pursuant to a request by the United States. The panel, which will hold its meetings in Geneva, Switzerland, is expected to issue a report on its findings and recommendations within six to nine months after its establishment.

Major Issues Raised and Legal Basis of the Complaint

The United States considers that provisional safeguard measures taken by the European Communities (''EC'') with regard to imports of certain steel products are inconsistent with the EC's commitments and obligations under the General Agreement on Tariffs and Trade 1994 (''GATT 1994'') and the Agreement on Safeguards (''Safeguards Agreement''). The measures in question (collectively, the ''Safeguard Measures'') include Commission Regulation (EC) No 560/2002 of 27 March 2002, as amended by Commission Regulation (EC) No 950/2002 of 3 June 2002, and Commission Regulation (EC) No 1287/2002 of 15 July 2002, as well as any other amendments thereto or extensions thereof, and any related measures. In particular, the Safeguard Measures appear to be inconsistent with:

(1) Article 2.1 of the Safeguards Agreement and Article XIX:1(a) of the GATT 1994, in that the EC applied the Safeguard Measures to certain steel products in the absence of a determination that such products are being imported in such increased quantities, absolute or relative to domestic production, and under such conditions as to cause or threaten to cause serious injury to the domestic industry that produces like or directly competitive products.

(2) Article 4.1(b) of the Safeguards Agreement, in that the EC did not make a determination of the existence of a threat of serious injury based on facts and not merely on allegation, conjecture or remote possibility.

(3) Article 4.2 (a) of the Safeguards Agreement, in that there was no investigation to determine, and no determination of, whether increased imports have caused or are threatening to cause serious injury, in which the EC evaluated all relevant factors of an objective and quantifiable nature having a bearing on the situation of the domestic industry, in particular, the rate and amount of the increase in imports of the product concerned in absolute and relative terms, the share of the domestic market taken by increased imports, changes in the level of sales, production, productivity, capacity utilization, profits and losses, and employment.

(4) Article 4.2 (b) of the Safeguards Agreement, in that there was no investigation demonstrating, and no determination of, the existence of a causal link between increased imports of the product concerned and serious injury or threat thereof on the basis of objective evidence. The EC also failed to ensure that injury caused at the same time by factors other than imports was not attributed to increased imports.

(5) Article 4.2(c) of the Safeguards Agreement, in that the EC failed to publish, in accordance with the provisions of Article 3, a detailed analysis of the case under investigation as well as a demonstration of the relevance of the factors examined.

(6) Article 6 of the Safeguards Agreement, in that the Safeguard Measures were not taken pursuant to a