

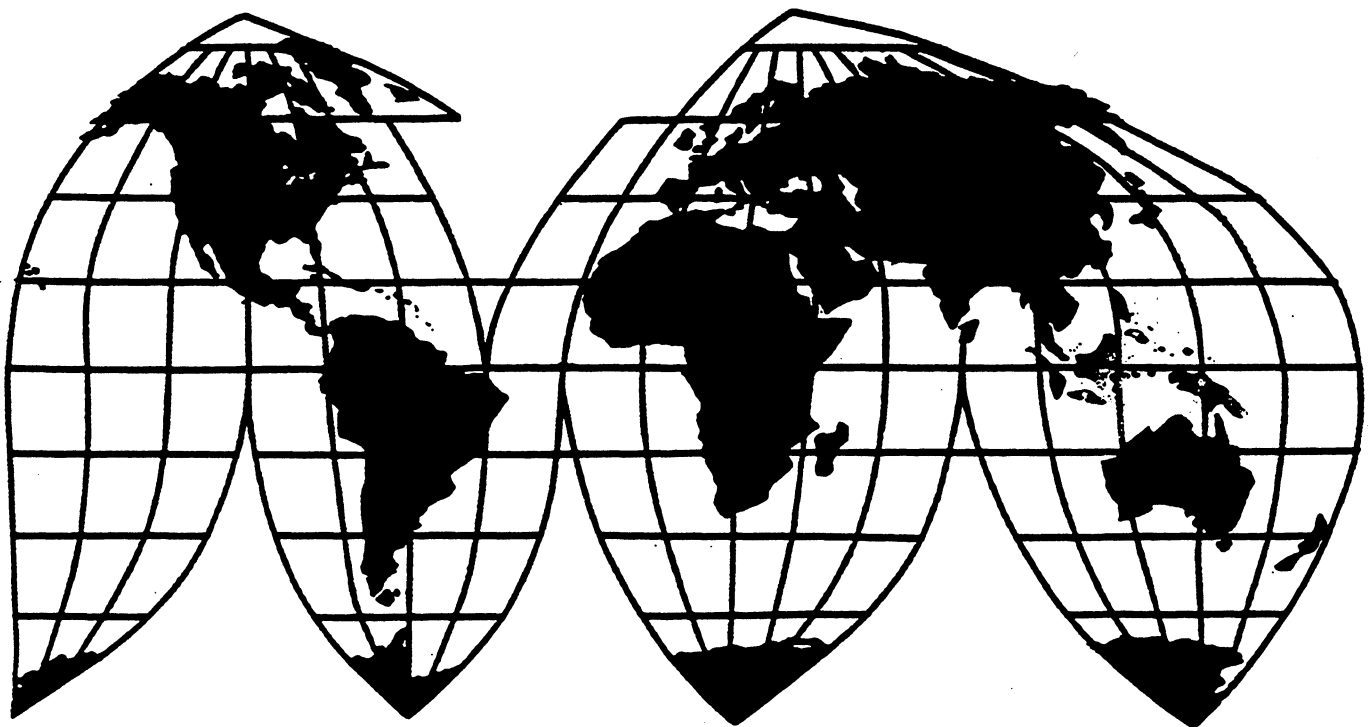
# Certain Laminated Hardwood Flooring From Canada

Investigation No. 701-TA-367 (Preliminary)

Publication 2956

April 1996

**U.S. International Trade Commission**



Washington, DC 20436

# U.S. International Trade Commission

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# U.S. International Trade Commission

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## Certain Laminated Hardwood Flooring From Canada



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Note.--Information that would reveal confidential operations of individual concerns may not be published and therefore has been deleted from this report. Such deletions are indicated by asterisks.



UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigation No. 701-TA-367 (Preliminary)

CERTAIN LAMINATED HARDWOOD FLOORING FROM CANADA

Determination

On the basis of the record<sup>1</sup> developed in the subject investigation, the Commission determines<sup>2</sup>, pursuant to section 703(a) of the Tariff Act of 1930 (19 U.S.C. § 1671b(a)), that there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of imports from Canada of certain laminated hardwood flooring, provided for in subheading 4421.90.98 of the Harmonized Tariff Schedule of the United States, that are alleged to be subsidized by the Government of Canada.

Background

On March 7, 1996, a petition was filed with the Commission and the Department of Commerce by the Ad Hoc Committee on Laminated Hardwood Trailer Flooring (Anderson-Tully Co. (Tully), Memphis, TN; Cloud Corp. (Cloud), Harrison, AK; Havco Wood Products, Inc. (Havco), Cape Girardeau, MO; Industrial Hardwoods Products Inc. (IHP), Redwing, MN; and Lewisohn Sales Co. Inc. (Lewisohn), North Bergen, NJ), alleging that an industry in the United States is materially injured or threatened with material injury by reason of subsidized imports of laminated hardwood flooring from Canada. Accordingly, effective March 7, 1996, the Commission instituted countervailing duty investigation No. 701-TA-367 (Preliminary).

Notice of the institution of the Commission's investigation and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S.

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<sup>1</sup> The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR § 207.2(f)).

<sup>2</sup> Chairman Peter Watson and Vice Chairman Janet Nuzum dissenting.

International Trade Commission, Washington, DC, and by publishing the notice in the *Federal Register* of March 20, 1996 (61 FR 11430). The conference was held in Washington, DC, on March 28, 1996, and all persons who requested the opportunity were permitted to appear in person or by counsel.

## VIEWS OF THE COMMISSION

Based on the record in this preliminary investigation, we find that there is a reasonable indication that an industry in the United States is threatened with material injury by reason of allegedly subsidized imports of laminated hardwood flooring from Canada.<sup>1 2</sup>

### I. THE LEGAL STANDARD FOR PRELIMINARY DETERMINATIONS

The legal standard in preliminary countervailing duty investigations requires the Commission to determine, based upon the information available at the time of the preliminary determination, whether there is a reasonable indication that a domestic industry is materially injured, or threatened with material injury, by reason of the allegedly subsidized imports.<sup>3</sup> In applying this standard, the Commission weighs the evidence before it and determines whether "(1) the record as a whole contains clear and convincing evidence that there is no material injury or threat of such injury; and (2) no likelihood exists that contrary evidence will arise in a final investigation."<sup>4</sup>

### II. DOMESTIC LIKE PRODUCT AND INDUSTRY

#### A. In General

To determine whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of the subject imports, the Commission first defines the "domestic like product" and the "industry."<sup>5</sup> Section 771(4)(A) of the Act defines the relevant industry as the "producers as a [w]hole of a domestic like product, or those producers whose collective output of a domestic like product constitutes a major proportion of the total domestic production of the product."<sup>6</sup> In turn, the Act defines "domestic like product" as "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation. . . ."<sup>7</sup>

Our decision regarding the appropriate domestic like product(s) in an investigation is a factual determination, and we apply the statutory standard of "like" or "most similar in characteristics and uses" on a

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<sup>1</sup> Chairman Watson and Vice Chairman Nuzum find that there is no reasonable indication that the domestic industry producing laminated hardwood flooring is materially injured or threatened with material injury by reason of allegedly subsidized imports from Canada. See Dissenting Views of Chairman Watson and Dissenting Views of Vice Chairman Nuzum. Chairman Watson joins in sections I, II and III of this opinion. Vice Chairman Nuzum joins in sections I and II of this opinion.

<sup>2</sup> Whether there is a reasonable indication that the establishment of an industry in the United States is materially retarded is not an issue in this investigation.

<sup>3</sup> 19 U.S.C. § 1671b(a); see also American Lamb Co. v. United States, 785 F.2d 994 (Fed. Cir. 1986); Calabrian Corp. v. United States, 794 F.Supp. 377, 381 (Ct. Int'l Trade 1992).

<sup>4</sup> American Lamb 785 F.2d at 1001; see also Texas Crushed Stone Co. v. United States, 35 F.3d 1535, 1543 (Fed. Cir. 1994).

<sup>5</sup> 19 U.S.C. § 1677(4)(A).

<sup>6</sup> 19 U.S.C. § 1677(4)(A).

<sup>7</sup> 19 U.S.C. § 1677(10).

case-by-case basis.<sup>8</sup> No single factor is dispositive, and the Commission may consider other factors it deems relevant based on the facts of a particular investigation.<sup>9</sup> The Commission looks for clear dividing lines among possible like products, and disregards minor variations.<sup>10</sup>

In its notice of initiation, the Department of Commerce has defined the imported article subject to this investigation as:

Laminated hardwood flooring which is made of oak, maple or other hardwood lumber. Laminated hardwood flooring is customized for specific dimensions, but generally ranges in size from 8' x 48" x 1" to 8' x 6" x 57" x 1-1/2" for trailer flooring, and to 8' x 16" x 1-1/8" to 8' x 26' x 1-1/2" for trailer flooring and van and truck bodies, respectively.<sup>11</sup>

Laminated hardwood flooring is used in the manufacture of trailers, trucks, vans, containers and rail cars; it is customized to dimensions specific to its applications.<sup>12</sup> Trailer flooring accounts for the vast majority of open-market sales of all laminated hardwood flooring products. Trailer flooring generally conforms with the 1970 Fruehauf Standard (which guarantees that the floor will withstand a forklift) and is undercoated with a rubberized coating to protect against moisture. Rail decking and flooring for truck bodies, vans, and containers accounted for a much smaller portion of open-market sales of laminated hardwood flooring. These types of flooring are not undercoated.<sup>13</sup>

The term hardwood refers to the species of trees from which the wood is obtained, and is based on the botanical characteristics of the tree and not the actual hardness. Hardwoods, however, are generally harder and heavier than softwoods.<sup>14</sup>

Imported and domestically produced laminated hardwood floorings, while similar, are predominantly made from different species of hardwood. Most imported flooring from Canada is destined for the trailer market and is made of maple, which is locally available in Canada and in the northeastern United States, from which the Canadians import much of their raw materials. Most domestically produced flooring is also destined for the trailer market, but is principally made from oak which is more readily available to domestic producers.<sup>15</sup>

For purposes of this preliminary investigation, both the petitioner, the Ad Hoc Committee on Laminated Hardwood Trailer Flooring<sup>16</sup> ("Petitioner"), and respondent Nilus Leclerc, Inc. ("Leclerc") agree that the domestic like product should be coextensive with the scope of investigation established by

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<sup>8</sup> See, e.g., Nippon Steel Corp. v. United States, 19 CIT \_\_\_, Slip Op. 95-57 at 11 (Apr. 3, 1995); Torrington Co. v. United States, 747 F. Supp. 744, 749 n.3 (Ct. Int'l Trade 1990), aff'd, 938 F.2d 1278 (Fed. Cir. 1991) ("every like product determination 'must be made on the particular record at issue' and the 'unique facts of each case'"). In analyzing domestic like product issues, the Commission generally considers a number of factors including: (1) physical characteristics and uses; (2) interchangeability; (3) channels of distribution; (4) customer and producer perceptions of the products; (5) common manufacturing facilities, production processes and production employees; and, where appropriate, (6) price. See Aramide Mattschappi, V.O.F. v. United States, 19 CIT \_\_\_, Slip Op. 95-113 at 4 (June 19, 1995); Calabrian Corp. v. United States, 794 F. Supp. 377, 382 n.4 (Ct. Int'l Trade 1992).

<sup>9</sup> See, e.g., S. Rep. No. 249, 96th Cong., 1st Sess. 90-91 (1979).

<sup>10</sup> Torrington, 747 F. Supp. at 748-49.

<sup>11</sup> 61 Fed. Reg. 15041-15042 (April 4, 1996).

<sup>12</sup> CR at I-3, PR at I-2.

<sup>13</sup> CR at I-3, PR at I-2.

<sup>14</sup> CR at I-3, PR at I-2.

<sup>15</sup> CR at I-3, PR at I-2.

<sup>16</sup> The Committee members are Anderson-Tully Co., Cloud Corp., Havco Wood Products, Inc., Industrial Hardwoods Products Inc., and Lewisohn Sales Co., Inc.

Commerce.<sup>17</sup> We find no basis on the present record to define the domestic like product more broadly to include products other than laminated hardwood flooring.<sup>18</sup> We similarly find no basis for treating laminated hardwood flooring manufactured from oak as a separate domestic like product from hardwood flooring manufactured from other hardwoods.<sup>19</sup> Finally, we find no basis for treating laminated hardwood flooring manufactured for trailers, trucks vans, containers and rail cars as separate domestic like products.<sup>20</sup> We therefore find a single domestic like product consisting of all laminated hardwood flooring.

### C. Domestic Industry

In making its determination, the Commission is directed to consider the effect of the subject imports on the industry, defined as "the producers as a [w]hole of a domestic like product..."<sup>21</sup> Based on the definition

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<sup>17</sup> Petition at 9; Leclerc's Postconference Brief at 12, n.22. No other responding party addressed the like product issue.

<sup>18</sup> The evidence available in this preliminary investigation indicates that residential and strip flooring is sold to distributors and warehouses for resale to retail customers for use in new homes, gymnasiums, and sports courts. Residential flooring customers are completely distinct from trailer and truck manufacturers. CR at I-4, I-6, PR at I-3, I-4. There is no overlap in domestic production facilities or production workers. CR at I-6, PR at I-4. There does not appear to be interchangeability between laminated hardwood flooring and residential and commercial strip flooring due to differences in width, lamination, and undercoating. CR at I-5, PR at I-3. Similarly, the evidence available in this preliminary investigation indicates that alternative flooring materials, such as aluminum and laminated softwood lumber, should not be included in the domestic like product. Aluminum flooring, by virtue of the differences in construction materials, does not possess the same physical characteristics as the subject product. Aluminum has traditionally been used in refrigerated trailers, and occasionally in dry trailers when the price of laminated hardwood has increased enough to approach the price of aluminum. CR at I-4, PR at I-3. However, aluminum has limitations as trailer flooring because it develops a slick surface not conducive to forklift operations, thereby limiting interchangeability. CR at I-5, PR at I-3. It does not appear that producers or customers perceive the product in the same way. See, e.g., Transcript at 61-66. Further, aluminum flooring is not produced in the same facilities or by the same producers as laminated hardwood flooring. Laminated softwood lumber is generally made of douglas fir and is mainly available on the West Coast near Douglas fir sources. CR at I-5, PR at I-3. Because laminated softwood flooring cannot withstand a forklift, it is interchangeable with laminated hardwood only for truck body applications. Further, it does not appear than any of the responding domestic producers manufacture laminated softwood flooring.

<sup>19</sup> All types of laminated hardwood flooring share the same essential physical characteristics and uses. CR at App. C-3, I-3-4, PR at App. C-3, I-2-3, Tr. at 63-64. Available evidence suggests that producers and customers perceive maple, birch and oak to be largely interchangeable. CR at I-4, PR at I-3. All types of laminated hardwood flooring are produced using the same or similar production processes, facilities, and employees, CR at I-6, PR at I-4; and are sold through the same or similar channels of distribution -- mainly to end users. CR at I-5, PR at I-4. There is evidence in the record that oak is slightly more expensive than maple, but that the price differential has recently narrowed. CR at V-3, PR at V-2.

<sup>20</sup> All types of laminated hardwood flooring share some of the same essential characteristics, since all are produced from the same material, and are used for the same basic purposes, i.e., vehicular flooring. We note, however, that unlike flooring in truck bodies, vans and containers, laminated hardwood flooring used in trailer applications is undercoated to protect against moisture. Trailer, truck body, van and container flooring are all produced on the same production equipment using the same production workers, CR at I-6, PR at I-4, and are sold in the same or similar channels of distribution -- to end users. CR at I-6, PR at I-4.

<sup>21</sup> 19 U.S.C. § 1677(4)(A). In doing so, the Commission generally includes all domestic production, including tolling operations and captively consumed product, within the domestic industry. See United States Steel Group, et. al. v. United States, 873 F. Supp. at (673) at 16 ((Ct. Int'l Trade 1994), appeal docketed, No. 95-1245 (Fed. Cir. March 21, 1995).

of the domestic like product, the domestic industry consists of all U.S. producers of laminated hardwood flooring.<sup>22</sup>

The sole industry issue in this preliminary investigation concerns whether any of the producers of the domestic like product should be excluded from the industry as a related party.<sup>23</sup> If the Commission determines that a domestic producer satisfies the definition of a related party, the Commission may exclude the producer from the domestic industry if "appropriate circumstances" exist.<sup>24</sup> Exclusion of a related party is within the Commission's discretion based upon the facts presented in each case.<sup>25</sup>

In this investigation, three domestic producers, [\*\*\*]<sup>26</sup> imported hardwood flooring from Canada during the period of investigation, and therefore, are related parties. Thus, the Commission must determine whether appropriate circumstances exist to exclude any or all of these companies from the domestic industry.<sup>27</sup>

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<sup>22</sup> The ten known domestic producers of laminated hardwood flooring are Cloud, Havco, IHP, Lewisohn, Monan, Strick, Tully, Burruss, Newcourt, and Donver. CR at III-1, n.2, PR at III-1, n.2.

<sup>23</sup> A domestic producer is a related party if it is either related to the exporters or imports of subject merchandise, or is itself an importer of the subject merchandise. Parties are considered to be related if one party directly or indirectly controls another party, or if a third entity controls both. Direct or indirect control exists when "the party is legally or operationally in a position to exercise restraint or direction over the other party." 19 U.S.C. § 1677(4)(B).

<sup>24</sup> 19 U.S.C. § 1677(4)(B). The primary factors the Commission has examined in deciding whether appropriate circumstances exist to exclude the related parties include:

- (1) the percentage of domestic production attributable to the importing producer;
- (2) the reason the U.S. producer has decided to import the product subject to investigation, *i.e.*, whether the firm benefits from the LTFV sales or subsidies or whether the firm must import in order to enable it to continue production and compete in the U.S. market, and
- (3) the position of the related producers vis-a-vis the rest of the industry, *i.e.*, whether inclusion or exclusion of the related party will skew the data for the rest of the industry.

See, e.g., Torrington Co. v. United States, 790 F. Supp. 1161, 1168 (Ct. Int'l Trade 1992), aff'd without opinion, 991 F.2d 809 (Fed. Cir. 1993). The Commission has also considered whether each company's books are kept separately from its "relations" and whether the primary interests of the related producers lie in domestic production or in importation. See, e.g., Certain Carbon Steel Butt-Weld Pipe Fittings from France, India, Israel, Malaysia, the Republic of Korea, Thailand, the United Kingdom, and Venezuela, Inv. Nos. 701-TA-360 and 361, 731-TA-688-695 (Final), USITC Pub. 2870 at I-18 (April 1995) ("Butt-Weld Pipe Fittings from France et al.").

<sup>25</sup> See Torrington v. United States, 790 F. Supp. at 1168; Empire Plow Co. v. United States, 675 F. Supp. at 1353-54 (analysis of "[b]enefits accrued from the relationship" as a major factor in deciding whether to exclude a related party held a "reasonable approach in light of the legislative history"); S. Rep. No. 249, 96th Cong. 1st Sess. at 83 (1979) ("where a U.S. producer is related to a foreign exporter and the foreign exporter directs his exports to the United States so as not to compete with his related U.S. producer, this should be a case where the ITC would not consider the related U.S. producer to be a part of the domestic industry").

<sup>26</sup> CR at III-2, PR at III-1.

<sup>27</sup> None of the parties addressed this issue.

[\*\*\*] accounted for [\*\*\*] percent of domestic production of laminated hardwood flooring in 1995.<sup>28</sup> Its total imports of subject merchandise were [\*\*\*] square feet, which accounted for [\*\*\*] of [\*\*\*] total shipments.<sup>29</sup> [\*\*\*] stated reasons for importing laminated hardwood flooring are [\*\*\*].<sup>30</sup> The small volume of imports of subject merchandise relative to [\*\*\*] total production indicates that its primary interest lies in domestic production. [\*\*\*] financial performance was similar to that of other domestic producers.<sup>31</sup> The data thus do not suggest that the company is deriving any special benefit from its imports of allegedly subsidized laminated hardwood flooring. Moreover, none of the parties argued that [\*\*\*] should be excluded from the domestic industry as a related party. Accordingly, we find that appropriate circumstances do not exist to exclude [\*\*\*] from the domestic industry.

[\*\*\*] accounted for [\*\*\*] percent of domestic production of laminated hardwood flooring in 1995.<sup>32</sup> Its total imports of subject merchandise were [\*\*\*] square feet, which amounted to [\*\*\*] of [\*\*\*] total shipments in 1995.<sup>33</sup> [\*\*\*] accounted for [\*\*\*] percent of domestic production of laminated hardwood flooring in 1995.<sup>34</sup> Its total imports of allegedly subsidized laminated hardwood flooring were [\*\*\*] square feet, or [\*\*\*] percent of [\*\*\*] total shipments in 1995.<sup>35</sup> [\*\*\*] captively consume all of their production of laminated hardwood flooring, and indicated that they imported Canadian product because U.S. producers did not have any additional laminated hardwood flooring to sell to them during the high demand period in 1994 and 1995.<sup>36</sup> The relatively modest ratio of imports of subject merchandise to domestic shipments for each of these companies and the reasons proffered for their importation indicate that [\*\*\*] interests appear to lie in domestic production rather than importation. Financial data were not available for [\*\*\*].<sup>37</sup> [\*\*\*].<sup>38</sup> [\*\*\*].<sup>39</sup> [\*\*\*] financial data were for the most part [\*\*\*], and by the end of the period, [\*\*\*].<sup>40</sup> Thus, the company does not appear to be benefitting financially from its importation. Finally, none of the parties argued that [\*\*\*] or [\*\*\*] should be excluded from the domestic industry. Accordingly, we do not find that appropriate circumstances exist to exclude [\*\*\*] or [\*\*\*] from the domestic industry.

### III. CONDITION OF THE DOMESTIC INDUSTRY

In assessing whether there is a reasonable indication that the domestic industry is materially injured or threatened with material injury by reason of allegedly subsidized imports, we consider all relevant economic factors that bear on the state of the industry in the United States.<sup>41</sup> These factors include output, sales, inventories, capacity utilization, market share, employment, wages, productivity, profits, cash flow,

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<sup>28</sup> CR at III-1, n.2, PR at III-1, n.2.

<sup>29</sup> CR at III-2, n. 5, PR at III-1, n.5.

<sup>30</sup> [\*\*\*].

<sup>31</sup> Table VI-2, CR at VI-4, PR at VI-3.

<sup>32</sup> CR at III-1, n.2, PR at III-1, n.2.

<sup>33</sup> CR at III-2, n.5, PR at III-1, n.5.

<sup>34</sup> CR at III-1, n.2, PR at III-1, n.2.

<sup>35</sup> CR at III-2, n.5, PR at III-2, n.5.

<sup>36</sup> CR at III-2, PR at III-1.

<sup>37</sup> [\*\*\*] CR at VI-1, PR at VI-1.

<sup>38</sup> Table VI-2, CR at VI-4, PR at VI-3.

<sup>39</sup> CR at VI-3, PR at VI-1. The fact that [\*\*\*].

<sup>40</sup> Table VI-2, CR at VI-4, PR at VI-3.

<sup>41</sup> 19 U.S.C. § 1677(7)(C)(iii).

return on investment, ability to raise capital, and research and development. No single factor is dispositive, and all relevant factors are considered "within the context of the business cycle and conditions of competition that are distinctive to the affected industry."<sup>42</sup>

There are several conditions of competition pertinent to our analysis of the laminated hardwood flooring industry. First, the demand for laminated hardwood flooring is predominantly derived from the market for trailers, which accounts for an overwhelming majority of U.S. consumption of laminated hardwood flooring.<sup>43</sup> The U.S. market for laminated hardwood flooring historically has been cyclical in nature, mirroring trends in production of truck trailers. Historically, trailer production peaks every 4-5 years.<sup>44</sup> Recent transportation regulatory changes, customer acceptance of longer trailers, and a robust U.S. economy have resulted in previously unprecedented demand for laminated hardwood flooring.<sup>45</sup> Questionnaire responses indicate that during 1994-95 the demand for laminated hardwood flooring peaked, then demand declined precipitously in the fourth quarter of 1995.<sup>46</sup> The peak during 1994-1995 corresponded to record levels of trailer production.<sup>47</sup> Most firms in the industry anticipate a downturn following peak periods such as the one experienced during the period of investigation. One of the petitioning companies anticipates a 20-percent downturn in the laminated hardwood flooring market in 1996.<sup>48</sup> Leclerc testified that the downturn for laminated hardwood flooring commenced in December 1995 and that the U.S. market declined as much as 50 percent.<sup>49</sup>

Second, U.S. and Canadian laminated hardwood flooring appear to be substitutable.<sup>50 51 52 53</sup> Despite the fact that U.S.-produced laminated hardwood flooring is generally produced from oak, whereas the majority of Canadian imports are produced from maple, producers and importers generally agree that the

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<sup>42</sup> 19 U.S.C. § 1677(7)(C)(iii).

<sup>43</sup> The remainder is sold to truck body, van, and container manufacturers. CR at II-1, PR at II-1.

<sup>44</sup> CR at II-1, PR at II-1.

<sup>45</sup> CR at II-1-2, PR at II-1-2.

<sup>46</sup> CR at II-1, PR at II-1.

<sup>47</sup> CR at II-2, PR at II-2.

<sup>48</sup> CR at II-2, PR at II-1.

<sup>49</sup> CR at II-2, n.6, PR at II-1, n.6; Tr. at 137-138.

<sup>50</sup> Like the rest of his colleagues, Commissioner Newquist finds the like product in this investigation to be laminated hardwood flooring, irrespective of type of hardwood. Having made this finding, which in his view establishes some inherent level of fungibility and competition between the subject imports and the domestic like product, he does not concur with the discussion in this paragraph to the extent it suggests that there remains any uncertainty regarding interchangeability and substitutability based on differing hardwoods. Nor does he agree that this discussion establishes a particularly unique condition of competition, as the paragraph also suggests. See discussion at pages 6-7 and n.18, supra.

<sup>51</sup> While Commissioner Rohr recognized that different hardwoods may be used to produce laminated flooring products, he does not join this discussion as it relates to the substitutability and interchangeability of different varieties of hardwood.

<sup>52</sup> Commissioner Bragg does not make a finding regarding substitutability of the domestic and imported product in this preliminary investigation.

<sup>53</sup> The record indicates that aluminum can be substituted for laminated hardwood flooring in certain applications. See CR at I-4, PR at I-3. We are interested in obtaining additional information in any final investigation on the criteria and price point at which purchasers shift from purchases of laminated hardwood flooring to aluminum.



products are interchangeable.<sup>54</sup> Numerous U.S. firms reported interchanging domestic and Canadian laminated hardwood flooring products in their trailer production.<sup>55</sup>

Finally, U.S. supply to the open market is limited by the fact that two domestic producers of laminated hardwood flooring, [\*\*\*], captively consume all of their production of laminated hardwood flooring in the manufacture of trailers.<sup>56</sup> Moreover, until recently, U.S. producers have been unable to increase sufficiently their open-market supplies due to capacity constraints. However, the reported drop in demand, combined with increases in capacity, as described below, has significantly eased this supply problem.

The quantity of apparent U.S. consumption of laminated hardwood flooring increased from 39.8 million square feet in 1993 to 62.7 million square feet in 1995. Similarly, the value of apparent U.S. consumption increased from \$119.3 million in 1993 to \$209.5 million in 1995.<sup>57</sup> The domestic industry's share of the total market for laminated hardwood flooring, by quantity, declined from 78.1 percent in 1993 to 76.6 percent in 1995. Similarly, the domestic producers' share of the value of the total laminated hardwood flooring market declined from 82.8 percent in 1993 to 77.6 percent in 1995.<sup>58</sup>

U.S. producers' capacity to produce laminated hardwood flooring increased during the period of investigation. Capacity increased from 36.9 million square feet in 1993 to 56.2 million square feet in 1995.<sup>59</sup> U.S. producers' production similarly increased from 32.2 million square feet in 1993 to 48.5 million square feet in 1995.<sup>60</sup> Domestic producers reported, however, that there was a decrease in domestic production

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<sup>54</sup> CR at II-5 and II-6, PR at II-4. Some Canadian oak and birch product is sold in the U.S. market.

<sup>55</sup> CR at II-5-6, PR at II-4.

<sup>56</sup> We considered the captive production provision of the statute, but determine that the requirements that mandate a merchant market analysis are not satisfied.

19 U.S.C. § 1677(7)(C)(iv) sets forth the conditions under which the Commission shall "focus primarily on the merchant market for the domestic like product" in examining market share and the domestic industry's financial condition. As a threshold matter, domestic producers must "internally transfer significant production of the domestic like product for the production of a downstream article and sell significant production of the domestic like product in the merchant market." Additionally, the Commission must find that:

(I) the domestic like product produced that is internally transferred for processing into that downstream article does not enter the merchant market for the domestic like product,

(II) the domestic like product is the predominant material input in the production of that downstream article, and

(III) the production of the domestic like product sold in the merchant market is not generally used in the production of that downstream article. . .

19 U.S.C. § 1677(7)(C)(iv).

A significant portion of the domestic like product, whether captively consumed or sold in the merchant market, is used in the manufacture of the same downstream product, trailers. CR at II-1, VI-1, PR at II-1, VI-1. Thus, factor (III) of the statute is not met. Since one of the three required statutory factors is not satisfied, we do not consider the other statutory factors, nor do we make a finding on the threshold question of whether the domestic producers captively consume significant production and sell significant production to the merchant market.

<sup>57</sup> Table IV-3, CR at IV-5, PR at IV-5.

<sup>58</sup> Table IV-3, CR at IV-5, PR at IV-5.

<sup>59</sup> Table III-1, CR at III-4, PR at III-3.

<sup>60</sup> Table III-1, CR at III-4, PR at III-3.

toward the end of the period of investigation.<sup>61</sup> Capacity utilization declined overall during the period examined, from 87.3 percent in 1993 to 85.5 percent in 1994, and then increased to 86.3 percent in 1995.<sup>62 63</sup>

The domestic industry's total U.S. shipments, by quantity (including internal transfers) increased from 31.1 million square feet in 1993 to 48.0 million square feet in 1995.<sup>64</sup> Similarly, the total value of the domestic industry's U.S. shipments increased from \$98.8 million in 1993 to \$162.6 million in 1995.<sup>65</sup> Several U.S. producers reported, however, that shipments declined at the end of the period of investigation.<sup>66</sup> Inventories as a percent of both production and U.S. shipments [\*\*\*] during the period.<sup>67</sup>

The number of production and related workers increased from 1,151 workers in 1993 to 1,595 workers in 1995.<sup>68</sup> Hours worked increased from 2.1 million in 1993 to 3.2 million in 1995. Several firms reported, however, that they decreased the number of workers and/or hours worked at the end of the period of investigation.<sup>69</sup> Wages paid also increased, rising from \$20.2 million in 1993 to \$31.8 million in 1995. Hourly wages increased from \$9.45 in 1993 to \$9.78 in 1995.<sup>70</sup> The domestic industry's productivity declined from 1993 to 1994, and then increased from 1994 to 1995.<sup>71</sup>

All of the financial performance indicators for the U.S. laminated hardwood flooring industry rose during the period of investigation. Gross profit increased throughout the period of investigation. Aggregate net sales, operating income, and operating income margins increased between 1993 and 1995.<sup>72</sup> At the same time, the industry experienced a decrease in production costs and an increase in selling costs.<sup>73</sup>

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<sup>61</sup> See e.g., Questionnaire Response of [\*\*\*], Petition at 61-63.

<sup>62</sup> Table III-1, CR at III-4, PR at III-3.

<sup>63</sup> There is some evidence in the record that there may be limitations on operating at full capacity because of bottlenecks in the production process. [\*\*\*]. [\*\*\*].

<sup>64</sup> Table I-1, CR at I-8, PR at I-6.

<sup>65</sup> Table I-1, CR at I-8, PR at I-6.

<sup>66</sup> See e.g., Questionnaire Response of [\*\*\*]; Petition at 61-63; CR at III-3, PR at III-2.

<sup>67</sup> CR at III-3, PR at III-2. We note that [\*\*\*]. *Id.* Inventories [\*\*\*] in 1995. Inventories as a ratio to U.S. shipments [\*\*\*] from [\*\*\*] percent in 1993 to [\*\*\*] percent in 1995. Similarly, inventories as a ratio to production [\*\*\*] from [\*\*\*] percent in 1993 to [\*\*\*] percent in 1995. Table III-3, CR at III-5, PR at III-4.

<sup>68</sup> Table III-4, CR at III-5, PR at III-4.

<sup>69</sup> E.g., Petition at 61-63.

<sup>70</sup> Table III-4, CR at III-5, PR at III-4.

<sup>71</sup> Table III-4, CR at III-5, PR at III-4.

<sup>72</sup> CR at VI-I, PR at VI-1. Net sales, including company transfers rose from [\*\*\*] in 1993 to [\*\*\*] in 1994, and then to [\*\*\*] in 1995. Operating income rose from [\*\*\*] in 1993 to [\*\*\*] in 1994, and rose further in 1995 to [\*\*\*]. Operating income as a percentage of net sales increased from 14.1 percent in 1993 to 19.4 percent in 1994, and then increased in 1995 to 19.9 percent. Table VI-1, CR at VI-2, PR at VI-2.

<sup>73</sup> As a share of net sales, the domestic industry's cost of goods sold declined from 79.3 percent in 1993 to 72.6 percent in 1995. The domestic industry's SG&A expenses as a share of net sales increased from 6.6 percent in 1993 to 7.5 percent in 1995. Table VI-1, CR at VI-2, PR at VI-2.

The total value of assets of U.S. producers increased between 1993 and 1995.<sup>74</sup> Capital expenditures and research and development by the domestic laminated hardwood flooring industry rose from 1993 to 1994, then declined in 1995.<sup>75 76</sup>

#### IV. REASONABLE INDICATION OF THREAT OF MATERIAL INJURY BY REASON OF ALLEGEDLY SUBSIDIZED IMPORTS<sup>77 78</sup>

Section 771(7)(F) of the Act directs the Commission to consider whether the U.S. industry is threatened with material injury by reason of the subject imports "on the basis of evidence that the threat of material injury is real and that actual injury is imminent."<sup>79</sup> The Commission may not make such a determination "on the basis of mere conjecture or supposition,"<sup>80</sup> and considers the threat factors "as a whole" in determining "whether further dumped or subsidized imports are imminent and whether material injury by reason of imports would occur unless an order is issued. . .".<sup>81</sup> In making our determination, we have

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<sup>74</sup> Table VI-5, CR at VI-7, PR at VI-3.

<sup>75</sup> Tables VI-6, CR at VI-7, PR at VI-3.

<sup>76</sup> Based on examination of the relevant statutory factors, Commissioner Rohr and Commissioner Newquist find that there is no reasonable indication that the domestic laminated hardwood flooring industry is presently experiencing material injury. Accordingly, Commissioner Rohr and Commissioner Newquist proceed directly to a threat of material injury analysis.

<sup>77</sup> Commissioner Crawford does not reach the issue of whether there is a reasonable indication of material injury by reason of imports from Canada.

<sup>78</sup> Commissioner Bragg notes that, in R-M Industries, Inc. v. United States the CIT indicated that the Commission should not reach an affirmative threat determination without first addressing whether the domestic industry is presently injured by reason of subject imports. 848 F. Supp. 204, 212 (Ct. Int'l Trade 1994). She does not find there is a reasonable indication that the domestic industry is materially injured by reason of the subject imports from Canada. See Additional Views of Commissioner Bragg.

<sup>79</sup> 19 U.S.C. §§ 1671b(a) and 1677(7)(F)(ii).

<sup>80</sup> 19 U.S.C. § 1677(7)(F)(ii). An affirmative threat determination must be based upon "positive evidence tending to show an intention to increase the levels of importation." Metallwerken Nederland B.V. v. U.S., 744 F.Supp. 281, 287 (Ct. Int'l Trade 1990), citing American Spring Wire, 8 CIT at 28, 590 F.Supp. at 1280. See also Calabrian Corp. v. United States, 794 F. Supp. 377, 387 and 388 (Ct. Int'l Trade 1992)(citing, H.R. Rep. No. 1156, 98th Cong., 2d Sess. 174 (1984)).

<sup>81</sup> While the language referring to imports being imminent (instead of "actual injury" being imminent and the threat being "real") is a change from the prior provision, the SAA indicates the "new language is fully consistent with the Commission's practice, the existing statutory language, and judicial precedent interpreting the statute." SAA at 184.

considered, in addition to other relevant economic factors,<sup>82</sup> all statutory factors<sup>83</sup> that are relevant to this investigation.<sup>84</sup>

For the reasons discussed below, we find a reasonable indication that the domestic industry producing laminated hardwood flooring is threatened with material injury by reason of allegedly subsidized imports from Canada.

The limited information available from the administering authority with respect to the nature of the subsidies alleged indicates that the Department of Commerce initiated this investigation based in part on allegations of export subsidies.<sup>85</sup>

We find that several factors indicate that the Canadian producers can readily increase exports to the U.S. market. First, we note that there has been a substantial increase in both the volume and market penetration of the subject imports during the period of investigation, indicating that the Canadian producers can readily increase their exports to the U.S. market. During the period of investigation, allegedly subsidized imports from Canada increased from [\*\*\*] square feet in 1993 to [\*\*\*] square feet in 1995.<sup>86</sup> Market penetration by subject imports is significant and increased rapidly over the period examined.<sup>87</sup> At the same time, domestic producers' share of the quantity of U.S. apparent consumption declined from 78.1 percent in 1993 to 76.6 percent in 1995.<sup>88</sup> We find that the significant increase in volume of subject imports and the increase in market penetration also indicate a likelihood of increased price competition from subject imports in the future.<sup>89</sup>

Second, Canadian production capacity has increased 264 percent during the period of investigation. Capacity increased from 6.4 million square feet in 1993 to 16.9 million square feet in 1995. Capacity is projected to increase further to 20.3 million square feet in 1996.<sup>90</sup>

In addition to the expansion of capacity, we find that Canadian production of laminated hardwood flooring is largely oriented to export sales to the United States. In fact, the overwhelming majority of Canadian production during the period of investigation was destined for the U.S. market.<sup>91</sup> Although the

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<sup>82</sup> *Suramerica de Aleaciones Laminadas, C.A. v. United States*, 44 F.3d 978 (Fed. Cir. 1994). The Federal Circuit held that 19 U.S.C. § 1677(7)(F)(i) requires the Commission to consider "all relevant factors" that might tend to make the existence of a threat of material injury more probable or less probable. The Commission cannot limit its analysis to the enumerated statutory criteria when there is other pertinent information in the record. Moreover, the court appears to require consideration of the present condition of the industry as among the "relevant economic factors." *Id.* at 984.

<sup>83</sup> The statutory factors have been amended to track more closely the language concerning threat of material injury determinations in the Antidumping and Subsidies Agreements, although "[n]o substantive change in Commission threat analysis is required." SAA at 185.

<sup>84</sup> 19 U.S.C. § 1677(7)(F)(i). Factor VII regarding raw and processed agriculture products is also inapplicable to the products at issue. Moreover, there are no outstanding dumping findings in third countries which were relevant to the Commission's consideration in this investigation. *See* 19 U.S.C. § 1677(7)(F)(iii)(I).

<sup>85</sup> Commerce Notice of Initiation, 61 Fed. Reg. 15041-42, 15044 (April 4, 1996). There was no margin of subsidization given in the notice.

<sup>86</sup> Table IV-1, CR at IV-3, PR at IV-3.

<sup>87</sup> The domestic market share held by subject imports increased from [\*\*\*] percent in 1993 to [\*\*\*] in 1995. Table IV-3, CR at IV-5, PR at IV-5.

<sup>88</sup> Table IV-3, CR at IV-5, PR at IV-5.

<sup>89</sup> Commissioner Bragg finds that the significant increase in the volume of subject imports and the increase in market penetration indicate a likelihood of substantially increased subject imports in the future.

<sup>90</sup> Table VII-1, CR at VII-3, PR at VII-2.

<sup>91</sup> Table VII-1, CR at VII-3, PR at VII-2.

president of Leclerc testified that approximately 15 percent of its output goes to the European market,<sup>92</sup> questionnaire responses indicate that [\*\*\*].<sup>93</sup>

Respondents, including a trailer manufacturer, have argued that U.S. truck and trailer manufacturers purchased Canadian rather than U.S. products largely on the basis of availability. They argue that during the peak demand period of 1994 and 1995, U.S. products simply were not available. The record demonstrates that the domestic product and the subject imports are interchangeable and there are no significant quality differences between them. In recent months, at a time when Canadian and U.S. capacity have increased, demand in the U.S. has dropped. The result is that U.S. producers no longer face the capacity constraints reported in 1994 and 1995. The decline in U.S. demand for laminated hardwood flooring, combined with the increasing availability of U.S. and Canadian production capacity, suggest that competition based on price has intensified.

While evidence of underselling was mixed,<sup>94 95 96</sup> we find that, with the reduction in demand, imports of the subject merchandise are entering at prices that are likely to have a significant depressing or suppressing effect on domestic prices and to increase demand for allegedly subsidized imports. U.S. producers sell laminated hardwood flooring produced predominantly from oak, whereas the majority of the subject imports are produced from maple.<sup>97</sup> There are, however, subject imports manufactured from oak. Leclerc testified that its maple laminated hardwood flooring is priced \$0.10-\$0.15 per square foot lower than oak. However, when demand dropped for laminated hardwood flooring, Leclerc's price differentials narrowed as a result of increasing price competition.<sup>98 99</sup>

Overall, prices for both the domestically produced and imported laminated hardwood flooring rose over the period of investigation, but showed declines during the latter part of 1995 for two of the four domestic products for which data were collected.<sup>100</sup> Anecdotal evidence gathered from purchasers indicates

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<sup>92</sup> Tr. at 98-99.

<sup>93</sup> Table VII-1, CR at VII-3, PR at VII-2.

<sup>94</sup> Price comparisons showed mixed instances of over- and underselling: in 20 of the 44 instances that price comparisons could be made, the Canadian product was priced below the domestic product. CR at V-5, PR at V-4. By wood species, 16 out of a possible 48 comparisons were made for both oak and maple, and 12 out of 48 for birch. In 8 instances, Canadian oak product undersold the domestic product, while in 8 instances, Canadian oak was priced higher than U.S. product. In the 16 comparisons for maple, Canadian imports were priced lower than domestic laminated hardwood flooring in 12 instances. In all 12 price comparisons for Canadian birch, however, the Canadian product was priced higher than the domestic product. CR at V-5-6, PR at V-4.

<sup>95</sup> We note that U.S. producers' reported sales for the specified products were for oak only, whereas importers' prices were predominantly for maple. The price comparisons for laminated hardwood flooring manufactured from the same wood are therefore limited. Further, U.S. producers sell laminated hardwood flooring f.o.b. plant, whereas purchases of imports from Canada are on a delivered basis. The pricing information provided by [\*\*\*] CR at V-2-3, PR at V-2-3.

<sup>96</sup> Commissioner Newquist and Commissioner Rohr note that the different input hardwoods have some relative effect on the nature of the price comparisons in the two previous footnotes. However, to the extent that the two previous footnotes imply that the different input hardwoods are not interchangeable or otherwise not comparable, they do not join those implications. (See footnotes 49 and 50, supra).

<sup>97</sup> CR at V-2, PR at V-2.

<sup>98</sup> CR at V-3, PR at V-2.

<sup>99</sup> Commissioner Crawford rarely gives much weight to evidence of underselling since it usually reflects some combination of differences in quality, other nonprice factors, or fluctuations in the market during the period on which price comparisons were sought. In this investigation, however, she finds the recent narrowing of price differentials to be significant. CR at V-3, PR at V-2.

<sup>100</sup> CR at V-4-5, PR at V-3.

that prices fell even further during the first part of 1996.<sup>101</sup> This is consistent with the reported recent reduction in demand.

Inventories of the subject merchandise are not generally maintained.<sup>102</sup> Similarly, there does not appear to be a potential for product shifting since the production facilities in Canada are not currently being used to produce other products.<sup>103</sup>

Finally, while the data collected during the investigation indicate that the domestic laminated hardwood flooring industry has been performing well during the period of investigation, there is also evidence on the record that there has been a decline in the performance of the industry during the latter part of the period of investigation,<sup>104</sup> coincident with a decline in demand and more intensive price competition.<sup>105</sup> Further, several domestic producers have stated that they have canceled or rejected expansion projects as a result of imports from Canada.<sup>106</sup> Similarly, several domestic producers indicated that production and the number of workers and hours worked have declined recently because of low-priced competition from the subject imports.<sup>107</sup> Based on the combination of declining U.S. demand, the rise in available capacity in the U.S. and Canada, the rise in subject import volumes and market share, and the evidence of intensifying downward price pressure from subject imports, we find that subject imports are likely to have a significant adverse impact on the condition of the domestic industry, and that these factors provide a reasonable indication of a real and imminent threat of material injury.<sup>108</sup>

## CONCLUSION

For the foregoing reasons, we determine that there is a reasonable indication that the domestic industry producing laminated hardwood flooring is threatened with material injury by reason of allegedly subsidized imports from Canada.

### ADDITIONAL VIEWS OF COMMISSIONER BRAGG

#### NO REASONABLE INDICATION OF MATERIAL INJURY BY REASON OF ALLEGEDLY SUBSIDIZED IMPORTS

In preliminary countervailing duty investigations, the Commission determines whether there is a reasonable indication that an industry in the United States is materially injured by reason of the imports under

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<sup>101</sup> CR at V-13-15, PR at V-6-7.

<sup>102</sup> CR at VII-2, PR at VII-1.

<sup>103</sup> Although the major Canadian manufacturer, Leclerc, also produces residential flooring in the same facility using some common equipment and production workers, the most important step in the production process of laminated hardwood flooring is the curing performed by the glue press. The glue press is not used in the manufacture of residential flooring. CR at I-6-7, PR at I-4.

<sup>104</sup> E.g., Questionnaire responses of [\*\*\*]; Petition at 61-63.

<sup>105</sup> See, e.g., Tr. at 137-139.

<sup>106</sup> CR at App. E, PR at App. E.

<sup>107</sup> CR at App. E., PR at App. E.

<sup>108</sup> We have considered the present condition of the domestic industry as among the "relevant economic factors" in our threat analysis.

investigation.<sup>109</sup> In making this determination, the Commission must consider the volume of imports, their effect on prices for the domestic like product, and their impact on domestic producers of the domestic like product, but only in the context of U.S. production operations.<sup>110</sup>

Although the Commission may consider causes of injury to the industry other than the allegedly LTFV and subsidized imports,<sup>111</sup> it is not to weigh causes.<sup>112</sup>

For the reasons discussed below, I do not find that there is a reasonable indication that the domestic industry producing laminated hardwood flooring is materially injured by reason of allegedly subsidized imports from Canada.

#### **A. Volume of the Subject Imports**

The quantity and value of imports from Canada increased dramatically from 1993 to 1995.<sup>113</sup> The share of total U.S. consumption held by subject imports also increased dramatically over the same period.<sup>114</sup> The increase in subject import market share during the period of investigation came partly at the expense of the domestic industry, which saw its market share decline from 78.1 percent in 1993 to 76.6 percent in 1995.<sup>115</sup> I find that both the volume and market share of subject imports, as well as the increases in their volume and market share, are significant.

#### **B. Price Effects of the Subject Imports**

The preliminary evidence is mixed regarding underselling and price suppression or depression by subject imports over the period of investigation. Price comparisons showed instances of both over- and underselling: In 20 of the 44 instances in which price comparisons could be made, the Canadian product was priced below the domestic product.<sup>116</sup> By wood species, 16 out of a possible 48 comparisons were made for

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<sup>109</sup> 19 U.S.C. § 1671b(a). The statute defines "material injury" as "harm which is not inconsequential, immaterial, or unimportant." 19 U.S.C. § 1677(7)(A).

<sup>110</sup> 19 U.S.C. § 1677(7)(B)(i). The Commission "may consider such other economic factors as are relevant to the determination," but shall "identify each \*\*\* factor . . . and explain in full its relevance to the determination." 19 U.S.C. § 1677(7)(B).

<sup>111</sup> Alternative causes may include the following:

\*\*\*he volume and prices of imports sold at fair value, contraction in demand or changes in patterns of consumption, trade, restrictive practices of and competition between the foreign and domestic producers, developments in technology, and the export performance and productivity of the domestic industry.

S. Rep. No. 249, 96th Cong., 1st Sess. 74 (1979). Similar language is contained in the House Report. H.R. Rep. No. 317, 96th Cong., 1st Sess. 46-47 (1979).

<sup>112</sup> See, e.g., Citrosuco Paulista, S.A. v. United States, 704 F. Supp. 1075, 1101 (Ct. Int'l Trade 1988).

<sup>113</sup> Imports from Canada increased from \*\*\* square feet in 1993 to \*\*\* square feet in 1995. By value, imports increased from \*\*\* in 1993 to \*\*\* in 1995. Table IV-1, CR at IV-3, PR at IV-3.

<sup>114</sup> Market penetration of subject imports increased from \*\*\* percent in 1993 to \*\*\* percent in 1995. By value, subject imports' market share followed a similar trend, increasing from \*\*\* percent in 1993 to \*\*\* percent in 1995. Table IV-3, CR at IV-5, PR at IV-5.

<sup>115</sup> By value, domestic producers' market share fell from 82.8 percent in 1993 to 77.6 percent in 1995. Table IV-3, CR at IV-5, PR at IV-8.

<sup>116</sup> CR at V-5, PR at V-4.

both oak and maple, and 12 out of 48 for birch. In 8 instances, Canadian oak product undersold the domestic product, while in 8 instances, Canadian oak was priced higher than the U.S. product. In the 16 comparisons for maple, Canadian imports were priced lower than domestic laminated hardwood flooring in 12 instances. In all 12 price comparisons for Canadian birch, the Canadian product was priced higher than the domestic product.<sup>117 118</sup>

Although prices generally declined during the latter part of 1995 for several of the products for which pricing data were collected, it is not clear to what extent the decline in prices was a result of significant price depression by subject imports.<sup>119</sup> There is some evidence that lower-priced imports put downward pressure on domestic prices, particularly in late 1995, and continuing into 1996, when price differentials between subject imports and the domestic product narrowed,<sup>120</sup> and several purchasers cited lower Canadian pricing as a factor in their decisions to purchase Canadian rather than U.S. product.<sup>121</sup> Declining demand, however, also appears to have been a contributing factor to the price declines in late 1995.

Similarly, there is no clear indication that subject imports currently are suppressing domestic prices. The ratio of cost of goods sold to net sales \*\*\* throughout the period of investigation, indicating that the domestic prices for laminated hardwood flooring were not suppressed.<sup>122</sup> The available evidence indicates that producers' \*\*\* throughout the period of investigation, due at least in part to a proportional decrease in the cost of raw materials used to produce laminated hardwood flooring.<sup>123</sup>

Based on the foregoing, I find there is insufficient evidence in the preliminary record on which to base a finding that the pricing of Canadian imports has had a significant adverse effect on domestic prices. I find, however, that the data, particularly those showing recent price declines and a narrowing of price differentials between the domestic and imported product, support my threat finding that there is a reasonable indication that the subject imports are entering the United States at prices that are likely to have depressing or suppressing effects on domestic prices for laminated hardwood flooring.

### **C. Impact of the Subject Imports on the Domestic Industry**

Although Petitioners claim that subject imports adversely affected the domestic industry during the period of investigation, the data collected by the Commission indicate that the industry indicators were positive and showed improvement throughout the three-year period. Production, profitability, shipments and employment showed particular strength. Although the increase in subject import volumes and market share during the period of investigation was significant, and there is some evidence of softening prices and narrowing differentials between the prices of subject imports and the domestic product late in the period, I do not find a reasonable indication that the volumes or prices of subject imports have had a present adverse impact on the industry producing laminated hardwood flooring, given the strength of the domestic industry's

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<sup>117</sup> CR at V-5-6, PR at V-4-5.

<sup>118</sup> I note that U.S. producers' reported sales for the specified products were for oak only, whereas importers' prices were predominantly for maple. Further, U.S. producers sell laminated hardwood flooring f.o.b. plant, whereas purchases of imports from Canada are on a delivered basis. The pricing information provided by \*\*\* CR at V-2-3, PR at V-3.

<sup>119</sup> U.S. producers' prices generally increased during the period examined, and generally peaked during the first half of 1995. CR at V-4, PR at V-3; CR at V-7-12, PR at V-5.

<sup>120</sup> CR at V-3, PR at V-2.

<sup>121</sup> CR at V-13-15, PR at V-6.

<sup>122</sup> Table VI-1, CR at VI-2, PR at VI-2.

<sup>123</sup> CR at VI-3, PR at VI-1; Table VI-3, CR at VI-4, PR at VI-3.



performance throughout the period examined. Moreover, the record does not support a finding that the domestic industry's performance would have been materially stronger in the absence of subject imports, given that parties generally agree that there was a domestic supply shortage in 1994 and 1995, and that the domestic industry could not have significantly increased its production or sales volume.<sup>124</sup> Consequently, I cannot conclude that there is a reasonable indication that the domestic industry is materially injured by reason of the subject imports.

### **DISSENTING VIEWS OF CHAIRMAN WATSON**

Unlike the majority, I conclude that the domestic industry manufacturing laminated hardwood flooring is neither materially injured nor threatened with material injury by virtue of subsidized imports from Canada.

#### **Present Material Injury**

I concur with my colleagues on the issues of like product and domestic industry, and with their description of the that industry's condition. I also concur with the additional views of Commissioner Bragg on the question of whether the volume of the subject imports is significant, and in her description of the significance of price underselling and overselling. See pp. 15-16, supra.

However, I find that the record shows that additional price increases appear to have been inhibited by the existence of available, albeit nontraditional and imperfect substitutes for laminated hardwood flooring, which served as a ceiling on laminated hardwood flooring prices. Five of 8 responding producers and 8 of 13 importers indicated that aluminum flooring may substitute for laminated hardwood flooring in some applications. Typically, the price differential between laminated hardwood flooring and aluminum precluded substitution.<sup>125</sup> Aluminum had traditionally been used in refrigerated trailers, but has been used in non-refrigerated trailers when the price of laminated hardwood flooring has increased enough to approach the price of aluminum, as it did in 1995.<sup>126</sup>

Buyers who previously had bought only completely hardwood flooring also began using laminated softwood (at least for truck bodies), or hybrid flooring.<sup>127</sup> (Hybrid flooring involves substituting aluminum or non-hardwood lumber for part, but not all, of a truck's flooring). Seen in light of this effective price ceiling, I conclude that the Canadian imports are not having a currently suppressing effect on domestic hardwood flooring prices.

Thus, although I reach my conclusion on the lack of significant price effects in a different way than Commissioner Bragg, I fully subscribe to her conclusion that there is no reasonable indication that the imports are presently a source of material injury to the domestic industry. See pp. 16-17, supra.

#### **Threat of Material Injury**

Section 771(7)(F) of the Act directs the Commission to consider whether the U.S. industry is threatened with material injury by the subject imports "on the basis of evidence that the threat of material injury is real and that actual injury is imminent."<sup>128</sup> While an analysis of the statutory threat factors

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<sup>124</sup> See, e.g., Tr. at 49-52, 92, 102-103; CR at III-2, PR at III-2.

<sup>125</sup> CR at II-4, PR at II-3-4.

<sup>126</sup> CR at I-4, PR at I-3.

<sup>127</sup> Tr. at 60-61; CR at II-4, II-5.

<sup>128</sup> 19 USC §§ 1673d(a) and 1677(7)(F)(ii).

necessarily involves projection of future events, "such a determination may not be made on the basis of mere conjecture or supposition."<sup>129</sup> In making my determination, I have considered all the statutory factors that are relevant to this investigation.<sup>130</sup>

Unfortunately, but typically, the factors do not point all one way or the other. The petitioner has alleged that at least some of the subsidies involved are export subsidies, and there is good evidence that the Canadian industry has added capacity in recent years. CR VII-3. There is also clear proof that the share of the market held by the Canadian industry has increased. CR IV-5. The petitioner has also alleged negative effects on future investment in expanding domestic capacity, though not any effects on attempts to develop more advanced versions of hardwood flooring. CR App. E.

On the other hand, there are no current inventories and no evidence at all of possible product-shifting. CR VII-1, VII-2. Moreover, as discussed above, there is no clear and convincing evidence that the imports are suppressing prices. The question I have to ask, then, is whether anything in the present situation will change in the near future that will cause the volume of the Canadian imports, their effects on the domestic price, or their impact on the U.S. industry to change.

I note that this is a countervailing duty, not an antidumping, case. As I have in the past,<sup>131</sup> in these cases I first look to the nature of the subsidies alleged. Here, those subsidies (including the alleged export subsidies) that Commerce will be examining are all subsidies that would not affect the operating costs of the Canadian respondent. It therefore appears very unlikely that these subsidies have, or will cause, any increase in the quantity of Canadian hardwood flooring that will be produced; and thus will not increase the quantity of Canadian hardwood flooring that will be sold in the U.S. market.

The lack of evidence of the Canadian imports' current suppression of domestic prices also renders conjectural, in my view, any allegation of their future suppression of domestic prices. As noted above, the U.S. price of hardwood flooring had, by late 1995, bumped up against an effective price ceiling. Accordingly, the sudden emergence of Canadian hardwood flooring into such a tight market therefore represents, in my view, nothing more than a temporary stopgap for domestic trailer manufacturers willing to forego traditional suppliers at a time of extraordinarily short supply. It follows that, as that tight market loosens, Canadian imports' share of it will recede.

I therefore determine that the domestic industry producing laminated hardwood flooring is neither materially injured nor threatened with material injury by reason of subsidized imports from Canada.

#### **DISSENTING VIEWS OF VICE CHAIRMAN JANET A. NUZUM**

Based on the record developed in this preliminary investigation, I find that there is no reasonable indication that an industry in the United States is materially injured by reason of imports of certain laminated hardwood flooring allegedly subsidized by the Government of Canada. Despite increases in volume, the subject imports neither displaced U.S. shipments nor had any apparent adverse effect on U.S. prices. Indeed,

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<sup>129</sup> 19 USC § 1677(7)(F)(ii).

<sup>130</sup> 19 USC § 1677(7)(F)(i). One of the statutory factors is inapplicable, because this case does not involve raw agricultural products. I also note that, in addition to the nine enumerated factors, the law also commands the Commission to consider whether antidumping findings or remedies in markets of foreign countries against the same class or kind of merchandise suggest a threat of material injury to the domestic industry. See 19 USC § 1677(7)(F)(iii)(I). In this case, there is no such evidence.

<sup>131</sup> See, e.g., Magnesium from Canada, Inv. Nos. 701-TA-309 and 731-TA-528 (Final), USITC Pub. No. 2550 (1992) at 19.

the U.S. industry experienced significant increases in production, shipments, employment, and profitability during the period examined.

I also find no reasonable indication that the domestic industry is threatened with material injury by reason of the subject imports. Although the Canadian industry has increased capacity and exports to the United States, evidence in the record fails to establish a likelihood that Canadian products will enter in volumes and at prices that present a threat of material injury to the domestic industry. To reach an affirmative threat determination would require, in my view, an unwarranted degree of speculation.

I join my colleagues in findings with regard to like product, domestic industry and related parties.<sup>132</sup> These dissenting views present my analysis of the facts in this record that led me to negative determinations on both present injury and threat.<sup>133</sup>

## I. Overview of Conditions of Competition

The product that is the subject of this investigation serves primarily as the flooring for truck trailers.<sup>134</sup> U.S. production of truck trailers reportedly reached record levels in 1994 and 1995.<sup>135</sup> As a result, the industry producing laminated hardwood flooring faced unprecedented levels of demand during 1994 and 1995 from trailer manufacturers.<sup>136</sup> U.S. producers of laminated hardwood flooring responded by increasing capacity and maintaining high operating rates. Some purchasers, however, reported that they were unable to meet all their requirements for flooring from U.S. sources.<sup>137</sup> As a result, some purchasers turned to Canadian suppliers, one in particular, during this period.<sup>138</sup>

The Canadian industry expanded capacity and exports to the United States, reportedly in response to U.S. purchaser demands.<sup>139</sup> At the beginning of 1996, market conditions reversed, although market participants anticipate a pickup in demand later in 1996.<sup>140</sup>

## II. No Reasonable Indication of Present Material Injury

### A. Volume of the Subject Imports

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<sup>132</sup> See Views of the Commission supra. The like product is certain laminated hardwood flooring (hereinafter "laminated hardwood flooring") as defined by the Department of Commerce at 16 FR 15042, Apr. 4, 1996. Three producers are related parties but appropriate circumstance do not exist for excluding them from the domestic industry. The domestic industry thus consists of ten producers (including two captive producers) identified in this preliminary investigation. I further share my colleagues' conclusion that the captive production provision of the statute is not applicable in this investigation.

<sup>133</sup> I am mindful that in a preliminary investigation only a reasonable indication of material injury is needed to reach an affirmative determination. That standard requires, however, more than a finding that there is a possibility of material injury. See American Lamb Co. v. United States, 785 F.2d at 1004 (Fed. Cir. 1986).

<sup>134</sup> CR at II-1, PR at II-1. The remainder is used as flooring in truck and van bodies, containers and rail cars. Id.

<sup>135</sup> See, e.g., Figure II-1; CR at II-2, PR at II-2.

<sup>136</sup> U.S. apparent consumption of laminated hardwood flooring rose by an impressive 57.3 percent during 1993-95, starting at 39.8 million sq. ft. and ending at 62.7 million sq. ft. Table I-1; CR at I-8, PR at I-6.

<sup>137</sup> Transcript at 102 and 108-109. Domestic industry representatives also reported that they were at times hard-pressed to meet demand. Id. at 49-52.

<sup>138</sup> See id. at 92-93 and CR at V-13 - V-15, PR at V-6 - V-7.

<sup>139</sup> Table VII-1; CR at VII-3, PR at VII-2. See also Transcript at 92.

<sup>140</sup> See, e.g., Transcript at 47 and 95.

In response to the booming market conditions described above, the volume of U.S. imports of laminated hardwood flooring from Canada increased dramatically during the period examined (1993-95).<sup>141</sup> Moreover, the subject imports increased at a rate far in excess of apparent consumption, resulting in a marked increase in import penetration by the Canadian product.<sup>142</sup>

The increase in subject imports came overwhelmingly at the expense of nonsubject imports, however, as U.S. producers lost a mere 1.5-percent market share.<sup>143</sup> U.S. producers maintained a dominant presence in the domestic market, accounting for 78.1 percent of apparent consumption in 1993 and 76.6 percent in 1995.<sup>144</sup> These relatively stable market shares in a booming market correspond to significantly increased shipments by U.S. producers.<sup>145</sup> I do not find that increased imports from Canada came at the expense of U.S. shipments during the period examined. Although the volume of imports from Canada was significant due to the increases in both absolute and relative terms, these increases produced no significant adverse volume effect.

#### B. Price Effects of the Subject Imports

I do not find that prices of the subject imports significantly undersold the domestic product, or that the imports suppressed or depressed prices of the like product to a significant degree.

Pricing comparisons show fairly mixed overselling and underselling by the subject imports.<sup>146</sup> There were 24 instances of overselling by the Canadian product versus 20 instances of underselling. Underselling margins ranged from 0.1 to 9.7 percent, with most observations between 2 to 8 percent. Overselling ranged from 0.3 to 18.8 percent; however, most observations were between 0.5 and 12 percent -- a range not unlike that of most of the underselling.

Some differences in U.S. and Canadian prices may be attributed to differences in the type of wood used. The U.S. prices were all for oak, whereas the imports were mostly maple, which traditionally is discounted from oak.<sup>147</sup> Comparisons of U.S. oak to Canadian maple do indeed account for 12 of the total 20 observations of underselling by the subject imports.

There was no pattern of increased underselling during the period examined. In fact, the largest margins of underselling (all those above 8 percent) occurred in 1994, whereas the largest margins of overselling (all those above 12 percent) occurred in 1995. Looking only at 1995, the record shows a much greater amount of overselling than underselling, in terms of both number of instances and margins.

There is neither evidence of more frequent underselling, larger margins of underselling, or an increased rate of underselling over time. On this basis, I do not find significant underselling by the subject imports.

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<sup>141</sup> U.S. imports of laminated hardwood flooring from Canada jumped from \*\*\* sq. ft. in 1993 to \*\*\* sq. ft. in 1995, representing a nearly \*\*\*-percent rise. Table IV-1; CR at IV-3, PR at IV-3.

<sup>142</sup> See n.5 supra. Import penetration of the subject imports rose from \*\*\* percent in terms of quantity in 1993 to \*\*\* percent in 1995. Table I-1; CR at I-8, PR at I-6.

<sup>143</sup> In contrast to imports from Canada, imports from nonsubject sources dropped sharply, and lost substantial market share. Nonsubject imports fell from \*\*\* sq. ft. in 1993 to \*\*\* sq. ft. in 1995. Table IV-1; CR at IV-3, PR at IV-3. The market share of these imports dropped from fully \*\*\* percent in 1993 to only \*\*\* percent in 1995. Table I-1; CR at I-8, PR at I-6.

<sup>144</sup> Table I-1; CR at I-8, PR at I-6.

<sup>145</sup> See *id.*

<sup>146</sup> Pricing comparisons discussed in this section are presented in tables V-1 - V-4; CR at V-7 - V-10, PR at V-5.

<sup>147</sup> See CR at I-4, PR at I-2.

U.S. prices for the like product generally rose during 1993 and 1994, and peaked in the first half of 1995.<sup>148</sup> Prices for all four products examined were higher at the end of the period examined (October-December 1995) than at the beginning (January-March 1993). The overall price increases ranged from 5 percent to 15.6 percent. Prices for all four products declined, however, during the second half of 1995. I carefully examined the record, therefore, for evidence of either significant price depression or price suppression by the subject imports.

As regards price suppression, I do not find that import competition from Canada prevented price increases that would otherwise have occurred. On a per-unit basis, revenues increased faster than costs in both 1994 and 1995.<sup>149</sup> Subject imports did not, therefore, prevent price increases sought in response to cost increases. Domestic producers did not announce price increases that failed to stick, nor did purchasers generally confirm alleged lost sales and revenues.<sup>150</sup>

Given the fact that price increases were already well ahead of cost increases, I do not conclude that price increases would have occurred to a significant degree, but did not because of the subject imports.

Purchasers attribute the softness in price for laminated hardwood flooring to declining demand.<sup>151</sup> There is no overall pattern of declining import prices, or of significant underselling. Subject imports, instead, appeared generally to track U.S. prices and mostly oversold the domestic product during the period of price declines. I do not find, therefore, that the subject imports significantly depressed domestic prices in the latter part of 1995.

### C. Impact of the Subject Imports on the Domestic Industry

As already noted, 1994 and 1995 were boom years for the U.S. laminated hardwood flooring industry, with demand increasing by 57.3 percent during 1993-95.<sup>152</sup> U.S. producers expanded capacity and production to meet growing market demand; capacity jumped by 52.5 percent and production by 50.8 percent. Capacity utilization remained at fairly high and steady rates.<sup>153</sup>

The domestic industry's U.S. shipments similarly rose by fully 54.2 percent during 1993-95. The corresponding value of these shipments rose by an even greater rate of 64.6 percent. The difference between increases in the volume and value of shipments is reflected in the 6.8-percent increase in unit value.<sup>154</sup>

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<sup>148</sup> Price trends discussed in this section are presented in CR at V-4 - V-5, PR at V-3 - V-4.

<sup>149</sup> The per-unit (per-sq. ft.) value of net sales rose from \*\*\* in 1993 to \*\*\* in 1994 while the per-unit cost-of-goods-sold (COGS) and selling, general and administrative expenses (GS&A) \*\*\*. As a result, per-unit operating income increased from \*\*\*.

In 1995, the per-unit value of net sales declined by \*\*\* representing a \*\*\* decline from 1995. The net change in per-unit COGS and GS&A, however, was a larger decline. Per-unit operation income continued to rise, therefore, in 1995, reaching \*\*\*. Table VI-3; CR at VI-4, PR at VI-3. The calculated data were based on unrounded figures.

<sup>150</sup> See CR at V-13 - V-15, PR at V-6 - V-7.

<sup>151</sup> *Id.* One purchaser noted that other inputs into trailer manufacture likewise declined in price during the latter part of 1995. CR at V-13, PR at V-15.

<sup>152</sup> Except as noted, information on industry performance discussed in this section is presented in table I-1; CR at I-8, PR at I-6.

<sup>153</sup> Capacity declined slightly from 87.3 percent in 1993 to 85.5 percent in 1994, and then increased to 86.3 percent in 1995. Table III-1; CR at III-4, PR at III-5. These data reportedly represent high effective rates of capacity utilization. See e.g., Investigator's memo to the file dated March 11, 1996, discussing field work of February 23, 1996.

<sup>154</sup> Finished inventories are generally not important for this industry due to the custom nature of production. See CR at III-3, PR at III-2.

Workers in the industry likewise benefitted during this period. The number of production and related workers was up 38.6 percent; hours worked increased by an even greater 52.3 percent; wages paid increased by 57.6 percent.

All of the financial performance indicators for the domestic industry also rose impressively during the period examined. Aggregate net sales, gross profit, operating income, and cash flow all increased in both 1994 and again in 1995.<sup>155</sup> As a percent of net sales, gross profits expanded from 20.7 percent in 1993 to 27.4 percent in 1995. Operating income as a percentage of net sales increased from 14.1 percent in 1993 to 19.9 percent in 1995.<sup>156 157</sup>

In sum, I do not find substantial evidence that the rising volume of imports had significant adverse effects on the domestic industry. I further do not find that the prices of the subject imports had significant adverse effects on the industry. I therefore find no reasonable indication that the laminated hardwood flooring industry is suffering present material injury by reason of the allegedly subsidized imports from Canada.

### III. No Reasonable Indication of Threat of Material Injury

The question of threat of material injury to the domestic laminated hardwood flooring industry is a closer call than the question of present material injury. Again, I am mindful of the lower evidentiary standard applicable to a preliminary determination. On the issue of threat, however, I am also mindful that an affirmative determination must not be based on speculation.<sup>158</sup>

The record contains anecdotal reports of some reduced demand, production, and operating rates in the first quarter of 1996.<sup>159</sup> Certain respondent parties also confirm a decline in demand during this quarter.<sup>160</sup> The record does not, however, in my view contain credible evidence that the domestic industry as a whole has become suddenly vulnerable to the adverse effects by continued imports from Canada.

It is also uncertain for how long market conditions are going to remain depressed. One or even two quarters of 1995 reportedly saw declining U.S. shipments, yet the domestic industry experienced peak production, shipments, employment, revenues, and profits for the year as a whole. This suggests to me that the industry is positioned to withstand one or two slow quarters in 1996, rebound in the latter half of the year, and overall suffer no significant adverse effects from the subject imports. Again, to conclude that conditions in the market will remain depressed so long as to render this industry vulnerable to injury from the subject imports would, in my view, be speculative.

Although Canadian capacity and exports did increase during the period examined, I do not find that these increases necessarily constitute a likelihood that subject imports would reach injurious levels in the imminent future. With regard to pricing, the evidence does not indicate that Canadian prices undersold U.S.

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<sup>155</sup> Table VI-I; CR at VI-2, PR at VI-2. Net sales, including company transfers rose from \*\*\* in 1993 to \*\*\* in 1995. Gross profits more than \*\*\*, rising from \*\*\* in 1993 to \*\*\* in 1995. Operating income \*\*\* just from 1993 to 1994, going from \*\*\* to \*\*\*, and rose further in 1995 to \*\*\*. Cash flow improved from \*\*\* in 1993 to \*\*\* in 1995. Id.

<sup>156</sup> Id.

<sup>157</sup> The total value of fixed assets of U.S. producers increased between 1993 and 1995. Table VI-5; CR at VI-7, PR at VI-3. Capital expenditures and research and development by the industry rose substantially from 1993 to 1994, then declined slightly in 1995. Table VI-6, CR at VI-7, PR at VI-3.

<sup>158</sup> 19 U.S.C. 1677(7)(F)(ii); see, e.g., S. Rep. No. 249 at 88-89; see also Metallverken Nederland B.V. v. United States, 744 F. Supp. 281,287 (CIT 1990).

<sup>159</sup> See Transcript at 10-36.

<sup>160</sup> Id. at 105, 111-112.

prices to a significant degree during 1993-95. Most data for the last quarter of 1995 show substantial overselling. The decline of prices towards the end of 1995 was largely attributable to a falloff in consumption. On the basis of this record, I do not find that the subject imports are likely to enter the United States at prices that are likely to either significantly suppress or depress domestic prices for the like product.

Other factors also do not weigh in favor of an affirmative threat determination. We have received no information from Commerce on the nature of the alleged subsidies.<sup>161</sup> Also, although the petition alleges that the margin of subsidies is 75 percent, a number of the programs identified by petitioner were excluded from investigation by the Commerce Department.<sup>162</sup>

Inventories are not typically held in this industry, making that factor of little relevance here. Also, given the domestic industry's recent increased capital expenditures, I do not find any potential negative effects on development and production to support an affirmative threat determination. I have identified neither a potential for product-shifting, nor any other demonstrable adverse trend.

In sum, Canadian laminated hardwood flooring increased its presence in the U.S. market in response to U.S. purchaser demand, and not to any significant degree by either displacing U.S. producers' sales or otherwise adversely affecting domestic operations. I find no reasonable indication that the subject imports are likely to have future effects that were not evident during 1993-95.

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<sup>161</sup> The Commission is directed to consider information presented by the administering authority on the nature of the subsidy. 19 U.S.C. 1677(F)(I)(I). Commerce's notice of initiation lists those programs it will include in its investigation, but does not provide further information on the nature of the subsidies alleged. 16 FR 15042, Apr. 4, 1996. Respondents argue, however, that the nature of the subsidies alleged to be received would not contribute to lower pricing in the U.S. market. Transcript at 122-124.

<sup>162</sup> 16 FR 15042, Apr. 4, 1996.





## PART I: INTRODUCTION

### BACKGROUND

This investigation results from a petition filed by the Ad Hoc Committee on Laminated Hardwood Trailer Flooring (Anderson-Tully Co. (Tully), Memphis, TN; Cloud Corp. (Cloud), Harrison, AK; Havco Wood Products, Inc. (Havco), Cape Girardeau, MO; Industrial Hardwoods Products Inc. (IHP), Redwing, MN; and Lewisohn Sales Co. Inc. (Lewisohn), North Bergen, NJ), on March 7, 1996, alleging that an industry in the United States is materially injured and threatened with material injury by reason of imports of subsidized imports of certain laminated hardwood flooring<sup>1</sup> from Canada. Information relating to the background of the investigation is provided below.<sup>2</sup>

<i>Date</i>	<i>Action</i>
March 7, 1996 . . . . .	Petition filed with Commerce and the Commission; institution of Commission investigation (61 FR 11430, March 20, 1996)
March 28, 1996 . . . . .	Commission's conference <sup>3</sup>
April 4, 1996 . . . . .	Commerce's notice of initiation (61 FR 15041, April 4, 1996) <sup>4</sup>
April 19, 1996 . . . . .	Commission's vote
April 22, 1996 . . . . .	Commission determination to Commerce

### SUMMARY DATA

A summary of data collected in the investigation is presented in table I-1 at the end of this section. Except as noted, U.S. industry data are based on questionnaire responses of 7 firms that accounted for \*\*\* of estimated aggregate U.S. production of laminated hardwood flooring during 1995. U.S. imports are also based on responses to questionnaires of the U.S. International Trade Commission. Responding importers accounted for an estimated \*\*\* of 1995 imports. Official statistics from Commerce were not useful in

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<sup>1</sup> For purposes of this investigation, the subject product is laminated flooring which is made of oak, maple, or other hardwood lumber. Laminated hardwood flooring is customized for specific dimensions, but generally ranges in size from 8'x48'x1" to 8.5'x57'x1½" for trailer flooring, and from 8'x16'x1½" to 8'x26'x1½" for flooring for vans and truck bodies. Laminated hardwood flooring is provided for in subheading 4421.90.98 of the Harmonized Tariff Schedule of the United States (HTS), with an MFN duty rate of 4.4 percent *ad valorem* and a special rate of 1 percent *ad valorem*, and is eligible for duty-free entry under HTS subheading 9905.44.15 of the; the special rate is applicable to goods of Canada under the terms of HTS general note 12.

<sup>2</sup> *Federal Register* notices cited in the tabulation are presented in app. A.

<sup>3</sup> A list of witnesses appearing at the conference is presented in app. B.

<sup>4</sup> Commerce will investigate the following programs alleged in the petition to have provided subsidies to producers of the subject merchandise in Canada: (1) Capital Gains Exemptions; (2) Investment Tax Credits; (3) Export Development Corporation; (4) Performance Security Services through the Export Development Corporation; (5) Program for Export Market Development; (6) Venture Loans through the Business Development Bank of Canada; (7) Working Capital for Growth from the Business Development Bank of Canada; (8) Certain programs provided by the Industrial Development Corporation; (9) Export Promotion Assistance Program; (10) St. Lawrence River Environmental Technology Development Program; (11) Industrial Research Assistance Program; (12) Canada-Quebec Subsidiary Agreement on the Economic Development of Quebec; (13) Private Forest Development Program; and (14) Quebec Stumpage Program.

developing data for laminated hardwood flooring because the HTS subheadings in which they are considered also include many other products.

## THE PRODUCT

The imported product subject to this investigation is flooring made from laminated (or glued) strips of oak, maple, or other hardwood lumber. Laminated hardwood flooring is used in the manufacture of trailers, trucks, vans, containers, and rail cars. Laminated hardwood flooring produced in the United States appears to be similar to the imported product. The petitioner argues that the Commission should determine the domestically produced like product in this investigation to be all laminated hardwood flooring.<sup>5</sup> Respondents do not challenge the petitioner's like product recommendation at this time.<sup>6</sup> Similar products such as residential and commercial strip flooring, laminated softwood lumber, and non-wood materials such as aluminum do not appear to have many like product factors in common with the subject flooring.<sup>7</sup>

### Physical Characteristics and Uses

Laminated hardwood flooring is customized to dimensions specific to its applications: flooring for trailers ranges from about 8'x48'x1" to 8.5'x57'x1½" (with the majority sold at 8.5'x57'x1-5/16"); flooring for truck bodies, vans, and containers ranges from 8'x16'x1⅛" to 8'x26'x1½" (with the bulk of sales at 8'x26'x1⅛"); and flooring for rail decking is usually 8'x12'x2½".<sup>8</sup>

Trailer flooring generally conforms with the 1970 Fruehauf Standard (FEC32, which guarantees that the floor will withstand a forklift), and is undercoated with a rubberized coating to protect against moisture; trailer flooring accounted for \*\*\* percent of 1995 shipments of all laminated hardwood flooring products. Flooring for truck bodies and vans is not manufactured to strict standards and is not undercoated; it accounted for \*\*\* percent of the market. Container flooring is similar to truck body flooring, and it accounted for \*\*\* percent of the market. Rail decking accounted for less than \*\*\* percent of the market.<sup>9</sup> There are no other known uses for laminated hardwood flooring.<sup>10</sup>

The term hardwood refers to various species of broad-leaved trees. The term distinguishes these species from softwood (coniferous) species, and is based on the botanical characteristics of the tree and not the actual hardness. Hardwoods, however, are generally harder and heavier than softwoods.

Although imported and domestically produced laminated hardwood flooring products are similar, they are predominantly made from different species of wood. Most imported flooring from Canada is destined for the trailer market and is made of maple, which is locally available in Canada and in the northeastern United States (from which the Canadians import much of their raw materials). Most domestically produced flooring is also destined for the trailer market, but is principally made from oak, which is more readily available to domestic producers. The degree to which the different species of wood

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<sup>5</sup> Petition, p. 9.

<sup>6</sup> Conference transcript (TR), pp. 129-130.

<sup>7</sup> The Commission's decision regarding the appropriate domestic products that are "like" the subject imported products is based on a number of factors including (1) physical characteristics and uses; (2) interchangeability; (3) channels of distribution; (4) customer and producer perceptions; (5) common manufacturing facilities and production employees; and, where appropriate, (6) price.

<sup>8</sup> Petition, pp. 1-2, and staff interviews with IHP and Tully officials, Feb. 21-22, 1996.

<sup>9</sup> Petition, p. 1, staff interview with IHP officials, Feb. 21, 1996, and responses to Commission questionnaires.

<sup>10</sup> TR, p. 64.

affect the quality of the flooring is open to industry discussion, with each group claiming the superiority of its raw materials.<sup>11</sup> However, there does seem to be agreement that maple commands a lower price in the market.<sup>12</sup> The truck body, van, and container market is dominated by the Malaysians, who use sepetir, apitong, kapur, and keruing because those species are available. Again, there is considerable disagreement over quality differences between these “tropical” hardwoods and other hardwoods, such as oak and maple.<sup>13</sup>

Residential and commercial strip flooring is much thinner than the subject product, averaging about ¾" in thickness. It is manufactured in 1-2" wide strips, using tongue-and-groove joints. The subject product is laminated (or glued) into strips of one foot in width, and then is joined together using edge profiles. Residential and commercial strip flooring is generally used in new homes, gymnasiums, and sports courts.<sup>14</sup>

### Interchangeability and Customer and Producer Perceptions

The imported and domestically produced laminated hardwood flooring appear to be largely interchangeable, despite the differences in wood species, according to purchasers. Although producers claim that there are quality differences, they also perceive the imported product to be competitive and interchangeable. Competition among all three primary sources of flooring, Canada, Malaysia, and U.S. producers, appears to be head-to-head.<sup>15</sup>

There are two alternative materials for use as flooring for trailers or truck bodies: aluminum and laminated softwood lumber. Aluminum has traditionally been used in refrigerated trailers, and occasionally in dry (non-refrigerated) trailers when the price of laminated hardwood flooring has increased enough to approach the price of aluminum. (This occurred mainly in 1995.) One drawback to using aluminum in trailer flooring is that it develops a slick surface not conducive to forklift operations.<sup>16</sup> Nevertheless, the price differential between aluminum and laminated hardwood flooring is normally too great for the materials to be interchangeable.<sup>17</sup> Laminated softwood lumber is generally made of Douglas fir and is mainly available on the West Coast. It is interchangeable with laminated hardwood flooring for truck body applications only (because it cannot withstand a forklift).<sup>18</sup> Domestic producers contend that, with the exception of refrigerated vans, laminated oak flooring is preferable to all other materials.<sup>19</sup>

There does not seem to be interchangeability between trailer flooring and flooring for truck bodies, vans, and containers. This is attributable to physical differences in thickness and undercoating. There also does not seem to be interchangeability between the subject product and residential and commercial strip flooring, again mainly due to differences in width, lamination, and undercoating. Finally, there is no interchangeability between the subject product and plank flooring for trailers, which was used in the United States until the 1960s, and is still used in Europe and South America today. The reason that these two types

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<sup>11</sup> A tabulation showing selected properties of various woods used in producing laminated hardwood flooring is presented in app. C.

<sup>12</sup> Staff interviews with officials from IHP, Tully, and Havco, Feb. 21-23, 1996; TR, pp. 42-43, 58-59, 77-78, 95-96, 104, 110, 131, 137-138, and 140; and Leclerc's postconference brief, pp. 11-12.

<sup>13</sup> Staff conversations with two purchasers, \*\*\*, Mar. 25, 1996, and Mar. 28, 1996, and TR, pp. 39-42, 55-56, and 127-128.

<sup>14</sup> Petition, p. 9, and staff interviews with IHP and Tully officials, Feb. 21-22, 1996.

<sup>15</sup> TR, pp. 39-42, 104, 110, 127-128, 131, and 140.

<sup>16</sup> TR, p. 45.

<sup>17</sup> TR, pp. 45, 59-63, and 109.

<sup>18</sup> TR, p. 144.

<sup>19</sup> Staff interviews with officials at IHP, Tully, and Havco, Feb. 21-23, 1996.

of trailer flooring are not substitutable is because they are associated with entirely different trailer manufacturing methods and cannot fit into the other's design.<sup>20</sup> Plank flooring is used in the United States today in flatbed trailers, where exposure to rain and other elements would cause deterioration of laminated hardwood flooring.

### **Channels of Distribution**

The imported flooring from Canada and Malaysia is sold both to end users (trailer, truck, van, and container manufacturers) and to distributors who sell to those end users. The domestically produced product is sold mainly to end users or internally consumed. Although end users buy both imported and domestically produced flooring, the end users of trailer flooring are trailer manufacturers, who are mainly distinct from truck body, van, and container manufacturers. Residential and commercial strip flooring is sold to distributors and warehouses for resale to retail customers. Residential flooring customers are completely distinct from trailer and truck manufacturers.<sup>21</sup>

### **Common Manufacturing Facilities and Production Employees**

U.S. and Canadian producers manufacture both trailer and truck body, van, and container flooring on the same production equipment, using the same production workers. There is no overlap in domestic production facilities or production workers between the subject product and residential and commercial strip flooring. Two of the domestic producers also produce other wood products (residential flooring and lumber), however these products are manufactured at different facilities, in different physical locales. The major Canadian producer, Leclerc, also produces residential flooring. In the case of Leclerc, residential flooring and laminated hardwood flooring are produced in the same facility using some common equipment (kilns and sawing stations) and some common production workers.<sup>22</sup>

Both domestic and Canadian producers appear to use a similar production process. The lumber is either purchased already dried, or purchased green and then dried in the producers' kilns to about 8 percent moisture content. It is then rip sawed lengthwise to produce strips, and the strips are then chop cut across the width to remove defects. These pieces are then edge-glued and arranged on a conveyor to form a sheet (charge), which is then conveyed to a press, where it is heated and pressed to set the glue and form a panel. A charge varies according to the size of the press; presses vary in width from 54 inches to 60 inches and in length from 16 feet to 20 feet. The formed panels are then assembled into kits according to customer specifications, each kit producing one floor. Kits are formed by cutting the panel into boards not wider than 12 inches, which are then sanded or planed (smooth on one side) to the required thickness, worked along the edge with a molder (usually producing a lap joint), and undercoated for protection from moisture. Completed kits contain a right and left edge, and five middle boards.<sup>23</sup>

The most important step in the production process is the curing, performed by the glue press. The number of glue presses defines the number of production lines in this industry, and the type of glue press used dictates efficiency (steam presses are far slower than the newer electronic radio frequency presses). Canadian

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<sup>20</sup> Staff interviews with officials at IHP, Tully, and Havco, Feb. 21-23, 1996; petition, pp. 9-10; responses to importers' and producers' questionnaires; and TR, pp. 14-16, 44, and 128-129.

<sup>21</sup> Staff interviews with industry representatives, Feb.-Mar. 1996; responses to importers' questionnaires; and petition, p. 10.

<sup>22</sup> Staff conversations with officials from Leclerc, Mar. 27, 1996.

<sup>23</sup> Staff interviews with officials from IHP, Tully, and Havco, Feb. 21-23, 1996.

and U.S. producers use radio frequency presses for the most part, however, steam presses are required with Malaysian wood, which has a high resin content that produces an oily surface not easily glued using electronic presses. Residential and commercial strip flooring producers do not laminate their products and therefore do not use glue presses. The entire concept of a production line is therefore distinct.<sup>24</sup>

### Price

Detailed information regarding pricing is contained in later sections in this report. Laminated hardwood flooring is priced by the square foot. Producers report that prices decreased for the Canadian and U.S. product from over \$3.50 per square foot in 1995 to around \$2.70 per square foot in early 1996. Quotes by domestic suppliers are f.o.b. their plant. At least one importer, Leclerc, quotes prices with freight included. Imported Malaysian laminated hardwood flooring is reported to be priced in the range of \$2.00-\$2.10 per square foot.<sup>25</sup>

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<sup>24</sup> Petition, pp. 2-3; staff interviews with officials at IHP, Tully, and Havco, Feb. 21-23, 1996; and TR, pp. 14-15.

<sup>25</sup> Staff interviews with officials at IHP, Tully, and Havco, Feb. 21-23, 1996, and responses to Commission questionnaires.

Table I-1  
 Certain laminated hardwood flooring: Summary data concerning the U.S. market, 1993-95

(Quantity=1,000 square feet, value=1,000 dollars, unit values, unit labor costs, and unit expenses are per square foot; period changes=percent, except where noted)

Item	Reported data			Period changes		
	1993	1994	1995	1993-95	1993-94	1994-95
<b>U.S. consumption quantity:</b>						
Amount	39,826	55,100	62,653	57.3	38.4	13.7
Producers' share 1/	78.1	77.1	76.6	(1.6)	(1.1)	(0.5)
Importers' share: 1/						
Canada	***	***	***	***	***	***
All other sources	***	***	***	***	***	***
Total	21.9	22.9	23.4	1.6	1.1	0.5
<b>U.S. consumption value:</b>						
Amount	119,255	179,332	209,455	75.6	50.4	16.8
Producers' share 1/	82.8	80.7	77.6	-5.2	-2.2	-3.0
Importers' share: 1/						
Canada	***	***	***	***	***	***
All other sources	***	***	***	***	***	***
Total	17.2	19.3	22.4	5.2	2.2	3.0
<b>U.S. shipments of imports:</b>						
<b>Canada:</b>						
Quantity	***	***	***	***	***	***
Value	***	***	***	***	***	***
Unit value	***	***	***	***	***	***
Ending inventory quantity	***	***	***	***	***	***
<b>All other sources:</b>						
Quantity	***	***	***	***	***	***
Value	***	***	***	***	***	***
Unit value	***	***	***	***	***	***
Ending inventory quantity	***	***	***	***	***	***
<b>All sources:</b>						
Quantity	8,709	12,629	14,682	68.6	45.0	16.3
Value	20,456	64,679	46,848	129.0	216.2	-27.6
Unit value	\$2.35	\$5.12	\$3.19	35.8	118.0	-37.7
Ending inventory quantity	0	0	0	ERR	ERR	ERR
<b>U.S. producers':</b>						
Average capacity quantity	36,857	50,596	56,199	52.5	37.3	11.1
Production quantity	32,171	43,271	48,512	50.8	34.5	12.1
Capacity utilization 1/	87.3	85.5	86.3	-1.0	-1.8	0.8
<b>U.S. shipments:</b>						
Quantity	31,117	42,471	47,971	54.2	36.5	13.0
Value	98,799	144,653	162,607	64.6	46.4	12.4
Unit value	\$3.18	\$3.41	\$3.39	6.8	7.3	-0.5
<b>Export shipments:</b>						
Quantity	***	***	***	***	***	***
Value	***	***	***	***	***	***
Unit value	***	***	***	***	***	***
Ending inventory quantity	***	***	***	***	***	***
Inventories to total shipments 1/	***	***	***	***	***	***
Production workers	1,151	1,412	1,595	38.6	22.7	13.0
Hours worked (1,000s)	2,133	2,959	3,249	52.3	38.7	9.8
Wages paid (\$1,000)	20,157	28,282	31,774	57.6	40.3	12.3
Hourly wages	\$9.45	\$9.56	\$9.78	3.5	1.1	2.3
Productivity (square feet/hour)	15.1	14.6	14.9	-1.0	-3.0	2.1
Unit labor costs	\$0.63	\$0.65	\$0.65	4.5	4.3	0.2
<b>Net sales:</b>						
Quantity	***	***	***	***	***	***
Value	***	***	***	***	***	***
Unit value	***	***	***	***	***	***
Cost of goods sold (COGS)	***	***	***	***	***	***
Gross profit or (loss)	***	***	***	***	***	***
SG&A expenses	***	***	***	***	***	***
Operating income or (loss)	***	***	***	***	***	***
Capital expenditures	***	***	***	***	***	***
Unit COGS	***	***	***	***	***	***
Unit SG&A expenses	***	***	***	***	***	***
Unit operating income or (loss)	***	***	***	***	***	***
COGS/sales 1/	79.3	74.1	72.6	-6.7	-5.2	-1.5
Operating income or (loss)/ sales 1/	14.1	19.4	19.9	5.8	5.3	0.5

1/ "Reported data" are in percent and "period changes" are in percentage points.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

## PART II: CONDITIONS OF COMPETITION IN THE U.S. MARKET

### MARKET SEGMENTS AND CHANNELS OF DISTRIBUTION

The market for laminated hardwood flooring in the United States includes U.S. producers, importers, and distributors that sell product primarily to end users, predominantly trailer manufacturers. In 1995, \*\*\* of sales of U.S.-produced hardwood laminated flooring (based on quantity) were sold to trailer manufacturers; the remainder was sold to truck body and van manufacturers \*\*\* and to container manufacturers \*\*\*.<sup>1</sup> Large trailer manufacturers may also import laminated hardwood flooring directly from foreign producers. For example, \*\*\* recently commenced purchasing directly from the largest Canadian producer, Leclerc.<sup>2</sup> Leclerc indicated that \*\*\* percent of its U.S. shipments in 1995 of laminated hardwood flooring were to trailer manufacturers, while \*\*\* shipments were sold in the aftermarket and repair market.

### BUSINESS CYCLE

The U.S. market for laminated hardwood flooring is cyclical in nature, mirroring production trends in the downstream product, truck trailers. Historically, laminated hardwood flooring demand peaks coincided with peaks in trailer production, approximately every 4-5 years (figure II-1). However, recent transportation regulatory changes,<sup>3</sup> acceptance of longer trailers,<sup>4</sup> and a robust U.S. economy have altered this cycle. Questionnaire responses indicate that during 1994-95 the demand for laminated hardwood flooring peaked, with demand declining precipitously in the fourth quarter of 1995. Ten of 11 responding importers indicated that laminated hardwood flooring demand reached record levels during 1994 and 1995, citing increases in trailer production as a principle factor. Most firms in the industry anticipate downturns following peak periods. John Cloud, President of Cloud Corp., a petitioner, stated that Cloud Corp. anticipated a 20-percent downturn in the market in 1996.<sup>5 6</sup>

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<sup>1</sup> Commission questionnaire responses.

<sup>2</sup> Leclerc serves as the U.S. importer of record.

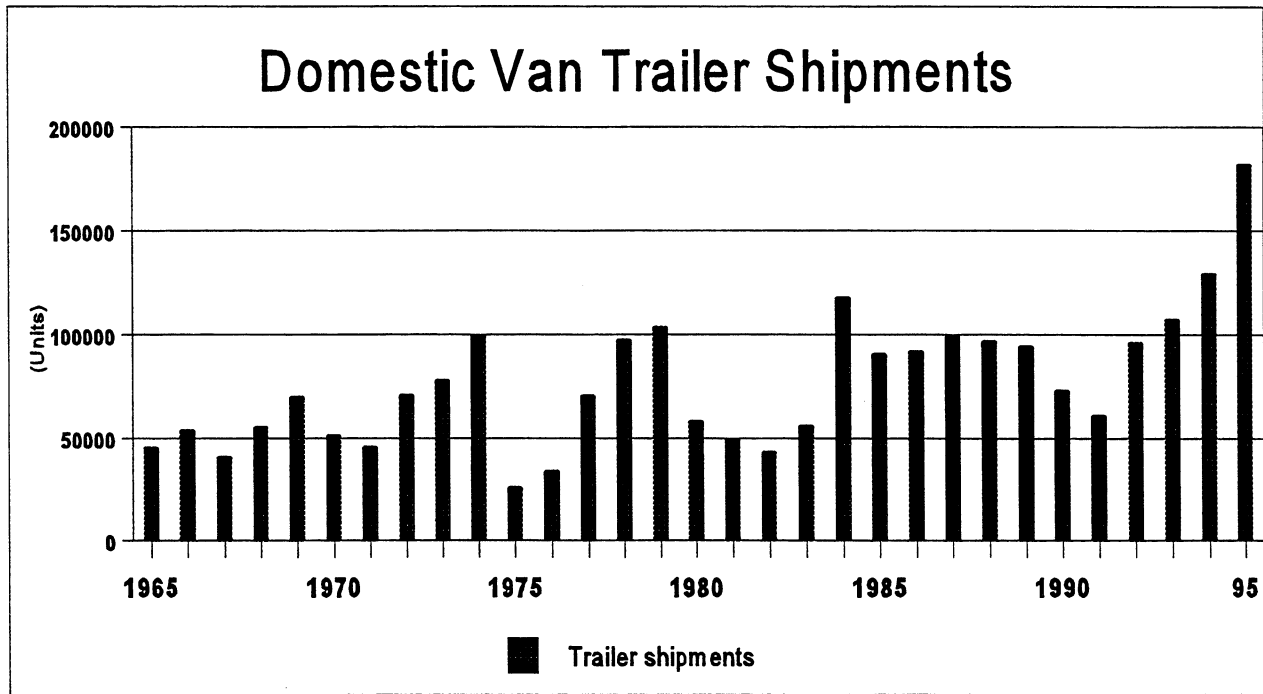
<sup>3</sup> Anti-lock brake systems (ABS) will be required on all new truck tractors in 1997 and on new truck trailers in 1998.

<sup>4</sup> Since 1987, state regulations governing trailer lengths have been relaxed, increasing typical trailer lengths from 45 feet to 53 feet. (Staff conversation Apr. 4, 1996, with \*\*\*)

<sup>5</sup> TR, p. 47.

<sup>6</sup> Leclerc testified that the downturn for laminated hardwood flooring commenced in December 1995 and the market declined as much as 50 percent. (TR, p. 95.)

Figure II-1  
 U.S. van trailer shipments, dry freight and drop frame, 1965-95



Source: WEFA Group Feb. 1996 Outlook for Truck Trailers, table 2.19.

## SUPPLY AND DEMAND CONSIDERATIONS

### U.S. Supply

#### Domestic Production

Based on the available information, U.S. laminated hardwood flooring producers are likely to respond to changes in demand with relatively large changes in price and production in the U.S. market and smaller changes in shipments of U.S.-produced laminated hardwood flooring. Factors contributing to the responsiveness of supply are discussed below.

#### *Capacity in the U.S. industry*

Despite the relatively high levels of capacity utilization in the U.S. laminated hardwood flooring industry during the period examined, U.S. producers may respond to increases in demand with changes in



production to the extent that additional capacity can be added. U.S. laminated hardwood flooring capacity rose by more than 50 percent between 1993 and 1995, and producers were operating at effectively full capacity.<sup>7</sup> Total annual capacity of responding domestic producers of laminated hardwood flooring increased from 36.9 million to 56.2 million square feet, or by 53 percent, from 1993 to 1995 (table I-1). U.S. producers' capacity utilization levels ranged from 85.5 to 87.3 percent over the period.<sup>8</sup> Thus, to the extent that U.S. producers could develop additional capacity they may respond to increases in demand through production changes.

### *Production alternatives*

Production alternatives are limited for U.S. laminated hardwood flooring producers. U.S. production of laminated hardwood flooring occurs in facilities dedicated to laminated hardwood flooring production. Both of the two U.S. laminated hardwood flooring producers that manufacture other wood products maintain separate production facilities and workers for laminated hardwood flooring and other wood products. With dedicated production facilities and workers for hardwood flooring, production alternatives are quite limited for U.S. producers.

### *Inventory levels*

The lack of existing inventories of finished product decreases the degree to which U.S. producers can respond to changes in demand with changes in shipments. Petitioner reported that no inventories of finished product are maintained.<sup>9</sup> Due to the customized requirements of purchasers, U.S. producers manufacture laminated hardwood flooring only when an order is received. \*\*\* U.S. producers' end-of-period inventories of raw material for laminated hardwood flooring ranged from 5.5 to 6.6 million square feet during the period examined and, as a percentage of U.S. shipments (including captive consumption), declined from 17.7 to 13.8 percent between 1993 and 1995. The apparent lack of finished laminated hardwood flooring inventories restricts the degree to which U.S. producers can switch to meet demand changes.

## **U.S. Demand**

The main factor contributing to the price sensitivity of overall demand for laminated hardwood flooring is the availability of substitute products. Limitations on the ease with which purchasers can switch to substitute products constrain the price sensitivity of demand. Alternative materials for use in flooring for trailers and truck bodies are primarily limited to aluminum and softwood. Five of 8 responding U.S. producers and 8 of 13 importers indicated that aluminum flooring may substitute for laminated hardwood flooring in some applications. Aluminum has traditionally been used in refrigerated trailers where moisture content renders wood flooring less effective and where lighter weight is important. Typically, the price differential between laminated hardwood flooring and aluminum precluded interchangeability in the market-

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<sup>7</sup> Mr. Chorney, President of Industrial Hardwood Products, testified "Everybody in the industry added capacity. Trailer manufacturers did. Flooring manufacturers did. Everybody worked extended hours. A lot of people worked weekends trying to fill the demand for flooring. I believe some trailer manufacturers didn't have all the flooring they wanted... The demand was so high there was more demand than supply." (TR, pp. 49-50.)

<sup>8</sup> Overall U.S. industrial production capacity utilization rates were near full capacity in 1995. U.S. capacity utilization rates during 1995 were 83.9 percent for total industry and 83.0 percent for manufacturing, equaling a 15-year high set in 1989. ("Economic Report of the President," Feb. 1996, table B-5, p. 337.)

<sup>9</sup> Petitioner's postconference brief, p. 19.

place. U.S. producers indicated that few, if any, of their customers switched from laminated hardwood flooring to aluminum flooring during the period examined.<sup>10</sup> In addition, petitioner testified that aluminum does not hold up to heavy loads and the weight of lift trucks used in moving loads from loading docks and trailers.<sup>11</sup> Plastic extrusions, plank flooring, and fiberglass/structural foam composites were also listed as possible substitutes. These products, however, do not provide the durability and strength imparted by laminated hardwood flooring in trailer and truck body flooring. Laminated softwood lumber is predominantly available on the West Coast near Douglas fir sources. Less durable in nature, laminated softwood flooring interchangeability is limited to truck body applications.

## SUBSTITUTABILITY ISSUES

Producers and importers were requested to provide information regarding the differences in non-price factors between the domestic products and subject imports. Although U.S.-produced and Canadian imports of laminated hardwood flooring are frequently made of different wood species,<sup>12</sup> producers and importers generally agree the products are interchangeable. Ten of 12 responding importers concur that U.S.-produced and imported laminated hardwood flooring from Canada are interchangeable.<sup>13</sup> According to questionnaire responses, several purchasers of laminated hardwood flooring substituted U.S. and Canadian product and vice-versa during the period examined. For example, 5 of 10 importers indicated shifting laminated hardwood flooring purchases from U.S. to Canadian product during the period examined. \*\*\* indicated shifting purchases from U.S. to Canadian suppliers due to availability of Canadian product. Similarly, 5 of 11 importers indicated shifting purchases from Canadian to U.S.-produced laminated hardwood flooring due either to enhanced availability or quality of the U.S.-produced laminated hardwood flooring.

The average lead time between a customer's order and delivery for U.S. producers was 1-6 weeks. According to responding importers, average lead times for Canadian laminated hardwood flooring ranged from 1 to 8 weeks.<sup>14</sup> Sales terms for U.S.-produced laminated hardwood flooring and the subject imports are similar at net 20 or 30 days, and both sell on a spot or contract basis. U.S. producers offer a 1- to 2-year warranty, while the largest Canadian producer, Leclerc, offers a 7-year warranty, for their respective laminated hardwood flooring products.<sup>15</sup>

Differences in warranty and delivery techniques may distinguish the subject imports vis-a-vis U.S.-produced laminated hardwood flooring for certain purchasers. However, numerous U.S. firms reported interchanging domestic and Canadian laminated hardwood flooring products in their trailer production, evidencing a high degree of substitutability between U.S.-produced laminated hardwood flooring and the subject imports.

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<sup>10</sup> TR, pp. 59-63.

<sup>11</sup> TR, p. 45.

<sup>12</sup> Laminated hardwood flooring imports from Canada are predominantly maple, although some oak and birch laminated hardwood flooring is also sold in the U.S. market. For example, Leclerc's U.S. shipments were 85 percent maple, 10 percent oak, and 5 percent birch. (TR, p. 95.)

<sup>13</sup> \*\*\*.

<sup>14</sup> Leclerc, which uses its own delivery fleet, leaves loaded trailers with its laminated hardwood flooring customer for direct unloading to production lines, rather than unloading at a storage facility for future transport to production lines. (Leclerc's postconference brief, p. 13.)

<sup>15</sup> TR, p. 94.

## PART III: CONDITION OF THE U.S. INDUSTRY

The Commission analyzes a number of factors in making injury determinations (see 19 U.S.C. §§ 1677(7)(B) and 1677(7)(C)). Information on the alleged subsidies was presented earlier in this report and information on the volume and pricing of imports of the subject merchandise is presented in parts IV and V. Information on the other factors specified is presented in this section and/or part VI and (except as noted) is based on the questionnaire responses of 7 firms that accounted for \*\*\* percent of U.S. production of certain laminated hardwood flooring during 1995.

### U.S. PRODUCERS

There are 10 known producers of laminated hardwood flooring in the United States, 7 of which replied to Commission questionnaires.<sup>1</sup> Of the seven respondents, five were members of the petitioning group, which accounted for \*\*\* percent of 1995 total estimated U.S. production, and two \*\*\*, accounting for \*\*\* percent of 1995 production.<sup>2</sup>

All firms in the industry are privately held corporations and are well established.<sup>3</sup> Most of the producers rely on laminated hardwood flooring as their primary business.<sup>4</sup> \*\*\* are the largest producers, together accounting for \*\*\* percent of 1995 production. \*\*\* produce for internal consumption only, and are also importers of laminated hardwood flooring from Canada. They imported from Canada because they could not buy laminated hardwood flooring from U.S. producers during the short supply situation in 1994 and 1995. \*\*\* is also an importer of Canadian merchandise. It imports occasionally from its affiliated firm in Canada.<sup>5</sup>

Nilus Leclerc, Inc. (Leclerc), the major Canadian producer of laminated hardwood flooring and a respondent in this investigation, has alleged that Havco attempted to acquire it, and having failed in that endeavor, filed a subsidy case to eliminate the competition. Havco officials have denied this accusation, stating that Havco was approached by a broker for Leclerc looking for a purchaser, and that Havco refused

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<sup>1</sup> The petition stated that there were only 6 producers in the domestic industry (pp. 5-7). The 2 significant producers who were omitted from the petition, Strick and Monan, have been manufacturing laminated hardwood flooring since the 1960s and 1970s, and are universally known as producers in this industry. At the conference, the petitioner stated that it did not name these firms because they produced for internal consumption (TR, p. 54); however, petitioner also stated that it was aware that these firms were well established (TR, p. 160). \*\*\*.

<sup>2</sup> Coverage for responding producers was \*\*\* percent of total estimated 1995 production. The responding producers, their plant locations, and their shares of estimated 1995 production are: Cloud, Harrison and Sheridan, AR (\*\*\* percent); Havco, Cape Girardeau, MO, and Vonore, TN (\*\*\* percent); IHP, Red Wing, MN (\*\*\* percent); Lewisohn, Nescopock, PA (\*\*\* percent); Monan Corp. (Monan), Monan, IN (\*\*\* percent); Strick Corp. (Strick), Hughesville, PA (\*\*\* percent); and Tully, Memphis, TN (\*\*\* percent). All but Strick and Monan were petitioners. The three non-responding producers were: Burruss, Lynchburg, VA, and Alcoa, TN (\*\*\* percent); Newcourt, Inc., Texarkana, TX (less than \*\*\* percent); and Donver Inc., Kilbuck, NY (\*\*\* percent). The estimate of Burruss' share of production was derived from the petition (p. 7); the estimates of the others' shares were derived from staff conversations with industry officials, Mar. 25-27, 1996. \*\*\*. Staff conversations with Burruss officials, Mar. 18 and 27, 1996.

<sup>3</sup> Staff conversations with industry officials, Mar. 13-21, 1996, and TR, pp. 14, 19, 24, 28, and 32.

<sup>4</sup> Tully is the only firm devoting only 10-15 percent of its business to manufacturing the subject product. TR, p. 65.

<sup>5</sup> For related party analysis, the following is a summary of each producer/importer's 1995 production and imports (in thousands of square feet), and a ratio of 1995 shipments of imports to total shipments: \*\*\*.

because of poor market conditions.<sup>6</sup> There is no further evidence on the record to support either of these claims.

### U.S. CAPACITY, PRODUCTION, AND CAPACITY UTILIZATION

Data regarding U.S. capacity, production, and capacity utilization are summarized in table III-1 and figure III-1 at the end of this section. The large increases in capacity during the period are attributable to \*\*\* investing in new equipment and plant expansions.<sup>7</sup> The domestic industry has a total of \*\*\* glue presses, only 1 of which is a steam press.<sup>8</sup> Despite the large investment, there was a domestic short supply situation in 1994 and 1995, which may have contributed to the increase in Canadian imports during that time, according to respondents.<sup>9</sup>

During the last quarter of 1995 and the first quarter of 1996, domestic producers report that production has decreased substantially in response to low-price imports from Canada.<sup>10</sup>

### U.S. SHIPMENTS

U.S. producers' shipments are presented in table III-2 and figure III-2 at the end of this section. The large increases in shipments are consistent with substantial increases in demand during the period. In general, \*\*\* experienced dramatic increases, however \*\*\*. Unit values for commercial shipments increased during the period. Again, petitioner reports that there has been a downturn in 1996 in shipments attributable to Canadian competition not shown in the Commission's data set.<sup>11</sup>

### U.S. PRODUCERS' INVENTORIES

U.S. producers' inventories are presented in table III-3 at the end of this section. \*\*\*. Inventories as a percent of production and U.S. shipments declined during the period, consistent with a possible short supply situation in 1994 and 1995.

### U.S. EMPLOYMENT, COMPENSATION, AND PRODUCTIVITY

U.S. producers' employment and productivity data are presented in table III-4 at the end of this section. Although the number of workers, hours worked, and wages paid increased dramatically, productivity declined. Petitioner reported that employment declined substantially at the end of 1995 and during the first quarter of 1996.<sup>12</sup>

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<sup>6</sup> Staff conversations with Havco officials, Mar. 25, 1996; TR, pp. 53, and 99-100; and petitioner's postconference brief, p. 14 and exhibit 11.

<sup>7</sup> Staff conversations with industry officials, Mar. 13-21, 1996.

<sup>8</sup> TR, p. 67.

<sup>9</sup> TR, pp. 46-52, 89, 92, 102-103, and 108. Petitioner claims that in the case of \*\*\*, a bad credit rating was responsible for the supply problems with domestic producers. Petitioner's brief, p. 9.

<sup>10</sup> TR, pp. 17-18, 21, 26, and 29-30; staff conversations with industry officials, Mar. 13-21, 1996; petitioner's brief, pp. 3-5, 21, and exhibits 1-2, 4, and 7; and responses to Commission questionnaires.

<sup>11</sup> Ibid.

<sup>12</sup> Ibid.

Table III-1  
 Certain laminated hardwood flooring: U.S. producers' production, capacity, and capacity utilization, 1993-95

Item	1993	1994	1995
Capacity (1,000 square feet) . . . . .	36,857	50,596	56,199
Production (1,000 square feet) . . . . .	32,171	43,271	48,512
Capacity utilization (percent) . . . . .	87.3	85.5	86.3

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

Table III-2  
 Certain laminated hardwood flooring: U.S. producers' shipments, 1993-95

Item	1993	1994	1995
<u>Quantity (1,000 square feet)</u>			
Commercial shipments . . . . .	***	***	***
Internal shipments . . . . .	***	***	***
Export shipments . . . . .	***	***	***
Total . . . . .	***	***	***
<u>Value (\$1,000)</u>			
Commercial shipments . . . . .	***	***	***
Internal shipments . . . . .	***	***	***
Export shipments . . . . .	***	***	***
Total . . . . .	***	***	***
<u>Unit value (per square foot)</u>			
Commercial shipments . . . . .	***	***	***
Internal shipments . . . . .	***	***	***
Export shipments . . . . .	***	***	***
Average . . . . .	***	***	***

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

Table III-3  
 Certain laminated hardwood flooring: U.S. producers' end-of-period inventories,  
 1993-95

Item	1993	1994	1995
EOP inventories (1,000 square feet) . . . . .	***	***	***
Ratio to production (percent) . . . . .	***	***	***
Ratio to U.S. shipments (percent) . . . . .	***	***	***

Note.--U.S. shipments include internal consumption.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

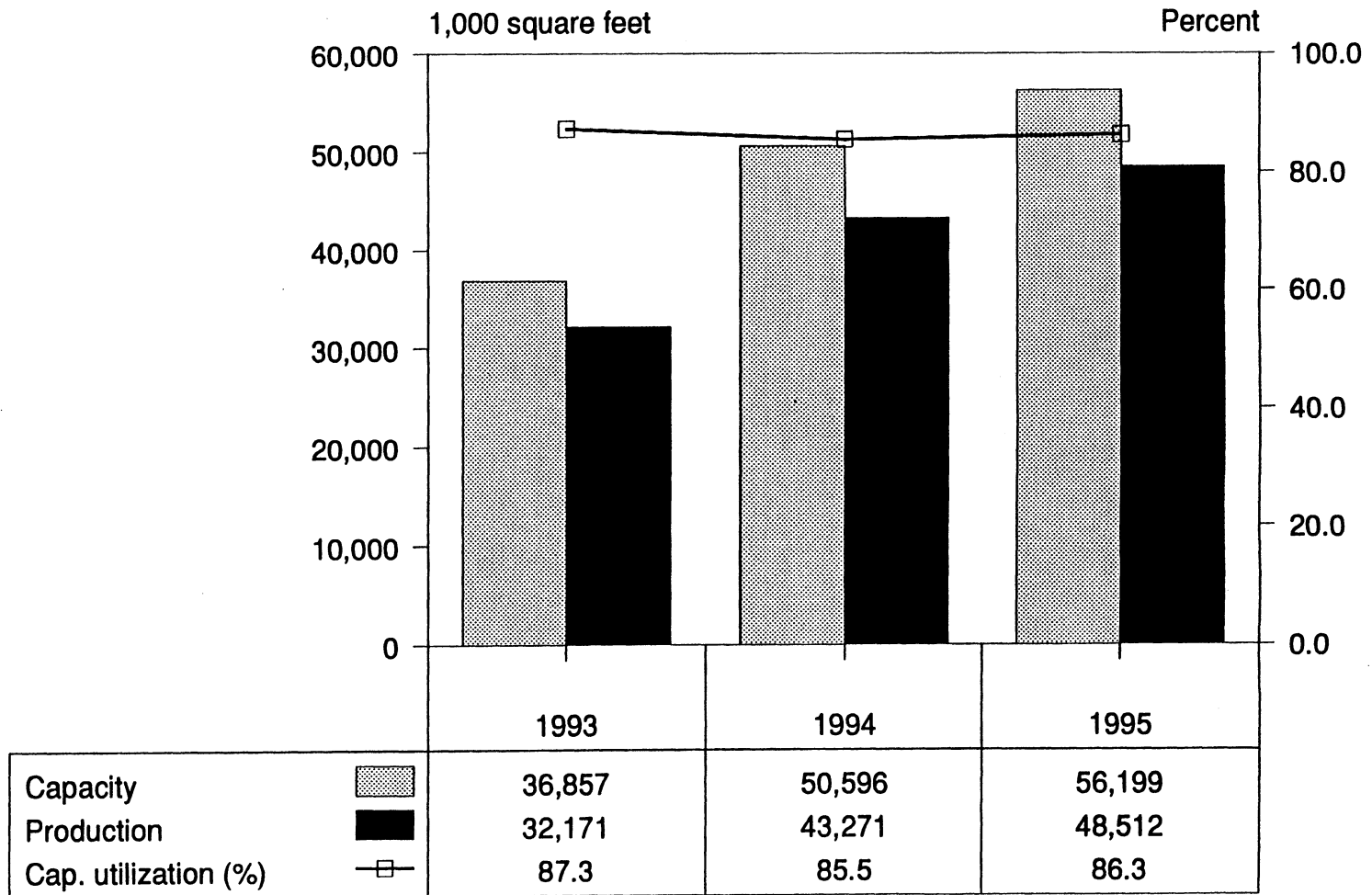
Table III-4  
 Average number of production and related workers producing certain laminated  
 hardwood flooring, hours worked, wages paid to such employees, and hourly wages,  
 productivity, and unit labor costs, 1993-95

Item	1993	1994	1995
PRWs (number) . . . . .	1,151	1,412	1,595
Hours worked (1,000) . . . . .	2,133	2,959	3,249
Wages paid (\$1,000) . . . . .	20,157	28,282	31,774
Hourly wages . . . . .	\$9.45	\$9.56	\$9.78
Productivity (square feet per hour) . . . . .	15.08	14.62	14.93
Unit labor costs (per square foot) . . . . .	\$0.63	\$0.65	\$0.65

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

Figure III-1  
 Certain laminated hardwood flooring: U.S. producers'  
 production, capacity, and capacity utilization, 1993-95

III-5



Source: Table III-1.

Figure III-2

Certain laminated hardwood flooring: U.S. producers' shipments, 1993-95

\* \* \* \* \*



## **PART IV: U.S. IMPORTS, APPARENT CONSUMPTION, AND MARKET SHARES**

### **U.S. IMPORTERS**

There are 23 known importers of laminated hardwood flooring from Canada and all other sources. \*\*\* firms importing from Canada provided data in response to Commission questionnaires, accounting for \*\*\* percent of Canadian exports to the United States during 1995. \*\*\*. \*\*\* firms importing from all other sources, of which only Malaysia was identified, provided data in response to Commission questionnaires, accounting for about \*\*\* percent of 1995 estimated imports from all sources. These \*\*\* firms are dispersed across the United States.

### **U.S. IMPORTS**

U.S. imports of laminated hardwood flooring as collected by the Commission through its questionnaires are presented in table IV-1 and figure IV-1 at the end of this section.<sup>1</sup> The quantity, value, and unit value of imports from Canada increased dramatically from 1993 to 1995, at the same time that imports from all other sources declined. There is disagreement over why imports from Canada increased during the period. The petitioner cites unfair competition, while the respondents claim that the short supply situation in the United States forced purchasers to look to Canada for an alternate and reliable source of supply.<sup>2</sup> There is also disagreement about the reasons for the decline in imports from all other sources, ranging from a short supply situation in Malaysia to individual customer contract shifts.<sup>3</sup>

### **APPARENT U.S. CONSUMPTION**

Data on apparent consumption of laminated hardwood flooring are presented in table IV-2 and figure IV-2 at the end of this section. Apparent consumption increased substantially from 1993 to 1995. However, petitioner, importers, and even foreign producers all assert that consumption has decreased dramatically in 1996.<sup>4</sup>

There is considerable disagreement among industry representatives about the length and extent of fluctuations in the business cycle of this industry. Some believe it is a 10-year cycle; others believe it lasts 2-5 years.<sup>5</sup> Petitioner asserts that the current downturn in orders will not last long, and that there is a long-term trend toward more trailer units built per year (due to more storage use for trailers and railroads increasing their use of domestic containers), but that competition from low-priced Canadian imports will continue to harm business. Purchasers have theorized that certain specific events have caused the downturn in consumption, including new U.S. Department of Transportation (DOT) regulations calling for anti-lock-brake systems (ABS) on all trailers as of April 1998, and delays by Mexico in removing restrictions on the

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<sup>1</sup> Official statistics from Commerce were not useful in developing data for laminated hardwood flooring because the HTS subheadings in which it is contained also include many other products.

<sup>2</sup> TR, pp. 46-52, 89, 92, 102-103, and 108, and Leclerc's brief, pp. 4-6, and exhibits C-F.

<sup>3</sup> Staff conversations with officials from Alloy Trailers, Cross Island Trading, MT Evju, and Great Dane, Mar. 28, 1996, and Apr. 2, 1996.

<sup>4</sup> Staff conversations with industry officials, Mar. 13-29, 1996, and TR, pp. 91, 105-106, and 112.

<sup>5</sup> Staff conversations with Monan officials, Mar. 21, 1996, and TR, p. 22, 33, and 68-69.

use of 53' trailers, which has resulted in fewer purchases in the United States of trailers that would be destined for export to Mexico.<sup>6</sup>

### U.S. MARKET SHARES

Market shares based on U.S. producers' and U.S. importers' shipments are presented in table IV-3 and figure IV-3 at the end of this section. Imports from Canada gained substantial market share from 1993 to 1995, while the share of imports from all other sources declined greatly. U.S. producers' market share during the period declined slightly.

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<sup>6</sup> TR, pp. 22, 33, 68-69, 105-106, and 112. DOT will require all truck tractors to have ABS brakes by April 1997. Accordingly, manufacturers are focusing their capital on truck tractors to meet the 1997 deadline, and slowing orders on trailers, which have an April 1998 deadline for ABS brakes.

Table IV-1  
 Certain laminated hardwood flooring: U.S. imports, by sources, 1993-95

Item	1993	1994	1995
<u>Quantity (1,000 square feet)</u>			
Canada .....	***	***	***
All other sources .....	***	***	***
Total .....	8,709	12,629	14,682
<u>Value (\$1,000)</u>			
Canada .....	***	***	***
All other sources .....	***	***	***
Total .....	20,456	64,679	46,848
<u>Unit value (per square foot)</u>			
Canada .....	***	***	***
All other sources .....	***	***	***
Average .....	\$2.35	\$5.12	\$3.19
<u>Share of quantity (percent)</u>			
Canada .....	***	***	***
All other sources .....	***	***	***
Total .....	100.0	100.0	100.0
<u>Share of value (percent)</u>			
Canada .....	***	***	***
All other sources .....	***	***	***
Total .....	100.0	100.0	100.0

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

Table IV-2  
 Certain laminated hardwood flooring: U.S. shipments of domestic product,  
 U.S. imports, by sources, and apparent U.S. consumption, 1993-95

Item	1993	1994	1995
	Quantity (1,000 square feet)		
U.S. producers' shipments . . . . .	31,117	42,471	47,971
Import shipments:			
Canada . . . . .	***	***	***
All other sources . . . . .	***	***	***
Total import shipments . . . . .	8,709	12,629	14,682
Apparent consumption . . . . .	39,826	55,100	62,653
	Value (\$1,000)		
U.S. producers' shipments . . . . .	98,799	144,653	162,607
Import shipments:			
Canada . . . . .	***	***	***
All other sources . . . . .	***	***	***
Total import shipments . . . . .	20,456	34,679	46,848
Apparent consumption . . . . .	119,255	179,332	209,455

Note: U.S. producers' shipments include internal consumption.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

Table IV-3  
 Certain laminated hardwood flooring: Apparent U.S. consumption and  
 market shares, 1993-95

Item	1993	1994	1995
	Quantity (1,000 square feet)		
Apparent consumption .....	39,826	55,100	62,653
	Value (\$1,000)		
Apparent consumption .....	119,255	179,332	209,455
	Share of quantity (percent)		
U.S. producers' shipments .....	78.1	77.1	76.6
Import shipments:			
Canada .....	***	***	***
All other sources .....	***	***	***
Total import shipments .....	21.9	22.9	23.4
Total .....	100.0	100.0	100.0
	Share of value (percent)		
U.S. producers' shipments .....	82.8	80.7	77.6
Import shipments:			
Canada .....	***	***	***
All other sources .....	***	***	***
Total import shipments .....	17.2	19.3	22.4
Total .....	100.0	100.0	100.0

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

Figure IV-1

Certain laminated hardwood flooring: U.S. imports, by sources, 1993-95

\* \* \* \* \*

Figure IV-2

Certain laminated hardwood flooring: U.S. apparent consumption, by sources, 1993-95

\* \* \* \* \*

Figure IV-3

Certain laminated hardwood flooring: U.S. market shares, by sources, 1993-95

\* \* \* \* \*

## **PART V: PRICES AND RELATED DATA**

### **FACTORS AFFECTING PRICING**

#### **Transportation to the U.S. Market**

Transportation charges for laminated hardwood flooring imported from Canada (not including U.S. inland transportation costs) are estimated to be 2.3 percent. This estimate is derived from official import data (under HTS subheading 4421.90.98) and represents the transportation and other charges on imports valued on a c.i.f. basis compared to customs value. Leclerc's transportation costs for laminated hardwood flooring from its production facility in Quebec to the U.S. border are reportedly \*\*\* per square foot (about 2 percent of c.i.f. value).<sup>1</sup>

#### **U.S. Inland Transportation Costs**

Six of nine responding importers ranked U.S. transportation costs as somewhat important, while three ranked transportation costs as very important in their laminated hardwood flooring purchase decisions. According to U.S. producers, transportation costs ranged from \*\*\* to \*\*\* percent of the total delivered cost for laminated hardwood flooring. Responding importers estimated a range of \*\*\* to \*\*\* percent of total delivered costs. \*\*\*.<sup>2</sup>

#### **Exchange Rates**

Quarterly data reported by the International Monetary Fund indicate that the nominal value of the Canadian dollar depreciated 7.2 percent in relation to the U.S. dollar during the period January-March 1993 through October-December 1995 (figure V-1). When adjusted for movements in producer price indices in the two countries, the real value of the Canadian dollar depreciated by 3.9 percent during the period of investigation.<sup>3</sup>

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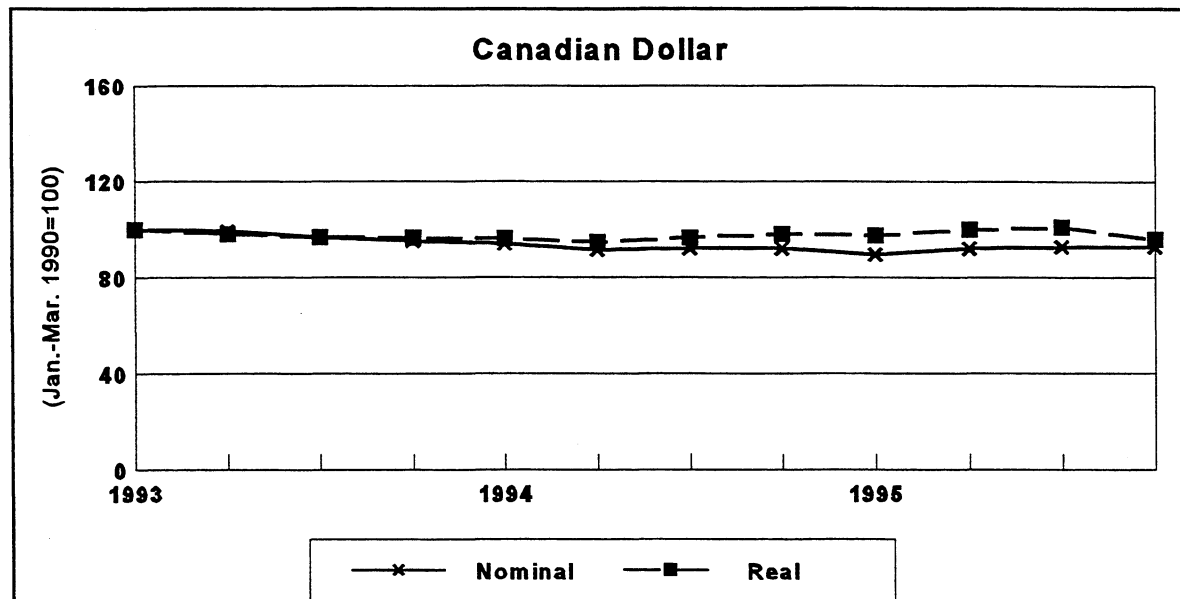
<sup>1</sup> Staff telephone conversation with counsel for Leclerc, Mar. 29, 1996.

<sup>2</sup> Ibid.

<sup>3</sup> International Monetary Fund, *International Financial Statistics*, Mar. 1996, pp. 144-147.

Figure V-1

Exchange rates: Indices of nominal and real exchange rates between the U.S. dollar and Canadian dollar, by quarters, Jan. 1993-Dec. 1995



### PRICING PRACTICES

The majority of responding U.S. producers determine prices based on prevailing market conditions and/or negotiations with customers. \*\*\* reported using set price lists. Similarly, the majority of importers reported that prices were typically negotiated based on current market conditions. Questionnaire responses indicate that net 20 days and net 30 days were typical sales terms and that discounts are virtually non-existent.<sup>4</sup> U.S. producers sell laminated hardwood flooring f.o.b. plant, while purchases of imports from Canada are on a delivered basis.

U.S. producers sell laminated hardwood flooring produced predominantly from oak, whereas the majority of the subject imports are produced from maple.<sup>5</sup> Prices for Canadian laminated hardwood flooring vary by wood species, with oak generally the highest and birch the lowest. Leclerc testified that its maple laminated hardwood is priced \$0.10-\$0.15 per square foot lower than oak products.<sup>6</sup> According to Leclerc's testimony, the raw material costs for maple and birch are cheaper than oak, and they have a lower waste factor during production.<sup>7</sup> Also, when demand significantly dropped for laminated hardwood flooring, Leclerc's price differentials were reduced as a result of intense price competition.<sup>8</sup>

<sup>4</sup> One importer reported volume discounts for purchases of Canadian laminated hardwood flooring.

<sup>5</sup> For example, Leclerc's U.S. shipments were 85 percent maple, 10 percent oak, and 5 percent birch. (TR, p. 95.)

<sup>6</sup> TR, p. 95.

<sup>7</sup> Ibid.

<sup>8</sup> TR, pp. 138-139.



## PRICE DATA

The Commission requested U.S. producers and importers to report the total quantity shipped and the total net f.o.b. value shipped in each quarter for the specified laminated hardwood flooring products sold to all unrelated U.S. customers during 1993-95. U.S. importer/purchasers were also requested to report quarterly purchase values and quantities for purchases of the specified products from U.S. and Canadian producers that were used in their production of trailer flooring. The products for which pricing data were requested are as follows:

- Product 1:** Laminated hardwood trailer flooring with undercoating, 1-1/8-inch thickness.
- Product 2:** Laminated hardwood trailer flooring with undercoating, 1-3/8-inch thickness.
- Product 3:** Laminated hardwood trailer flooring with undercoating, 1-5/16-inch thickness.
- Product 4:** Laminated hardwood trailer flooring for truck beds with undercoating, 1-1/8-inch thickness.

Eight U.S. producers and three importers<sup>9</sup> provided useable pricing data for sales of the requested products in the U.S. market, but not necessarily for all products or all quarters over the period examined. Weighted-average prices, reported by wood species,<sup>10</sup> in each quarter are presented in tables V-1-4 and figures V-2-5.

### U.S. Producers' and Importers' Prices<sup>11 12</sup>

#### U.S. Product

U.S. producers' prices for the specified products generally increased during the period examined, generally peaking during the first half of 1995. Price movements tended to coincide with changes in the volume of laminated hardwood flooring shipments. U.S. producers' prices for product 1 trended upward during 1993 and 1994, peaked at \*\*\* per square foot during April-June 1995, then declined thereafter on decreasing volumes. During the period, prices increased 8.2 percent from \*\*\* to \*\*\* per square foot. Similarly, U.S. producers' prices for product 2 were highest during 1994 and the first three quarters of 1995, when volumes shipped were highest. Prices peaked at \*\*\* per square foot during January-March and April-June of 1995. Overall, prices increased 15.6 percent from \*\*\* to \*\*\* per square foot. Prices for product 3 increased 5.0 percent during the period examined, and were highest during the fourth quarter of 1994 and first two quarters of 1995. U.S. producers' prices for product 4, trailer flooring for truck beds, increased steadily during the period examined, rising 13.6 percent. Prices ranged from \*\*\* per square foot during January-March 1993 to \*\*\* per square foot during July-September 1995.

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<sup>9</sup> \*\*\*.

<sup>10</sup> U.S. producers' reported sales for the specified products were for oak only. Importers' prices were predominantly for maple, with no reported sales of birch during 1993.

<sup>11</sup> Importer/purchasers were asked to report delivered purchase prices for specified products from U.S. and Canadian suppliers. Prices were reported for products 1-3, but not necessarily for each quarter, and they were not reported by wood species. (See app. D.)

<sup>12</sup> Reported prices for product 1 include laminated hardwood flooring for truck bodies, vans, and containers. Average unit values for container applications typically are higher than for truck body or van applications. Accordingly, reported prices for product 1 may vary significantly depending on the end-use applications of the product sold, mitigating effective price comparisons.

## Canadian Product

No prices were reported for Canadian product 1 made of oak during the period examined. Prices for maple product 1 were reported only for 1995, ranging from \*\*\* to \*\*\* per square foot. Prices for birch product 1 were reported only for 1995, fluctuating between \*\*\* and \*\*\* per square foot.<sup>13</sup> Volumes shipped for birch product 1 were less than half those for maple. Importers' prices for product 2 were reported only for oak product and only for the last three quarters of 1995. These prices declined 13.3 percent from \*\*\* to \*\*\* per square foot between April-June and October-December 1995. For product 3, importers' prices were reported for oak and maple product.<sup>14</sup> Prices for oak product 3 declined 2.4 percent during 1993, remained steady in 1994 at \*\*\* per square foot, then increased 8.0 percent during January-March and April-June 1995 on increasing volumes. Prices increased 2.7 percent overall, from \*\*\* to \*\*\* per square foot. Prices for maple product 3 trended upward during 1993 and 1994, peaked at \*\*\* per square foot during January-March 1995, then declined thereafter. Overall, prices increased 6.5 percent from \*\*\* to \*\*\* per square foot during the period examined. Prices for birch product 4 were reported for 1994 and 1995.<sup>15</sup> Prices ranged between \*\*\* and \*\*\* per square foot and were generally higher in 1995.

## Price Comparisons

Price comparisons can be made for domestic and Canadian laminated hardwood flooring in 44 of the 144 possible instances for products 1-4. In 20 of these 44 instances the Canadian product was priced below the domestic product. Margins of underselling ranged from 0.1 to 9.7 percent. In 24 instances, the Canadian imports were priced higher than the U.S. product. Margins of overselling ranged from 0.3 to 18.8 percent. By wood species, 16 out of a possible 48 comparisons were made for both oak and maple, and 12 out of 48 for birch. In 8 instances Canadian oak product undersold domestic product, while in 8 instances Canadian oak was priced higher than U.S. product. Margins of underselling ranged between 0.1 to 6.7 percent, while margins of overselling were between 0.5 and 16.7 percent. In the 16 comparisons for maple, Canadian imports were priced lower than domestic laminated hardwood flooring in 12 instances, with margins ranging from 2.1 to 9.7 percent. In 4 instances, the Canadian imports were priced higher than domestic product by margins ranging from 8.2 to 18.8 percent. In all 12 price comparisons for Canadian birch the Canadian product was priced higher than the domestic product by margins ranging between 0.3 and 18.0 percent. Pricing data reported for 1995 are estimated to account for 60.6 percent of 1995 shipments of U.S. producers' laminated hardwood flooring, and 82.3 percent of U.S. shipments of laminated hardwood flooring imported from Canada.

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<sup>13</sup> \*\*\* (Staff conversation with Spencer Griffith, counsel for Leclerc, Apr. 11, 1996.)

<sup>14</sup> No prices were reported for birch product 3.

<sup>15</sup> No prices were reported for maple product 4 and prices for oak product 4 were reported only for Oct.-Dec. 1995.

Table V-1

Product 1: Weighted-average net f.o.b. prices for sales reported by U.S. producers and importers, by wood species, and margins of under/(over)selling, by quarters, January 1993-December 1995

\* \* \* \* \*

Table V-2

Product 2: Weighted-average net f.o.b. prices for sales reported by U.S. producers and importers, by wood species, and margins of under/(over)selling, by quarters, January 1993-December 1995

\* \* \* \* \*

Table V-3

Product 3: Weighted-average net f.o.b. prices for sales reported by U.S. producers and importers, by wood species, and margins of under/(over)selling, by quarters, January 1993-December 1995

\* \* \* \* \*

Table V-4

Product 4: Weighted-average net f.o.b. prices for sales reported by U.S. producers and importers, by wood species, and margins of under/(over)selling, by quarters, January 1993-December 1995

\* \* \* \* \*

Figure V-2

Product 1: Weighted-average net f.o.b. prices for sales reported by U.S. producers and importers, by wood species, and margins of under/(over)selling, by quarters, January 1993-December 1995

\* \* \* \* \*

Figure V-3

Product 2: Weighted-average net f.o.b. prices for sales reported by U.S. producers and importers, by wood species, and margins of under/(over)selling, by quarters, January 1993-December 1995

\* \* \* \* \*

Figure V-4

Product 3: Weighted-average net f.o.b. prices for sales reported by U.S. producers and importers, by wood species, and margins of under/(over)selling, by quarters, January 1993-December 1995

\* \* \* \* \*

Figure V-5

Product 4: Weighted-average net f.o.b. prices for sales reported by U.S. producers and importers, by wood species, and margins of under/(over)selling, by quarters, January 1993-December 1995

\* \* \* \* \*

## LOST SALES AND LOST REVENUES

All of the five petitioning firms alleged lost sales and/or revenues due to imports of laminated hardwood flooring from Canada.<sup>16</sup> Petitioners made \*\*\* lost sales allegations and \*\*\* lost revenues allegations, all during \*\*\*, and citing \*\*\*. Staff was able to obtain responses from \*\*\* of the \*\*\* purchasers named. The following are reports of the conversations between Commission staff and those purchasers who could be reached and were willing to discuss their buying practices and/or their pertinent questionnaire responses.

\*\*\* alleged lost sales of \*\*\* to \*\*\* due to lower prices, free delivery, and extended credit terms from \*\*\* during August 1995. In its questionnaire response, \*\*\* reported suspending purchases of laminated hardwood flooring from \*\*\* due to insufficient quantities available and lack of long-term supply commitments. \*\*\* due to their ability to supply higher volumes and enter into long-term supply commitments. \*\*\* also indicated that securing reliable and necessary volume commitments was essential to the firm's decision to consolidate the number of suppliers to achieve greater efficiencies. Until late 1995, \*\*\* purchased from both U.S. and Canadian suppliers.

\*\*\* alleged lost sales of \*\*\* with \*\*\* due to Canadian imports \*\*\* which were priced 20 percent below \*\*\* offer. \*\*\* could not comment specifically on the allegation but stated that during the latter part of 1995 prices for many trailer inputs, including laminated hardwood flooring, began to decline. Price declines for laminated hardwood flooring were the result of declining demand and excess capacity in the industry. \*\*\* stated that quality, availability, and price, in order of importance, are the firm's primary sourcing factors for laminated hardwood flooring. In 1995, \*\*\* purchased increasing amounts of Canadian product due to supply shortages with U.S. producers. Both U.S.-produced and imported laminated hardwood flooring from Canada are of comparable quality.<sup>17</sup>

\*\*\* cited lost revenues to \*\*\* due to lower priced Canadian imports during \*\*\*. The spokesperson for \*\*\* could not specifically confirm the allegation but stated that laminated hardwood flooring prices dropped dramatically during the latter half of 1995. The firm indicated that domestic and Canadian products are quite similar and indicated purchasing Canadian product due to price and availability.<sup>18</sup>

\*\*\* alleged price reductions of \*\*\* percent, from \*\*\* to \*\*\* per square foot, for sales to \*\*\* due to price competition from the subject imports. \*\*\* could not specifically comment on the transaction but stated that prices did not approach \*\*\* per square foot until March 1996. \*\*\* said that availability was the primary reason for its decision to purchase Canadian product, and that price played a minor role. With the exception of maple's slightly greater strength, Canadian maple and domestic oak laminated hardwood flooring are comparable in performance.<sup>19</sup> \*\*\* indicated shifting approximately \*\*\* percent of its total laminated hardwood flooring purchases from \*\*\* in 1995 due to higher price and poor delivery to \*\*\* due to lower price and product availability.<sup>20</sup>

\*\*\* alleged price reductions of \*\*\* percent to \*\*\* due to price competition from subject imports. \*\*\* reported suspending purchases of laminated hardwood flooring from \*\*\* and switching to \*\*\* due to greater product availability and long-term supply commitments.<sup>21</sup>

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<sup>16</sup> \*\*\* indicated no lost sales or revenues due to the subject imports.

<sup>17</sup> Staff conversation with \*\*\*, Apr. 9, 1996.

<sup>18</sup> According to \*\*\* questionnaire response the firm traditionally purchased laminated hardwood flooring from two suppliers until 1995, when \*\*\* was added because product was not always available from U.S. suppliers and \*\*\* a regular supply of product.

<sup>19</sup> Staff conversation, Apr. 4, 1996.

<sup>20</sup> According to its questionnaire response, \*\*\* shifted approximately \*\*\* percent of its purchases during 1993-95 from U.S. suppliers to \*\*\* due to supply constraints with domestic producers. \*\*\* indicated that \*\*\*.

<sup>21</sup> \*\*\* importer questionnaire response.

\*\*\* alleged price reductions from \*\*\* to \*\*\* per square foot to \*\*\* due to price competition from subject imports. \*\*\* could not comment on the transaction but stated that prices did not drop below \*\*\* per square foot until early 1996. As indicated earlier, \*\*\* further stated that availability was the primary factor in his decision to purchase Canadian product, and that price played a minor role, and, except for slightly greater strength, Canadian maple and domestic oak laminated hardwood flooring are comparable.

\*\*\* alleged price reductions to \*\*\* due to the subject imports. \*\*\* could not comment on the allegation specifically, but stated that purchases of Canadian laminated hardwood flooring were based on availability. During the first three quarters of 1995 little, if any, product was available from U.S. producers. \*\*\* stated that oak flooring is generally preferred by their customers, but during 1995 when demand was exceptionally strong, maple laminated flooring from Canada became acceptable.<sup>22</sup>

\*\*\* alleged a price reduction of \*\*\* per square foot to \*\*\* to meet price competition from the subject imports. \*\*\* could not comment specifically on the allegation. As stated earlier, during the latter part of 1995, prices for many trailer inputs, including laminated hardwood flooring, began to decline due to declining demand and increased excess capacity in the industry. \*\*\* purchases of Canadian product increased in 1995 due to supply shortages with domestic laminated hardwood flooring producers.

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<sup>22</sup> Staff conversation, Apr. 5, 1996.



## PART VI: FINANCIAL EXPERIENCE OF U.S. PRODUCERS

### INTRODUCTION

Six producers,<sup>1</sup> accounting for \*\*\* percent of U.S. production of certain laminated hardwood flooring in 1995, supplied financial data. \*\*\*.<sup>2</sup>

### OPERATIONS ON CERTAIN LAMINATED HARDWOOD FLOORING

\*\*\*

Three of the six producers have fiscal years that end earlier than December 31.<sup>3</sup> If these three producers had provided their fiscal year data, then their financial results would have excluded a large part of calendar year 1995, and would not match the financial data of the other producers or the trade data. Thus, the Commission staff requested that these producers supply income-and-loss data for the 3 calendar years ending December 31, including 1995; such data were supplied.

Income-and-loss data for the U.S. producers are presented in table VI-1. Aggregate net sales, operating income, and operating income margins increased sharply between 1993 and 1994, and rose more modestly in 1995.

Income-and-loss data, by producer, are presented in table VI-2, and income-and-loss data on a per unit basis are shown in table VI-3. \*\*\*.<sup>4 5</sup>

Raw materials is the largest component of the cost of goods sold. However, its proportion decreased during the period of investigation, while the proportion of labor and factory overhead increased during that time period. Aggregate raw materials, labor, and overhead accounted for 60, 23, and 17 percent, respectively, of the cost of goods sold in 1993; 57, 25, and 18 percent in 1994; and 53, 26, and 21 percent in 1995. A summary of the raw materials, labor, and overhead for 1993-95 is shown in the following tabulation (in 1,000 dollars):

<u>Item:</u>	<u>1993</u>	<u>1994</u>	<u>1995</u>
Cost of goods sold:			
Raw materials .....	***	***	***
Labor .....	***	***	***
Factory overhead .....	***	***	***
Total cost of goods sold .....	***	***	***

---

<sup>1</sup> The producers are Cloud, Havco, IHP, Lewisohn, Monan, and Tully.

<sup>2</sup> Telecon with \*\*\*, Apr. 4, 1996.

<sup>3</sup> These producers are Havco (Sept. 30), IHP (Mar. 31), and Tully (July 31).

<sup>4</sup> \*\*\*. Telecon with \*\*\*, Apr. 8, 1996.

<sup>5</sup> Ibid. \*\*\*.

Table VI-1

Income-and-loss experience of U.S. producers on their operations producing certain laminated hardwood flooring, calendar years 1993-95<sup>1</sup>

Item	1993	1994	1995
<i>Quantity (1,000 square feet)</i>			
Trade sales .....	***	***	***
Company transfers .....	***	***	***
Total .....	***	***	***
<i>Value (1,000 dollars)</i>			
Net sales:			
Trade sales .....	***	***	***
Company transfers .....	***	***	***
Total .....	***	***	***
Cost of goods sold .....	***	***	***
Gross profit .....	***	***	***
Selling, general, and administrative expenses .....	***	***	***
Operating income or (loss) .....	***	***	***
Interest expense .....	***	***	***
All other expense items .....	***	***	***
Other income items .....	***	***	***
Net income or (loss) before income taxes .....	***	***	***
Depreciation and amortization .....	***	***	***
Cash flow <sup>2</sup> .....	***	***	***
<i>Ratio to net sales (percent)</i>			
Cost of goods sold .....	79.3	74.1	72.6
Gross profit .....	20.7	25.9	27.4
Selling, general, and administrative expenses .....	6.6	6.5	7.5
Operating income .....	14.1	19.4	19.9
Net income before income taxes .....	13.6	16.1	14.7
<i>Number of firms reporting</i>			
Operating losses .....	***	***	***
Net losses .....	***	***	***
Data .....	6	6	6

<sup>1</sup> The producers are Cloud, Havco, IHP, Lewisohn, Monan, and Tully, all reporting on a calendar year basis.

<sup>2</sup> Cash flow is defined as net income or loss plus depreciation and amortization.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.



Table VI-2

Income-and-loss experience of U.S. producers on their operations producing certain laminated hardwood flooring, by firms, calendar years 1993-95

\* \* \* \* \*

Table VI-3

Income-and-loss experience (on a per square foot basis) of U.S. producers on their operations producing certain laminated hardwood flooring, calendar years 1993-95

\* \* \* \* \*

**VARIANCE ANALYSIS**

The variance analysis, shown in table VI-4, covers the trade and transfer sales of the six producers that provided financial data and allows for an assessment of changes in profitability as related to changes in prices, costs, and volume. There were no export sales. The information for the variance analysis is derived from information presented in table VI-1. The variance analysis revealed that both increasing prices and increased volume affected profitability between 1993 and 1994. Volume also increased in 1994, but there was a slight aggregate price decrease.

Table VI-4

Certain laminated hardwood flooring: Variances in net sales; cost of goods sold; gross profit; selling, general, and administrative expenses; and operating income due to changes in price, volume, costs, and/or expenses of U.S. producers, between the calendar years 1993-95, 1993-94, and 1994-95

\* \* \* \* \*

**INVESTMENT IN PRODUCTIVE FACILITIES, CAPITAL EXPENDITURES, AND RESEARCH AND DEVELOPMENT EXPENSES**

The certain laminated hardwood flooring industry's value of fixed assets is presented in table VI-5. Capital expenditures and research and development expenses are presented in table VI-6.

Table VI-5

Value of fixed assets of U.S. producers in their production of certain laminated hardwood flooring, calendar years 1993-95

\* \* \* \* \*

Table VI-6

Capital expenditures by and research and development expenses of U.S. producers in their production of certain laminated hardwood flooring, calendar years 1993-95

\* \* \* \* \*

## **CAPITAL AND INVESTMENT**

The Commission requested U.S. producers to describe any actual or potential negative effects of imports of certain laminated hardwood flooring on their firms' growth, investment, ability to raise capital, or development and production efforts (including efforts to develop a derivative or more advanced version of the product.) Their responses are shown in appendix E.

## **PART VII: THREAT CONSIDERATIONS**

The Commission analyzes a number of factors in making threat determinations (see 19 U.S.C. § 1677(7)(F)(I)). Information on the nature of the alleged subsidies was presented earlier in this report; information on the volume and pricing of imports of the subject merchandise is presented in parts IV and V; and information on the effects of imports of the subject merchandise on U.S. producers' existing development and production efforts is presented in part VI. Information on inventories of the subject merchandise; foreign producers' operations, including the potential for "product-shifting;" and any other threat indicators, if applicable, follows.

### **THE INDUSTRY IN CANADA**

There are four known producers of laminated hardwood flooring in Canada: Erie Flooring & Wood Products (Erie), IHP, Leclerc, and Milner Rigsby. Data concerning their foreign production and shipments are presented in table VII-1 at the end of this section. During the period 1993-95, \*\*\*.

Although petitioner has alleged that Leclerc's capacity exceeds that of the U.S. industry, Leclerc reported that its capacity was \*\*\*.

The three other Canadian producers have \*\*\*.<sup>1</sup>

### **U.S. IMPORTERS' INVENTORIES**

There were no inventories held by importers of laminated hardwood flooring.

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<sup>1</sup> Letter from Milner Rigsby to Olympia Hand, Mar. 20, 1996; staff interviews with IHP officials, Feb. 21, 1996; and staff conversations with Erie officials, Apr. 3, 1996.

Table VII-1  
Data for Canadian producers of certain laminated hardwood flooring, 1993-95 and projected 1996-97

Item	1993	1994	1995	Projected	
				1996	1997
Quantity (1,000 square feet)					
Capacity .....	6,413	12,171	16,913	20,288	20,288
Production .....	4,606	9,276	15,256	9,059	10,158
End-of-period inventories .....	8	18	16	15	15
Shipments:					
Home market .....	***	***	***	***	***
Exports to:					
United States .....	***	***	***	***	***
All other markets .....	***	***	***	***	***
Total exports .....	***	***	***	***	***
Total shipments .....	4,606	9,276	15,256	9,059	10,158
Ratios and shares (percent)					
Capacity utilization .....	71.8	76.2	90.2	44.7	50.1
Inventories to production .....	0.2	0.2	0.1	0.2	0.1
Inventories to shipments .....	0.2	0.2	0.1	0.2	0.1
Share of total shipments:					
Home market .....	***	***	***	***	***
Exports to:					
United States .....	***	***	***	***	***
All other markets .....	***	***	***	***	***
Total exports .....	***	***	***	***	***
Total shipments .....	100.0	100.0	100.0	100.0	100.0

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

**APPENDIX A**  
***FEDERAL REGISTER NOTICES***



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**INTERNATIONAL TRADE  
COMMISSION**

**[Investigation No. 701-TA-367  
(Preliminary)]**

**Certain Laminated Hardwood Flooring  
From Canada**

**AGENCY:** United States International  
Trade Commission.

**ACTION:** Institution and scheduling of a  
preliminary countervailing duty  
investigation.

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**SUMMARY:** The Commission hereby gives notice of the institution of preliminary countervailing duty investigation No. 701-TA-367 (Preliminary) under section 703(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a)) (the Act) to determine whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Canada of certain laminated hardwood flooring,<sup>1</sup> provided for in subheading 4421.90.98 of the Harmonized Tariff Schedule of the United States, that are alleged to be subsidized by the Government of Canada. Unless the Department of Commerce extends the time for initiation pursuant to section 702(c)(1)(B) of the Act (19 U.S.C. 1671a(c)(1)(B)), the Commission must complete preliminary countervailing duty investigations in 45 days, or in this case by April 22, 1996. The Commission's views are due at the Department of Commerce within five business days thereafter, or by April 29, 1996.

For further information concerning the conduct of this investigation and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through

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<sup>1</sup> Laminated hardwood trailer, truck body, container, and rail car flooring produced from hardwood lumber and processed and laminated to meet specifications required by purchaser. For trailer flooring, those specifications generally follow those set forth in the Fruehauf Engineering Standards for Laminated Hardwood Flooring, as revised. Certain laminated hardwood flooring is covered by statistical reporting number 4421.90.98.40 of the Harmonized Tariff Schedule of the United States (HTS).

E (19 CFR part 201), and part 207, subparts A and B (19 CFR part 207).

**EFFECTIVE DATE:** March 7, 1996.

**FOR FURTHER INFORMATION CONTACT:**

Olympia DeRosa Hand (202-205-3182), Office of Investigations, U.S.

International Trade Commission, 500 E Street SW., Washington, DC 20436.

Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000.

General information concerning the Commission may also be obtained by accessing its internet server (<http://www.usitc.gov> or <ftp://ftp.usitc.gov>).

**SUPPLEMENTARY INFORMATION:**

**Background**

This investigation is being instituted in response to a petition filed on March 7, 1996, by the Ad Hoc Committee on Laminated Hardwood Trailer Flooring (Anderson-Tully Co., Memphis, TN, Cloud Corp., Harrison, AK, Havco Wood Products, Inc., Cape Girardeau, MO, Industrial Hardwoods Products Inc., Redwing, MN, and Lewisohn Sales Co. Inc., North Bergen, NJ.).

**Participation in the Investigation and Public Service List**

Persons (other than petitioners) wishing to participate in the investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in sections 201.11 and 207.10 of the Commission's rules, not later than seven days after publication of this notice in the Federal Register. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance.

**Limited Disclosure of Business Proprietary Information (BPI) Under an Administrative Protective Order (APO) and BPI Service List**

Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in this preliminary investigation available to authorized applicants under the APO issued in the investigation, provided that the application is made not later than seven days after the publication of this notice in the Federal Register. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

**Conference**

The Commission's Director of Operations has scheduled a conference in connection with this investigation for 9:30 a.m. on March 28, 1996, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. Parties wishing to participate in the conference should contact Olympia Hand (202-205-3182) not later than March 25, 1996, to arrange for their appearance. Parties in support of the imposition of countervailing duties in this investigation and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the conference.

**Written Submissions**

As provided in sections 201.8 and 207.15 of the Commission's rules, any person may submit to the Commission on or before April 2, 1996, a written brief containing information and arguments pertinent to the subject matter of the investigation. Parties may file written testimony in connection with their presentation at the conference no later than three days before the conference. If briefs or written testimony contain BPI, they must conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules.

In accordance with sections 201.16(c) and 207.3 of the rules, each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

**Authority:** This investigation is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.12 of the Commission's rules.

By order of the Commission.

Issued: March 14, 1996.

Donna R. Koehnke,  
*Secretary.*

[FR Doc. 96-6628 Filed 3-19-96; 8:45 am]

**BILLING CODE 7020-02-P**



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[C-122-825]

**Notice of Initiation of Countervailing  
Duty Investigation: Certain Laminated  
Hardwood Flooring from Canada**

**AGENCY:** Import Administration,  
International Trade Administration,  
Department of Commerce.

**EFFECTIVE DATE:** April 4, 1996.

**FOR FURTHER INFORMATION CONTACT:** Sue  
Strumbel or David Boyland, Office of  
Countervailing Duty Investigations, U.S.  
Department of Commerce, Room 3099,  
14th Street and Constitution Avenue,  
N.W., Washington, DC 20230; telephone

(202) 482-1442, (202) 482-4198, respectively.

#### Initiation of Investigation

##### *The Applicable Statute*

Unless otherwise indicated, all citations to the statute are references to the provisions of the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act effective January 1, 1995 (the Act).

##### *The Petition*

On March 7, 1996, the Department of Commerce (the Department) received a petition filed from the Ad Hoc Committee on Laminated Hardwood Trailer Flooring Imports (the petitioners). The Ad Hoc Committee is made up of five U.S. producers of laminated hardwood flooring (LHF): Anderson-Tully, Havco Wood Products, Inc., Industrial Hardwood Products Inc. (IHP), Lewisohn Sales Company Inc., and Cloud Corporation/Cloud Oak Corporation. On March 15, March 22, and March 26, 1996, petitioners amended the petition by providing additional information, as well as revising the manner in which certain information in the petition was presented to the Department.

In accordance with section 701(a) of the Act, petitioners allege that manufacturers, producers, or exporters of the subject merchandise in Canada receive countervailable subsidies.

The petitioners have standing to file the petition because they are interested parties, as defined under section 771(9)(C) of the Act.

On March 21 and 22, 1996, the Department held consultations with representatives of the Government of Canada (GOC) and the Government of Quebec (GOQ) pursuant to 702(b)(4)(ii) (see March 26, 1996 memos to the file regarding these consultations). On March 26, 1996, the GOC and the GOQ submitted certain information with respect to certain programs alleged in the petition.

##### *Determination of Industry Support for the Petition*

Section 702(c)(4)(A) of the Act requires the Department to determine, prior to the initiation of an investigation, that a minimum percentage of the domestic industry supports a countervailing duty petition. A petition meets these minimum requirements if the domestic producers or workers who support the petition account for (1) at least 25 percent of the total production of the domestic like product; and (2) more than 50 percent of the production of the domestic like

product produced by that portion of the industry expressing support for, or opposition to, the petition.

The Department has been notified that two domestic producers of LHF oppose the petition. A review of the production data provided in the petition and other information readily available to the Department indicates that the petitioner accounts for more than 50 percent of the total production of the domestic like products thus meeting the standard of 702(c)(4)(A) and requiring no further action by the Department pursuant to 702(c)(4)(D). Accordingly, the Department determines that this petition is supported by the domestic industry.

##### *Injury Test*

Because Canada is a "Subsidies Agreement Country" within the meaning of section 701(b) of the Act, Title VII of the Act applies to this investigation. Accordingly, the ITC must determine whether imports of the subject merchandise from Canada materially injure, or threaten material injury to, a U.S. industry.

##### *Scope of the Investigation*

The scope of this investigation consists of certain laminated hardwood flooring which is made of oak, maple or other hardwood lumber. Laminated hardwood flooring is customized for specific dimensions, but generally ranges in size from 8' x 48" x 1" to 8' x 6" x 57" x 1 1/2" for trailer flooring, and to 8' x 16" x 1 (1/8)" to 8' x 26' x 1 (1/2)" for trailer flooring and van and truck bodies, respectively. The merchandise under investigation is currently classified, in addition to various other hardwood products, under subheading 4421.90.98.40 and 9905.44.50.15 of the *Harmonized Tariff Schedule of the United States (HTSUS)*. Although the HTSUS subheadings are provided for convenience and Customs purposes, our written description of the scope of this proceeding is dispositive.

##### *Allegation of Subsidies*

Section 702(b) of the Act requires the Department to initiate a countervailing duty proceeding whenever an interested party files a petition, on behalf of an industry, that (1) alleges the elements necessary for an imposition of a duty under section 701(a), and (2) is accompanied by information reasonably available to petitioners supporting the allegations.

##### *Initiation of Countervailing Duty Investigations*

The Department has examined the petition on LHF from Canada and found

that it complies with the requirements of section 702(b) of the Act. Therefore, in accordance with section 702(b) of the Act, we are initiating a countervailing duty investigation to determine whether manufacturers, producers, or exporters of LHF from Canada receive subsidies.

We are including in our investigation the following programs alleged in the petition to have provided subsidies to producers of the subject merchandise in Canada:

1. Capital Gains Exemptions
2. Investment Tax Credits (ITCs)
3. Export Development Corporation (EDC)
4. Performance Security Services through EDC
5. Program for Export Market Development (PEMD)
6. Venture Loans Through the Business Development Bank of Canada (BDBC)
7. Working Capital for Growth from BDBC
8. Programs Provided by the Industrial Development Corporation (SDI)<sup>1</sup>

Article 7 Assistance  
Export Assistance Program  
Business Investment Assistance Program  
Business Financing Program  
Research and Innovation Activities Program  
9. Export Promotion Assistance Program (APEX)  
10. St. Lawrence River Environmental Technology Development Program  
11. Industrial Research Assistance Program (IRAP)  
12. Canada-Quebec Subsidiary Agreement on the Economic Development of Quebec  
13. Private Forest Development Program (PFDP)  
14. Quebec Stumpage Program

The Department has reviewed information submitted by the GOQ which has raised a question whether Leclerc is a tenure holder; *i.e.*, whether it received benefits under this program. Therefore, the Department has included this program in its investigation to investigate use of this program.

Petitioners have argued that Nilus Leclerc Inc. (Leclerc) "became partners with the government \* \* \* with the sole objective of taking over the U.S. [LHF] market" and that all programs provided to Leclerc should be considered specific because they were given pursuant to "an overall endeavor that gave Leclerc special treatment." However, petitioners were unable to provide any evidence that the GOC or

<sup>1</sup> The Department is not including in the investigation other SDI programs.

the GOQ have provided any "special treatment" to Leclerc. Accordingly, the Department did not consider petitioners' "special specificity" argument when determining whether a program should be included in the investigation.

We are not including in our investigation the following programs alleged to be benefiting producers of the subject merchandise in Canada:

#### *National Programs*

##### 1. Canadian Forest Services Research Subsidies

The Canadian Forest Service (CFS) maintains a series of programs that support basic research and development in forestry.

Petitioners have provided no information to support the allegation that LHF producers would conduct research under these programs. Therefore, we are not including this program in our investigation.

##### 2. Cooperative Industrial and Market Development Partnership (CIMDP)

The CIMDP provides information concerning export enhancement, export market penetration, and productivity enhancement to members of the British Columbia (BC) Wood Specialties Group, an association of BC companies involved in secondary wood manufacturing.

Petitioners have provided no information to support the allegation that any producer of subject merchandise is eligible to receive benefits under this program. The Canadian producers of LHF identified in the petition are located in Quebec and Ontario. Because the Canadian producers of LHF identified by the petitioners are not located in BC, and no BC producer of LHF has been identified, we are not including this program in our investigation.

##### 3. Term Loans Through BDBC

Small and medium-sized businesses are eligible to receive BDBC term loans for the purchase of land, buildings, equipment, major plant overhauls, working capital, refinancing, and changes of ownership. Because the amortization of BDBC term loans is apparently flexible, petitioners have argued that the program provides a benefit.

Because petitioners have provided no basis to believe that this program is specific pursuant to section 771(5)(A), either as a domestic or export subsidy, we are not including this program in our investigation.

##### 4. Venture Capital Division of BDBC

Under this program BDBC provides small and medium-sized companies with equity financing in the form of straight equity, options, warrants, or convertible or other forms of debentures.

Because petitioners have provided no basis to believe that this program is specific pursuant to section 771(5)(A), either as a domestic or export subsidy, we are not including this program in our investigation.

#### *Quebec Provincial Programs*

##### 5. Industrial Feasibility Study Assistance Program

Under this program the GOQ provides financial assistance to cover up to 50 percent of the eligible expenditures for feasibility studies of industrial projects to be carried out in Quebec. Petitioners believe that Leclerc may have received benefits under this program in order to develop its LHF business.

Because petitioners have provided no basis to believe that this program is specific pursuant to section 771(5)(A), either as a domestic or export subsidy, we are not including this program in our investigation.

##### 6. Development Assistance Program Under SDI

According to petitioners, SDI provides venture capital for up to 90 percent of eligible expenditures which is repayable through royalties on sales or minority interest in the capital stock of the company.

Petitioners have not alleged that Leclerc was unequityworthy or that any financing provided was preferential. Therefore, we are not including this program in our investigation.

##### 7. Quebec Business Investment Companies Act administered by SDI

The objective of the Business Investment Companies Act is to promote better capitalization of Quebec companies and to encourage investment by providing tax benefits to shareholders in special corporations which invest in Quebec companies. Although it is not clear, petitioners may view the benefit under this program to be an equity infusion into Leclerc which presumably would not have taken place absent the above-referenced tax benefits. Alternatively, petitioners may believe that Leclerc's financing costs are reduced pursuant to the tax deduction.

Because petitioners have provided no basis to believe that this program is specific pursuant to section 771(5)(A), either as a domestic or export subsidy,

we are not including this program in our investigation.

##### 8. Financial Assistance for Research, Formation, and Improvement of Recycling Industry

Under this program, the Quebec Ministry of Environment provides grants to the recycling industry in Quebec.

Because petitioners have provided insufficient information to support the allegation that Leclerc is also part of the Quebec recycling industry, and is therefore eligible to participate in this program, we are not including this program in our investigation.

##### 9. Preferential Rates under Hydro-Quebec Risk and Profit Sharing

Under the Risk and Profit Sharing program, the provincially-owned power company, Hydro-Quebec, signs long-term contracts with its industrial customers for the provision of electricity. A portion of the rate to be charged under these contracts is based either on the price of the customer's products or the company's profit. Industrial customers which meet several criteria (e.g., at least a five megawatt power requirement and energy costs which represent 15 percent or more of production costs) are eligible to participate in the program.

Because petitioners have not provided information which is sufficient to support the allegation that Leclerc would be eligible for this program, we are not including this program in our investigation.

#### *Ontario Provincial Program*

##### Ontario Stumpage

10. Petitioners have alleged that Leclerc may benefit from Ontario stumpage. Because petitioners have not provided either a benchmark stumpage rate or the public stumpage rate charged by the Government of Ontario, we are not including this program in our investigation.

#### *Creditworthiness*

Petitioners assert that the financial position of Leclerc was such that it was uncreditworthy when it allegedly obtained a "large and speculative" amount of government-sponsored financing. Petitioners indicate that they have provided the information which is reasonably available to them showing that Leclerc "did not possess intrinsic worth" to avail itself of such large amounts of capital.

The Department does not consider the creditworthiness of a firm absent a specific allegation by the petitioner which is supported by information

establishing a reasonable basis to believe or suspect that the firm is uncreditworthy. While the information provided by petitioners does raise certain doubts as to Leclerc's ability to attract such financing, the financial information regarding Leclerc is incomplete. Therefore, at this time, the Department does not have a reasonable basis to believe or suspect that Leclerc is uncreditworthy.

#### *Critical Circumstances*

The petition contains an allegation that there is a reasonable basis to believe that critical circumstances exist with respect to imports of subject merchandise.

Section 703(e)(1) of the Act provides that the Department will determine that there is a reasonable basis to believe or suspect that critical circumstances exist if:

(A) The alleged countervailable subsidy is inconsistent with the Subsidies Agreement, and

(B) There have been massive imports of the subject merchandise over a relatively short period of time.

The petition contains information that satisfies these criteria. First, in accordance with section 771(5)(A)(B) of the Act, petitioners have alleged that several programs are export subsidies and, therefore, inconsistent with the Subsidies Agreement. With respect to the second statutory criterion, whether imports of the subject merchandise have been massive over a relatively short period of time, petitioners note that there has been significant import growth in recent years.

Based on the above, we find a reasonable basis to believe or suspect that critical circumstances exist and will investigate this matter further.

#### *Distribution of Copies of the Petition*

In accordance with section 702(b)(4)(A)(i) of the Act, copies of the public version of the petition have been provided to representatives of GOC. We will attempt to provide copies of the public version of the petition to all the exporters named in the petition.

#### *ITC Notification*

Pursuant to section 702(d) of the Act, we have notified the ITC of these initiations.

#### *Preliminary Determination by the ITC*

The ITC will determine by April 21, 1996, whether there is a reasonable indication that an industry in the United States is being materially injured, or is threatened with material injury, by reason of imports from Canada of LHF. Any ITC determination

which is negative will result in the investigation being terminated; otherwise, the investigation will proceed according to statutory and regulatory time limits. If the ITC determines that an industry in the United States is being materially injured, or is threatened with material injury, the Department will issue its preliminary determination in this investigation on May 31, 1996.

This notice is published pursuant to 702(c)(2) of the Act.

Dated: March 27, 1996.

Paul L. Joffe,

*Deputy Assistant Secretary for Import Administration.*

[FR Doc. 96-8218 Filed 4-3-96; 8:45 am]

BILLING CODE 3510-DS-P

**APPENDIX B**  
**CONFERENCE WITNESSES**



## CALENDAR OF PUBLIC CONFERENCE

Those listed below appeared as witnesses at the United States International Trade Commission's conference:

**Subject** : **CERTAIN LAMINATED HARDWOOD FLOORING FROM CANADA**

**Inv. No.** : **701-TA-367 (Preliminary)**

**Date and Time** : **March 28, 1996 - 9:30 a.m.**

Sessions were held in the Main Hearing Room of the United States International Trade Commission, 500 E St., S.W., Washington, DC.

**In Support of the Imposition of  
Countervailing Duties:**

**Thompson & Mitchell**  
**Washington, DC**  
**On behalf of**

**Anderson-Tully Co., Memphis, TN**  
**Cloud Corp., Harrison, AK**  
**Havco Wood Products, Inc., Cape Girardeau, MO**  
**Industrial Hardwoods Products, Inc., Redwing, MN**  
**Lewisohn Sales Co., Inc., North Bergen, NJ**

**E. David Coombs, Executive Vice-President and Treasurer, Anderson-Tully Co.**  
**John Cloud, President, Cloud Corp.**  
**James N. Vangilder, President and CEO, Havco Wood Products, Inc.**  
**Marc P. Chorney, President, Industrial Hardwoods Products, Inc.**  
**Rosetta Standig, President, Lewisohn Sales Co., Inc.**

**Murray J. Belman** )--OF COUNSEL

**In Opposition to the Imposition of  
Countervailing Duties:**

**Akin, Gump, Strauss, Hauer & Feld  
Washington, DC  
On behalf of**

**Nilus Leclerc, Inc.**

**Jacques Berube, President & CEO, Nilus Leclerc, Inc.  
Steven Rektor, Vice President, Purchasing, Alloy Trailer, Inc.**

**Patrick F. J. Macrory       )--OF COUNSEL  
Spencer S. Griffith       )--OF COUNSEL**

**Pepper, Hamilton & Scheetz  
Washington, DC  
On behalf of**

**Gouvernement du Quebec**

**Seth T. Kaplan, Ph.D., Trade Resources**

**Elliot J. Feldman       )--OF COUNSEL**

**Jones, Day, Reavis & Pogue  
Washington, DC  
On behalf of**

**Fruehauf Trailer Corp.**

**Jerold F. McAlpin, Fruehauf Corp.**

**Jerome J. Zaucha       )--OF COUNSEL**



**APPENDIX C**  
**SELECTED PROPERTIES OF WOODS**



The Fruehauf standard specifies two categories of hardwood to be used in the flooring. Category 1 includes red and white oak, and category 2 includes sugar maple. The standard does not allow the mixture of species, but does allow “up to approximately 5% of beech, birch, locust, elm and other species, having comparable mechanical properties...(in random mixture) with oak in each board.” Domestic manufacturers of laminated hardwood flooring use red and white oak as the principal wood species for their product. Laminated hardwood flooring imported from Canada is manufactured from sugar maple, oak, and birch. Laminated hardwood flooring is also imported from Southeast Asia, principally Malaysia. The Southeast Asian product is manufactured from a variety of tropical hardwoods, including apitong, kapur, and keruing.<sup>1</sup>

Selected properties of various woods that have been used in the manufacture of laminated hardwood flooring are shown in the tabulation below:

<u>Species</u>	<u>Specific gravity</u>	<u>Modulus of elasticity (12 % M.C.)</u>	<u>Bending strength (lb. per sq. in.)</u>
Red oak ( <i>Quercus</i> spp.)	0.63	1.82	14,400
White oak ( <i>Quercus</i> spp.)	0.68	1.62	13,900
Sugar maple ( <i>Acer saccharum</i> )	0.63	1.83	15,800
Beech ( <i>Fagus grandifolia</i> )	0.64	1.72	14,900
Yellow birch ( <i>Betula alleghaniensis</i> )	0.62	2.07	16,700
Douglas fir ( <i>Pseudotsuga menziesii</i> )	0.48	1.95	12,400
Loblolly pine ( <i>Pinus taeda</i> )	0.51	1.79	12,800
Apitong ( <i>Dipterocarpus</i> spp.)	0.57-0.65	2.51	16,700
Kapur ( <i>Dryobalanops</i> spp.)	0.57-0.65	1.93	16,900
Keruing ( <i>Dipterocarpus</i> spp.)	0.57-0.65	2.51	16,700

Source: *Forestry Handbook*, edited by Karl F. Wenger for the Society of American Foresters, John Wiley & Sons, 1984, and earlier editions. USDA, Forest Service, *Tropical Timbers of the World*, Forest Products Laboratory, Madison, WS, September 1984.

Specific gravity is a measure of the weight of the wood. The modulus of elasticity measures the ability of wood to regain its shape after being subjected to a force. The bending strength or modulus of rupture measures the load required to break a wood product. Physical properties vary from tree to tree, but the averages shown for the selected species are sufficient to make relative comparisons. With the exception of the softwoods, Douglas fir and pine, the North American and Southeast Asian species vary little.

Lower grades of wood are used to produce the flooring.<sup>2</sup> The grades cited by the petitioner, 2A and 3 common, allow shorter lengths and widths of lumber and more defects in the wood. Use of these grades requires more cutting to produce pieces sufficiently free of defects.

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<sup>1</sup> TR, pp. 55 and 128.

<sup>2</sup> TR, p. 66.



**APPENDIX D**

**U.S. IMPORTERS' DELIVERED PURCHASE PRICES**



Table D-1

Product 1: Weighted-average delivered purchase prices reported by U.S. importers, and margins of under/(over)selling, by quarters, January 1993-December 1995

\* \* \* \* \*

Table D-2

Product 2: Weighted-average delivered purchase prices reported by U.S. importers, and margins of under/(over)selling, by quarters, January 1993-December 1995

\* \* \* \* \*

Table D-3

Product 3: Weighted-average delivered purchase prices reported by U.S. importers, and margins of under/(over)selling, by quarters, January 1993-December 1995

\* \* \* \* \*





**APPENDIX E**

**EFFECTS OF IMPORTS ON PRODUCERS'  
EXISTING DEVELOPMENT AND PRODUCTION  
EFFORTS, GROWTH, INVESTMENT, AND/OR  
ABILITY TO RAISE CAPITAL**



Response of U.S. producers to the following questions:

1. Since January 1, 1993, has your firm experienced any actual negative effects on its return on investment or its growth, investment, ability to raise capital, or existing development and production efforts (including efforts to develop a derivative or more advanced version of the product), or the scale of capital investments as a result of imports of certain laminated hardwood flooring from Canada?

\* \* \* \* \*

2. Does your firm anticipate any negative impact of imports of certain laminated hardwood flooring from Canada?

\* \* \* \* \*

