A REVIEW OF BRITISH COLUMBIA'S FOREST SECTOR COMPETITIVENESS AGENDA FOR POTENTIAL VIOLATION OF INTERNATIONAL TRADE LAW

By

Colin Trevor Campbell

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We accept this report as conforming to the required standard.

[Signatures]

Supervisor

Chair of Program

UNIVERSITY OF NORTHERN BRITISH COLUMBIA

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ABSTRACT

This report explores three of the objectives presented in the Government of British Columbia’s document entitled *Strong Past, Bright Future: A Competitiveness Agenda for BC’s Forest Sector* in the context of their implications on softwood lumber trade with the United States. The investigation highlights examples of strategies within *Strong Past, Bright Future* that could be interpreted as government subsidies of the BC forest industry through bio-industries incentives, Forest Innovation and Investment Ltd. programs, as well as proposed and announced tax policies. Based on these observations, the author provides recommendations on how these strategies could be modified to avoid violation of international trade agreements and the initiation of countervailing proceedings by the US.

Keywords: Strong Past, Bright Future; softwood lumber agreement; bio-industries; Forestry Innovation Investment; Commission on Tax Competitiveness
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<th>Abbreviation</th>
<th>Description</th>
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<tbody>
<tr>
<td>AAC</td>
<td>Allowable Annual Cut</td>
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<td>BC</td>
<td>British Columbia</td>
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<td>COTC</td>
<td>BC Commission on Tax Competitiveness</td>
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<td>DOC</td>
<td>United States Department of Commerce</td>
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<td>FII</td>
<td>Forestry Innovation Investment Ltd.</td>
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<td>FLNRO</td>
<td>Forests, Lands, and Natural Resource Operations</td>
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<tr>
<td>GATT94</td>
<td>1994 WTO General Agreement on Tariffs and Trade Subsidies and Countervailing Measures Agreement</td>
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<tr>
<td>ITC</td>
<td>United States International Trade Commission</td>
</tr>
<tr>
<td>MFLNRO</td>
<td>BC Ministry of Forests, Lands, and Natural Resource Operations</td>
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<tr>
<td>m³/ha</td>
<td>Cubic metres per hectare</td>
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<td>PPGTP</td>
<td>Pulp and Paper Green Transformation Program</td>
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<td>PST</td>
<td>Provincial Sales Tax</td>
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<tr>
<td>SLA06</td>
<td>Softwood Lumber Agreement between the Government of Canada and the Government of the United States of America</td>
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<td>SPBF</td>
<td><em>Strong Past, Bright Future – A Competitiveness Agenda for BC’s Forest Sector</em></td>
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<td>SPF</td>
<td>Spruce-pine-fir</td>
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<tr>
<td>SYP</td>
<td>Southern yellow pine</td>
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<tr>
<td>US</td>
<td>United States of America</td>
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<td>WTO</td>
<td>World Trade Organisation</td>
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INTRODUCTION

Since the signing of the most recent softwood lumber agreement between Canada and the United States in 2006, the US Lumber Coalition has provided semi-annual comments to the US Department of Commerce regarding the agreement (US Department of Commerce 2017). These commentaries outline their interpretation of Canadian government programs and how they equate to subsidisation of the softwood lumber industry (US Department of Commerce 2017). However, allegations of subsidised Canadian lumber are not a new phenomenon, with complaints from US lumber producers recorded as early as the mid 19th century (Reed 2001). In recent decades British Columbia has successfully defended its actions and policies through the World Trade Organisation, North American Free Trade Agreement review panel, as well as the London Court of International Arbitration (Government of Canada 2004, The United States of America v. Canada 2012).

Despite these successes with international tribunals, there continues to be allegations of government subsidisation of the BC softwood lumber industry on a number of complicated issues including: timber pricing strategies, private forest land taxation, and government initiatives to reduce the environmental footprint of the forest sector (US Department of Commerce 2016, as cited in Campbell 2016). In addition to these assertions, a recent preliminary finding by the US International Trade Commission determined that Canadian softwood lumber exports have resulted in material injury to US softwood lumber producers (2017b). This finding is similar to a 2002 decision that lead to the substantial anti-dumping and countervailing duties imposed on Canadian exports prior to the 2006 Softwood Lumber Agreement between Canada and the United States (Government of Canada 2004, Zhang 2007).
Despite these claims, the complicated history of softwood lumber trade between Canada and the US should be seen as an opportunity for improvement, rather than a threat to the industry. This adversarial and often litigious relationship has resulted in decades of highly publicised interactions (Zhang 2007). This history ought to be a source that directs Government to develop meaningful initiatives that truly increase efficiencies in the BC forest sector without protest from US lumber producers. However, despite this well-documented relationship, the Government of BC has introduced a series of new competitiveness agendas for the forest sector that on the surface appear to contain potential subsidies to the industry. These initiatives may slow negotiations for a new softwood lumber agreement with the US, increasing costs incurred by BC lumber manufacturers through anti-dumping and countervailing duties.

BC’S FOREST SECTOR COMPETITIVENESS AGENDA

In August 2016 the BC Government released a document entitled Strong Past, Bright Future: A Competitiveness Agenda for British Columbia’s Forest Sector (SPBF). Strongly linked with three other Government plans, SPBF contains 49 strategic actions intended to promote a diverse and globally competitive industry that supports healthy and resilient forests as well as providing stability for resource communities and First Nations (Government of BC 2016b, Ministry of Forests, Lands, and Natural Resource Operations 2016b). These initiatives were welcomed by the BC forest sector in light of the anticipated challenges to the provincial timber supply as a result of the mountain pine beetle (Dendroctonus ponderosae Hopkins) infestation, a changing climate, and the increasingly competitive global market (Government of BC 2016b, MFLNRO 2016b).
The Government of BC stresses that initiatives outlined in SPBF represent the ability of Government and industry to work together to achieve increases in efficiencies, as opposed to government subsidies (Armstrong, Jeffery and Peterson 2017). Despite this assertion, many of the strategies outlined in SPBF appear to echo previous Government initiatives disputed by US lumber manufacturers prior to and during SLA06 (US Lumber Coalition 2013, 2016, US Department of Commerce 2017). To prevent negotiation delays, limiting quotas, and punitive duties during the next softwood lumber agreement, SPBF strategies need to be more clearly defined and previous US allegations addressed and disproved.

DESCRIPTION OF SOFTWOOD LUMBER AND SUMMARY OF THE US POSITION

The term softwood lumber refers to rough or planed dimensional lumber produced from coniferous trees with “at least [two] approximately parallel flat longitudinal-sawed surfaces” (US International Trade Commission 2017b). These products typically include “boards, planks, timbers, framing materials, flooring, and siding” that are produced in Canada and the US (US International Trade Commission 2017b). BC produces four of the five major softwood lumber groups that the US considers to be interchangeable on the market (see Table 1).
Table 1. The five major softwood lumber groups produced in North America as summarized by the US International Trade Commission (2017b).

<table>
<thead>
<tr>
<th>Lumber Group</th>
<th>Species</th>
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<tr>
<td>Spruce-pine-fir (SPF)</td>
<td><em>Picea glauca</em> ((Moench) Voss)</td>
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<tr>
<td></td>
<td><em>P. engelmannii</em> (Parry ex. Engelm.) and hybrids</td>
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<tr>
<td></td>
<td><em>Pinus contorta</em> (Douglas)</td>
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<tr>
<td></td>
<td><em>Abies lasiocarpa</em> ((Hooker) Nuttall)</td>
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<tr>
<td>Douglas-fir</td>
<td><em>Pseudotsuga menzeisii</em> ((Mirb.) Franco)</td>
</tr>
<tr>
<td>Hem-fir</td>
<td><em>Tsuga heterophylla</em> ((Raf.) Sarg.)</td>
</tr>
<tr>
<td></td>
<td><em>Abies amabilis</em> (Douglas ex. J. Forbes)</td>
</tr>
<tr>
<td>Ponderosa pine</td>
<td><em>Pinus ponderosa</em> (Douglas ex. C. Lawson)</td>
</tr>
<tr>
<td>Southern Yellow Pine (SYP)</td>
<td><em>P. palustris</em> (Mill.)</td>
</tr>
<tr>
<td></td>
<td><em>P. echinata</em> (Mill.)</td>
</tr>
<tr>
<td></td>
<td><em>P. elliottii</em> (Engelm.)</td>
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<tr>
<td></td>
<td><em>P. taeda</em> (L.)</td>
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<sup>a</sup> Western sub-group.
<sup>b</sup> Not produced in Canada but US production is considered to be at risk from Canadian lumber exports.

Although the agreement is not legally binding on participatory nations, the 1994 WTO General Agreement on Tariffs and Trade Subsidies and Countervailing Measures Agreement establishes a working definition of prohibited government subsidies in international trade (World Trade Organisation 1994, US Department of Commerce 1999). The agreement also includes a description of measures available to counteract subsidisation proven through WTO dispute settlement procedures, such as countervailing and anti-dumping tariffs (US Department of Commerce 1999). Using the definitions under Article I of GATT94, US lumber producers have argued that BC lumber exports are being subsidised by the provincial Government (US International Trade Commission 2017a). If proven, the subsidies provided through government programs and funding enables the dumping of Canadian goods into the US market and causes material injury to American producers (US International Trade Commission 2017a).

As with the 2002 determinations, Canadian officials dispute these accusations, arguing that there is no evidence of subsidisation and that the complaints stem from fundamental differences in land ownership between the two countries (Canadian Institute of Forestry – Insitut forestier du Canada 2003, US International Trade Commission 2017a). These differences have led to the need for long-term tenure agreements and complicated, but representative, timber market pricing strategies in BC (Campbell 2016, Armstrong, Jeffery and Peterson 2017). With respect to the recent ITC preliminary report, it is likely that any Government intervention in the industry through SPBF strategies will result in further allegations of subsidisation.

POSSIBLE SOURCES OF SUBSIDIES IN STRONG PAST, BRIGHT FUTURE

Despite a lack of details, the objectives presented in SPBF set the framework that encourages the development of effective strategies that will diversify and increase the competitiveness of BC’s forest sector (MFLNRO 2016b). However, three of the objectives intended to support this goal—Maximising Value and Sector Diversity, Championing Innovation Across the Sector, and Creating an Increasingly Efficient Business
Environment—contain strategic action plans that without the protection of SLA06 could potentially include programs that are prohibited government subsidies under GATT94.

Maximising Value and Sector Diversity

Through the objective to maximise value and sector diversity the government of BC intends to promote greater use of low-volume, low-value stands and become a leader in producing sustainable, low-carbon products (MFLNRO 2016b). In the past, the use of biomass for energy production has been underutilised in the Province, suggesting that there is significant potential for the use of residual beetle-kill fibre in bio-industries (Stennes and Mcbeath 2006). Recognising this source of unused fibre, the Government of BC has included a strategy to maximise the diversity and value of the forest sector by encouraging “the development of bio-industries that convert wood fibre into a wide range of products including electricity, fuels and lubricants.” (MFLNRO 2016b). Since the outbreak of the mountain pine beetle epidemic, the Government of BC has encouraged the recovery of dead lodgepole pine stands through uplifts to the allowable annual cut, partitions in the AAC of several Timber Supply Areas, and policies that focus harvest on damaged stands of timber (Government of BC 2006). Despite these strategies, it is estimated that as much as 200 million m³ will remain un-salvaged in the Province (Stennes and Mcbeath 2006).

The move to diversify the sector to capture this fibre is underway, with sawmills in Fraser Lake, Chetwynd, and Mackenzie currently converting sawmill and planer residuals into electricity and selling it to BC Hydro through 20-year supply commitments (Geiver 2012, Conifex Timber Inc. 2015, West Fraser Timber Company Ltd. 2016). Two more facilities operated by Western BioEnergy with similar contracts planned for Fort St. James and Merritt (BC Hydro 2011, 2017, Geiver 2012) are nearing completion. A number of other
organizations also utilise cogeneration to provide power for their own operations, reducing their dependence on external power sources (Macklin 2014a). In addition to energy production facilities, a venture to convert wood residue from a Prince George pulp mill into bio-crude oil has successfully completed feasibility tests in partnership with an Australian company (Canfor Pulp Products Inc. and Licella Fibre Fuels Pty. Ltd. 2016) and is projecting production of up to 400,000 barrels of oil per year once fully operational (Dalheim 2017).

The Government of BC should be aware of the subsidy implications from allocating funding that encourages bio-industry development to companies that also produce dimensional lumber for export to the US. An initiative implemented by the Government of Canada in 2009, the Pulp and Paper Green Transformation Program, was seen as violating SLA06 despite targeting a different but related industry (US Coalition for Fair Lumber Imports 2009, as cited in Campbell 2016). Although this initiative targeted capital investments by the pulp and paper industry to reduce its environmental footprint (Canadian Forest Service 2012), the US Lumber Coalition (then known as the US Coalition for Fair Lumber Imports) alleged that it unfairly assisted BC softwood lumber producers that also had pulp and paper facilities (US Lumber Coalition 2011). Although it was not brought forward to NAFTA or WTO trade dispute panels, US lumber producers contend that this funding allowed Canadian companies to reallocate capital investment initially planned for their pulp and paper divisions to their lumber mills (US Coalition for Fair Lumber Imports 2009, US Lumber Coalition 2011).

Despite these allegations, the PPGTP contained strategies that were specifically enabled under Article XVII.2(c) of SLA06, which permits government grants for the purpose of forest or environmental management, protection, or conservation without undermining the
market pricing of timber (SLA06 2006). However, with the expiration of SLA06, similar strategies will violate Article VIII.2(a) of the GATT94, which permits countervailing proceedings to be initiated if a WTO member provides government assistance for industrial development that is limited to a specific industry and may cause adverse trade effects (US Department of Commerce 1999).

Championing Innovation Across the Sector

Working in synergy with the objective to maximise sector value and diversity, SPBF sets the framework for the championing of innovation throughout BC’s forest sector through research that improves processes, products, and technology (MFLNRO 2016b). A key component of BC’s plan to increase sector competitiveness is through the Crown Corporation, Forestry Innovation Investment Ltd. (MFLNRO 2016b). Originally established in 2003 and tasked with marketing BC forest products (Forestry Innovation Investment Ltd. 2016a), the role of FII has since become more diversified. The programs now under FII’s mandate include, among others: increasing the capacity and competitiveness of value-added producers, promoting wood first initiatives, and advancing the use of wood technologies and building systems through research (Forestry Innovation Investment Ltd. 2016a, MFLNRO 2016b, as cited in Campbell 2016).

However, as recently as December 2016 the US Lumber Coalition has identified that grants issued by FII to BC softwood lumber producers represent government subsidisation of the industry (US Department of Commerce 2016). While the submissions themselves are vague, it appears that US lumber producers allege that by providing “financial support for product development and international marketing” the Government of BC is unfairly supporting softwood lumber manufacturers (US Department of Commerce 2016). Campbell
(2016) interpreted US allegations to include FII programs that funded research on improving recovery of mountain pine beetle wood and the development of engineered wood products. Universities and industry-government partnership organisations, such as FPInnovations, typically conduct these activities. Similar to FII, FPInnovations is an organisation that specialises in the creation of scientific solutions that increase the competitiveness of the Canadian forest sector (FPInnovations 2017). Despite their comparable mandates, in 2016 FPInnovations received approximately 39.2% of its funding through government agreements (FPInnovations), compared to FII which received approximately 96.5% of its funding from the federal and provincial governments (Forestry Innovation Investment Ltd. 2016b).

Under SLA06 Article XVII.2(b), the FII programs would have been considered government programs that “provide benefits on a non-discretionary basis in the form and the total aggregate amount in which they existed and were administered on July 1, 2006” and enabled by the agreement (SLA06 2006). However, as with bio-industry development, with the expiration of SLA06 FII funding of this research is defined as a prohibited subsidy under GATT94 (US Department of Commerce 1999). Article VIII.2(a) of GATT94 limits the level of allowable government aid to 50%, 62.5%, or 75% of total costs, determined by the nature of the research (US Department of Commerce 1999). Based on the share of government funding to the program, and without clear financial reports indicating industry contributions to research, FII research appears to exceed these limits. The allegations that the research has a potentially adverse effect on trade could allow the US to initiate legitimate countervailing measures through WTO proceedings.
Creating an Increasingly Efficient Business Environment

In addition to a stable supply of fibre, an efficient business environment requires competitive taxation, energy, and transportation costs (MFLNRO 2016b). In order to achieve this objective, the government of BC initiated plans to revisit sales tax and other business taxes in the Province in addition the strategic actions included in SPBF (Government of BC 2016a, MFLNRO 2016b). The Commission on Tax Competitiveness led this review, with the intention of identifying opportunities to encourage economic growth in BC and to bring the rate of return on investment for industry in line with the other Canadian provinces (Government of BC n.d., 2016a, MFLNRO 2016b).

In its final report, the COTC made four broad recommendations to improve the competitiveness of business in BC through changes in provincial taxation; two of which appear to benefit softwood lumber manufacturers either directly or indirectly (Government of BC 2016a). The first of these recommendations is to eliminate PST on capital purchases of forest industry machinery and equipment (Government of BC 2016a). This is a government subsidy as defined by GATT94 Article I.1.1(a)(1)(ii), which explicitly includes forgone tax revenue as an example of subsidisation (World Trade Organisation 1994). The second recommendation, to be phased-in starting late 2017, is a provincial tax exemption on purchases of business inputs such as electricity, power, and software (Government of BC 2016a, 2017). While not directed at the forest sector, the third recommendation for exemptions to software purchases will likely encourage capital technological investment in sawmills and planers (Government of BC 2016a).

Although these strategies are only proposals at this point, it should be recognized that existing taxation policies on privately managed forest lands continue to draw negative
attention from US lumber producers (US Department of Commerce 2017). The US Lumber Coalition alleges that a reduced tax rate that is used to offset the costs of protecting water quality, fish and fish habitat, wildlife, and soils is a government subsidisation of the BC forest industry and undermines the fair market pricing of timber (Private Forest Landowners Association 2013, US Department of Commerce 2017, as cited in Campbell 2016).

SLA06 specifically enabled government programs designed to protect and conserve the environment (2006). However, as with encouraging bio-industries and the role of FII, the expiry of SLA06 means that any changes to tax policy will now be subject to GATT94. This will require additional policy measures to be put in place to ensure that they do not become government subsidisation of the BC forest sector.

**DISCUSSION AND RECOMMENDATIONS**

Under SLA06, government programs and grants that were not targeted specifically at the forest industry were permitted (2006). However, there are no guarantees that this same provision will be acceptable to the US in the current political climate. To date, neither the Government of BC nor the forest industry has addressed allegations by the US Lumber Coalition regarding subsidisation publicly. However, US lumber producers’ claims of injury have gained traction with the recent ITC investigation into softwood lumber exports from Canada (US International Trade Commission 2017a). If there are to be meaningful negotiations for a new softwood lumber agreement, the Government of BC needs to acknowledge the allegations made by the US and either provide data that firmly refutes the US position and confirms compliance with GATT94, or restructure current forest policy in order to eliminate these concerns.
Bio-Industries

Clear evidence disproving US accusations will be particularly important with regards to funding for large capital projects, such as bio-energy facilities in the Interior of BC. These projects represent significant earning potential through government contracts and are likely to be heavily scrutinised as potential sources of subsidisation to BC softwood lumber producers.

To date proponents have supplied the capital necessary for the majority of these projects, although additional fibre supply security has been provided through new forest tenures from MFLNRO (BC Hydro 2011, T. Calhoun, personal communication, August 3, 2014). These new tenures will be in effect for the duration of the energy purchase agreements with BC Hydro (Niquidet, Stennes and van Kooten 2012, T. Calhoun, personal communication, August 3, 2014). However, in 2012 a federal Government grant of $2.1M, along with unspecified assistance from BC Hydro, was provided to Nechako Lumber Ltd. for the construction of a bio-energy plant in Vanderhoof that is being used to reduce operating costs of the sawmill (Macklin 2014b, Natural Resources Canada 2015, 2017). This type of direct capital investment is a clear violation of both GATT94 and SLA06 that must be avoided by the Government of BC in the future to ensure that they are able to counter subsidisation accusations in good faith (US Department of Commerce 1999, SLA06 2006).

As an alternative to direct funding, encouraging investment in bio-industries is an effective tool to utilise low-volume stands; however, it is unclear whether Government or industry completed sufficient cost-benefit analysis to ensure the overall viability of this plan. Despite optimistic forecasts for available biomass in the Province, access costs for residual fibre will quickly become prohibitive, with expenditures expected to double over the next 25 years (Stennes & Mcbeath 2006, Niquidet, Stennes and van Kooten 2012, R. van Buskirk,
personal communication, July 16, 2016). Research conducted by Niquidet, Stennes, and van Kooten (2012) in the Quesnel Forest District also identified substantial cost increases as piece size and volume per hectare of stands decrease. Based on survey data, the cost of roadside residual chipping for stands less than 150 m$^3$/ha are approximately 25% higher than stands with 150-250 m$^3$/ha and 50% higher than stands greater than 250 m$^3$/ha (Niquidet, Stennes and van Kooten 2012). This is particularly problematic as the timber tenures allocated to bio-energy proponents are limited to entering stands less than 150 m$^3$/ha that have significant mountain pine beetle mortality (J. van der Giessen, personal communication, August 19, 2016). The intention of this volume parameter is presumably to prevent the new forest licenses from becoming a source of discounted sawlogs for the tenure holder and to ensure that bio-energy producers are not depleting the sawlog fibre supply (J. Pousette, personal communication, April 10, 2017). However, given these strict parameters, the fibre supply available for the bio-industry is expected to be relatively short-lived (Stennes and Mcbeath 2006).

Significant AAC reductions are anticipated in the BC Interior (J. Pousette, personal communication, September 30, 2016). These decreases will reduce the region's lumber production capacity and limit bio-industry access to sawmilling and other residuals; the intended sources of feedstock for many of the bio-energy projects in BC (Girvan and Hall 2009, Armstrong, Jeffery and Peterson 2017). Access limitations will be further impaired if predictions that four to five Interior sawmills will shut down due to the expected AAC reductions (Armstrong, Jeffery and Peterson 2017). Although it can be assumed that the shelf life for bioenergy fibre is longer than for lumber or pulp production in standing timber (Barette, et al. 2015), there have not been any scientific studies that accurately predict this
time frame or at which point non-residual biomass will cease provide economic burn rates for bio-industry proponents.

Given these factors, it is likely that the additional feedstock supply needed for the bioenergy forest licences will become a financial burden to proponents as access to residual and non-residual feedstock supplies is reduced. These long-run cost increases could result in bio-energy producers seeking government relief or assistance to ensure that they are able to uphold their commitments to BC Hydro. Modifying the fibre licenses to include higher volume stands would provide immediate benefits to tenure holders. However, it is possible that some of this volume would be manufactured into dimensional lumber rather than bio-energy feedstock. A more comprehensive alternative is to increase the long-term availability and accessibility of feedstock for bio-industries is by changing current forest practices of all forest tenure holders.

One solution to increase the feedstock accessibility is through changes in appraisal allowances for activities that improve secondary access to fibre. This could be accomplished in the form of an allowance in the Interior Appraisal Manual for roads specifically designed to include lower grades, larger radius vertical and horizontal curves, and additional ballasting. These modifications to road standards would better accommodate the functional limitations to current chip truck configurations. Although it is somewhat contentious, appraisal allowances for road construction on crown lands is an accepted variable in the BC Market Pricing System (US Lumber Coalition 2013, MFLNRO 2016a), reducing the risk that it would be considered a subsidy by US lumber producers.
Another opportunity that would increase the availability of feedstock is the inclusion of on-block chipping as a specified operation or detailed engineered cost procedure in the Interior Appraisal Manual or its companion document, the Interior Detailed Engineered Cost Estimate Procedures. This would allow forest tenure holders without bio-energy facilities to transfer the costs of feedstock preparation to the Province. The MFLNRO would then resell the fibre to the bio-energy producer at an upset price that includes the additional road costs and cost to transport the solid biomass to roadside and convert it to chips. The implementation of either or both of these incentives may encourage industry cooperation in making residual waste available and reduce the likelihood of government bailouts to maintain the viability of bio-industries.

**Forestry Innovation Investment**

Since the signing of SLA06, US lumber producers have asserted that the research and innovation role of FII subsidises BC softwood lumber exports (US Department of Commerce 2017), presumably because 96.5% of the program’s funding is through government agreements (Forestry Innovation Investment Ltd. 2016b). Despite this high level of government support, FII was protected through SLA06, as it was established prior to the signing of the agreement (SLA06 2006). However, because the government funding exceeds even the highest acceptable funding limits of 75% of total costs under GATT94 Article VIII.2(b) (World Trade Organisation 1994), it is imperative that FII’s role be protected through any new softwood lumber agreement. Otherwise programs and research funded by the agency could result in new countervailing proceedings once a new agreement is signed.

Attention should also be given to the recent ITC preliminary findings that Canadian lumber exports are causing injury to US lumber producers (US International Trade
Commission 2017b). While Canadian witnesses testified to a lack of substitutability between SPF and SYP, the US panel disagreed and found evidence of material injury to SYP lumber producers in the US south (US International Trade Commission 2017b). In light of this, marketing strategies used by FII may be seen as unjustifiably promoting BC SPF as a superior product to SYP lumber from the US, displacing domestic sales and causing further injury to US lumber producers.

These claims can be avoided by using FII marketing strategies that promote the reputation of the BC brand to target new and emerging markets, such as Southeast Asia and India, rather than to US customers. A recent announcement by Ikea on its intention to expand into India will require a substantial supply of timber from third-party certified, sustainable sources (Ikea Group 2016, Magnnsson and Molin 2016). Although BC softwood lumber producers have been in private discussions with Ikea (A. Tsai, personal communication, November 24, 2016), a concerted effort by FII would increase the profile of BC lumber as the highest quality and most reliable source to supply this expansion, benefiting manufacturers throughout the Province.

The fundamental research role that FII plays in the development of new and innovative uses for BC wood should continue. However, the funding limitations need to remain consistent with the allowable limits as agreed upon in GATT94: 75% for industrial research, 50% for pre-competitive development activities, or 62.5% for programs that include both categories (Wcrld Trade Organisation 1994, US Department of Commerce 1999). Adhering to the international trade commitments under GATT94 Article VIII.2(a) will ensure that FII research will not contribute to the introduction of countervailing duties from the US.
**Provincial Tax Policies**

Changes to tax policy have been shown to be an effective tool to promote capital investment by industry (Summers 1980, Auerbrech 1986). However, because of the nature of the BC forest sector, which primarily produces lumber for export, any changes to industry taxes are by definition a direct subsidy as per GATT94, Article 1.1(a)(1)(ii) (World Trade Organisation 1994). COTC’s recommendation that equipment and machinery purchases be exempt from PST will violate GATT94, putting BC at risk of additional countervailing duties imposed by the US.

Although government proposals cannot form a part of a subsidy complaint, on March 3, 2017 the Government of BC made its first announcement related to the recommendations of COTC. In a joint press release by the Ministers of Rural Economic Development and FLNRO, the Government announced its commitment to phasing out PST on electricity purchases for resource industries (Government of BC 2017). Starting in October 2017 the rate will be reduced to 3.5% and eliminated completely by April 2019 (Government of BC 2017). This change will be of particular benefit to energy-intensive sectors, such as pulp, paper, and lumber production (Government of BC 2016a). Currently, BC is the only jurisdiction in North America that charges a retail sales tax on energy purchases (Ministry of Energy and Mines 2017). However, any changes to tax policies regarding energy purchases will have substantial benefits to BC softwood lumber producers, one of the major energy consumers in the Province. Considering the potential benefits, it is likely that the program will prompt US lumber producers to lodge a complaint that it is a form of subsidisation under GATT94 Article 1.1.1(a)(1)(ii).
Similarly, the COTC recommendation to simplify, broaden, or completely eliminate PST on purchases of capital machinery and equipment for export industries, including forestry, is a violation of GATT94 Article I.1.1(a)(1)(ii) (World Trade Organisation 1994). Careful consideration of how this proposed PST exemption will be introduced is necessary as any changes to the existing tax policy for these industries could result in countervailing duties on BC softwood lumber exports.

Of the proposed changes to tax policy that will increase competitiveness in BC, the recommendation to exempt software systems purchases from PST is the least likely to draw negative attention from US lumber producers and does not appear to violate GATT94 (Government of BC 2016a). Although an exemption to software purchases will benefit softwood lumber producers in BC, who are likely to use the incentive to invest in capital upgrades to sawmill technology and software, the changes to PST policy will assist every sector in the Province and cannot be attributed as a direct subsidy for the export market.

CONCLUSIONS

*Strong Past, Bright Future* provides a number of valuable strategies that will enhance the competitiveness of the BC forest sector on a global scale. However, despite assertions to the contrary (Armstrong, Jeffery and Peterson 2017), many of the strategies outlined in *SPBF* bear resemblance to historical US concerns that hold merit as violations to international trade agreements. The concerns noted in this report highlight areas of disconnect between the Government of BC and forest industry proponents and Canada’s international trade commitments through WTO agreements.
In light of the complicated and often litigious history between Canadian and US softwood lumber producers, the SPBF objectives to Maximise Value and Sector Diversity, Champion Innovation Across the Sector, and Create an Increasingly Efficient Business Environment need to be revisited and redefined. This will limit injurious countervailing duties being applied to BC lumber exports and demonstrate that, in the absence of a softwood lumber agreement, the province of BC is committed to other international trade agreements.

Thoughtful consideration will ensure that SPBF strategies are tools that will effectively increase forest sector efficiencies as intended, without risking subsidisation or countervailing duties that will exacerbate the impending fibre supply challenges in the Province. It will also provide workable strategies that will not delay negotiations for a new softwood lumber agreement between Canada and the United States.
REFERENCES


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