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Op-Ed Contributor

Lost in the Woods

By LAWRENCE HERMAN and GARY HUFBAUER

AS Secretary of State Condoleezza Rice continues her talks in Ottawa today, she may find that the most acrimonious disagreement between Canada and the United States is not a question of hard power - issues like Afghanistan, Iraq and nuclear nonproliferation - but of softwood. A quarter-century-old dispute over Canadian lumber exports, which Washington claims are unfairly subsidized, has escalated to the point where it now threatens broader relations between the two countries.

If it remains unresolved, the softwood war might also spill over into the December ministerial meeting of the World Trade Organization, where Washington and Ottawa have long worked together to expand free trade. What kind of example does it set for the rest of the world if the United States and Canada - close neighbors, each other's largest trading partner and crucial allies - cannot resolve their own trade disputes?

American and Canadian lawyers, lobbyists and negotiators have been fighting on and off over Canadian lumber exports to the United States since the 1980's. In 1982, a coalition of 250 American lumber mills claimed that Canadian provinces were subsidizing lumber exports by charging set "stumpage fees" - the price forest companies paid when harvesting standing timber - while American mills were paying open market prices. While the fight over things like stumpage fees is complex enough, it got a sharp twist in 2000 when Congress passed an amendment giving American companies injured by foreign trade the punitive duties imposed by the United States, which in the case of Canadian lumber exports now amount to about \$5 billion.

Never mind that the right of the United States to impose such duties is in dispute, or that the W.T.O. declared the Byrd amendment (named after its creator, Senator Robert C. Byrd) illegal. American and Canadian officials now face two lumber disputes: the old one about timber management practices; and the new one about who owns the money held by the Treasury. Making things uglier are conflicting decisions by a panel convened under the North American Free Trade Agreement and by the W.T.O., with the United States claiming that favorable rulings by the latter trump adverse rulings by the former.

Canadians, including the normally friendly Canadian business community, are particularly outraged that Washington has rejected the Nafta panel decision. In Canadian eyes, this refusal by the United States betrays the central deal that underpinned Nafta in the first place: Canada allowed unfettered access to its energy resources and an end to restrictions on American investment in return for a binding method of settling disputes. As Prime Minister Paul Martin made clear recently, the dispute is coloring everything from the oil and gas trade (Canada is the largest foreign supplier of energy to the United States) to cooperation in the World Trade Organization, the International Monetary Fund and World Bank.

If Canada and the United States cannot bring their common heritage and collective ingenuity to resolve the lumber dispute, little hope remains for commercial differences in other areas, or in other parts of the world. With this in mind, we have two suggestions, one to dispose of the \$5 billion pot held by the American Treasury, the other to bridge the ancient battle over lumber exports.

First, the \$5 billion. We recommend that a bilateral trust should administer the funds for the benefit of the North

American industry as a whole. Representatives of Canadian and American lumber companies, and the two governments, would manage the trust. Possible projects: scientific research, pest control, forest fire control and restructuring assistance, especially for smaller mills.

Second, we believe that President Bush and Prime Minister Martin should each appoint a special envoy with the authority to negotiate a final and durable compromise by a date certain, say June 2006. The idea is to elevate the issue to the highest level, removing it from the present negotiating framework where vested interests exercise far too much influence. We have in mind envoys of the stature of James Baker from the United States and Derek Burney from Canada, who brokered the original Canada-United States free trade deal in the 1980's.

These envoys would be charged with specific instructions: agree on limits on the Canadian share of the American lumber market that would gradually expand over time; settle the terms for market-based adjustments to the Canadian stumpage system while making provisions for the environment; and hammer out the details for managing the \$5 billion pot. As part of the package, all legal actions would be halted.

The two heads of government should commit in advance to backing whatever agreement their envoys reach within these overall terms. The grand bargain that was Nafta would be returned to pride of place in our relations. Not only would this restore confidence in the strength of the North American partnership, it would strengthen both countries' efforts to promote free trade worldwide.

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