

NORTH AMERICAN FREE TRADE UNDER ATTACK: NEWSPRINT IS JUST THE TIP OF THE ICEBERG*

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SUMMARY

Canada is now getting a good look at just how aggressively protectionist the Trump administration in the U.S. is ready to act. It has hit Canadian newsprint exports with punishing tariffs based on unjustified claims that the Canadian industry is both subsidized and dumping product below fair-market value into the U.S. marketplace. This latest trade skirmish, following President Donald Trump's demands to renegotiate NAFTA, American-instigated trade challenges to Canadian exports of softwood lumber (yet again) and Bombardier aircraft, and Washington's initial threats to levy duty on Canadian aluminum and steel (now on hold), should set off alarm bells beyond the newsprint industry. Canada's policy-makers and exporters should be on notice that the administration is clearly eager to penalize the exports of an ostensibly free-trade partner based on overwrought claims.

While newsprint sales have been declining everywhere, Canadian producers have nevertheless been able to gain a larger share of the shrinking market, having grown from controlling 60 per cent of combined U.S. and Canadian production in 1990 to 69 per cent in 2016, while developing new products and innovating to maintain a sustainable industry. Complaints about subsidies and dumping from U.S. competitors are plainly intended to halt and possibly reverse that trend. But in addition to hurting Canadian paper producers, including 21 mills in Canada and impacting thousands of workers, also punished in the process will be already struggling American newspaper publishers who will have to pay more for newsprint.

While the U.S. has longstanding arguments about the market distortion caused by government's role in Canada's softwood lumber industry, the justifications it now considers as valid for claims of Canadian subsidization of newsprint are much broader and more creative. They include government programs to help the industry manage pine beetle infestations, provincial school tax-credit programs,

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local municipal revitalization programs and even the construction and repair of public access roads and bridges. It is hard to see how many of the dozens of programs identified by the Americans as subsidies fit the traditional definition. If these are now considered subsidies, then suffice it to say that there is scarcely a Canadian export that could not be accused of enjoying subsidies and become subject to trade disputes and tariffs.

The signals are as unmissable as they are distressing. The U.S. government has begun using new laws that have never been tried and dusting off old laws that have not been used in decades to erect protectionist barriers. There was a 62-per-cent jump in the number of anti-dumping and countervailing-duty investigations initiated in the first year of the Trump administration compared to the previous year. The U.S. is leading the world in enacting discriminatory trade measures and its pace is speeding up. Canada's government must mobilize to fight off these attacks against the country's exports through the use of NAFTA's Chapter 19 dispute-resolution panel mechanism, while ensuring it retains that mechanism in whatever form of NAFTA emerges from renegotiations. What is happening to the newsprint industry today could be happening to many more Canadian exporters soon.

LE LIBRE-ÉCHANGE NORD-AMÉRICAIN SOUS ATTAQUE : LE PAPIER JOURNAL N'EST QUE LA POINTE DE L'ICEBERG*

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RÉSUMÉ

Le Canada a maintenant un bon aperçu du niveau d'agressivité protectionniste que l'administration Trump est prête à déployer sur le marché. Les exportations canadiennes de papier journal ont été frappées de sanctions douanières sous prétexte non fondé que l'industrie canadienne serait subventionnée et s'adonnerait au dumping sur le marché américain avec des produits offerts sous leur juste valeur marchande. Cette dernière escarmouche commerciale – suite aux demandes du président Donald Trump de renégocier l'ALENA –, les protestations commerciales initiées du côté américain au sujet de l'exportation de bois d'œuvre (encore une fois) et des avions Bombardier, de même que les menaces de Washington d'imposer des tarifs sur l'aluminium et l'acier canadien (présentement suspendues), devraient déclencher toutes les sonnettes d'alarme au-delà de l'industrie du papier journal. Les décideurs canadiens et les exportateurs devraient être conscients que cette administration a clairement l'intention de pénaliser les exportations de son soi-disant partenaire de libre-échange, sur la foi d'arguments tarabiscotés.

Alors que les ventes de papier journal sont en recul partout, les producteurs canadiens sont parvenus à gagner une plus grande part de ce marché en déclin, passant d'un contrôle de 60 pour cent de la production combinée américaine et canadienne en 1990 à 69 pour cent en 2016, tout en développant de nouveaux produits et en innovant pour maintenir une industrie durable. Les plaintes au sujet de subventions et du dumping par les concurrents américains sont volontairement destinées à faire cesser et sans doute renverser cette tendance. Mais en plus de faire du tort aux producteurs de papier canadiens, incluant 21 papeteries au Canada ayant des retombées sur des milliers de travailleurs, les éditeurs de presse américains, qui étaient déjà en difficulté, seront aussi lésés au passage puisqu'ils devront payer plus cher le papier journal.

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Alors que les États-Unis s'en tiennent toujours aux mêmes vieux arguments quant aux distorsions de marché engendrées par le rôle du Canada dans l'industrie du bois d'œuvre, les motifs aujourd'hui considérés valables pour se plaindre de subventions sur le papier journal sont beaucoup plus généraux et créatifs. Ils comprennent les programmes gouvernementaux pour l'aide à l'industrie dans la lutte contre les infestations par le dendroctone du pin, les régimes d'épargne-étude provinciaux, les programmes de revitalisation des collectivités rurales et même la construction et l'entretien des voies publiques et des ponts. Il est difficile d'interpréter plusieurs des douzaines de programmes cités par les Américains comme étant des subventions au sens habituel du terme. Si l'on se mettait à considérer ce genre de programmes comme des subventions, il n'y aurait pratiquement aucun produit d'exportation canadien à l'abri d'accusations, avec les disputes commerciales et les tarifs douaniers qui pourraient en découler.

Les signaux sont inévitables et inquiétants. Pour ériger sa barrière commerciale, le gouvernement américain s'est mis à faire appel à de nouvelles lois qui n'ont jamais été éprouvées et à dépoussiérer de vieilles lois qui n'avaient pas été utilisées depuis des décennies. Il y a eu un bond de 62 pour cent du nombre d'enquêtes sur les droits antidumping et compensateurs au cours de la première année de l'administration Trump par rapport à l'année précédente. Les États-Unis sont le leader mondial de la prise de mesures commerciales discriminatoires, et ce à un rythme qui va s'accroissant. Le gouvernement canadien doit se mobiliser pour résister à ces attaques contre ses exportations en faisant appel au mécanisme de règlement des différends prévu au chapitre 19 de l'ALENA, tout en s'assurant bien qu'un tel mécanisme soit préservé peu importe la forme dans laquelle l'ALENA émergera suite aux renégociations. Ce qui se produit dans l'industrie du papier aujourd'hui pourrait bientôt s'étendre à bien d'autres secteurs d'exportation canadiens.

INTRODUCTION

Although Canada has long endured American trade actions on softwood lumber, the U.S. has recently broadened its target of trade actions in the forestry sector to include newsprint. This is a recent development and is part of a broader U.S. protectionist trade policy agenda. In this case it targets a declining and fragile newsprint industry.

On Aug. 9, 2017, the North Pacific Paper Co. (NORPAC) filed a petition to the United States International Trade Commission (USITC) alleging that imports of uncoated groundwood paper (UGW, or newsprint) from Canada were being dumped by Canadian producers and were being subsidized by the Canadian and provincial governments.¹ On Sept. 25, 2017, the USITC determined that material injury was reasonably indicated in the case and on Jan. 9, 2018, the Department of Commerce (Commerce) announced tariffs based on the preliminary results of its countervailing-duty (CVD) investigation. The preliminary CVD tariff rates are as high as 9.93 per cent and the preliminary anti-dumping duties announced March 14, 2018 increase this rate further. Commerce investigated alleged dumping based on estimated dumping margins of 23.45 per cent to 54.97 per cent for UGW paper from Canada.² Although Canadians are used to trade actions and long, drawn-out trade disputes in the softwood lumber industry, this is an unprecedented case in the newsprint industry and should be of major concern to the government, trade policy experts, the industry itself and communities where newsprint is produced. Moreover, these new trade protection measures launched in the U.S. against Canadian producers should be of major concern to all Canadians as they are symptomatic of a new era of aggressive unilateralism and trade protectionism in the United States, which is by far Canada's largest trade partner. Although the recent use by the American president of national-security arguments to impose tariffs on steel and aluminum has captured headlines, the tariffs on newsprint are damaging to the Canadian newsprint industry and represent aggressive use of trade protection by the U.S. administration against a fragile industry. The Canadian government must respond strategically and work to maintain the rules-based trading system.

These protectionist trade actions could do significant damage to the newsprint-producing industry and the affected communities that are home to this industry. There are over 4,500 workers in the industry in Canada. The Forest Products Association of Canada (FPAC) has calculated that roughly 21 newsprint mills across Canada will be directly impacted by the anti-dumping and countervailing duties. Canada is the largest exporter of newsprint in the world and Canadian exports of newsprint are predominantly destined for U.S. markets with 72 per cent of Canadian exports going to the U.S. in 2016. In that year, Canada exported over \$2 billion of UGW to the United States.

The industry is already reeling from declining demand due to the dramatic shrinking of the newspaper industry. In fact, exports to the United States of these products have decreased 51 per cent since 2008. (Trade Data Online, Nov. 8, 2017) A prolonged trade dispute and tariffs on these products will further negatively affect firms and employment in the affected industry. For example, Montreal-based Resolute Forest Products, the world's largest newsprint maker,

¹ According to the WTO, dumping is defined as goods being exported at a price less than their normal value. This means that goods are exported at a price that is less than the price they are sold at in the domestic market or third-country markets, or at a price that is less than production cost. https://www.wto.org/english/thewto_e/glossary_e/dumping_e.htm.

² See USITC (October 2017) p. I-8. The preliminary anti-dumping duties from Commerce came out on March 14, 2018. <https://www.commerce.gov/news/press-releases/2018/03/us-department-commerce-issues-affirmative-preliminary-anti-dumping-duty>.

has been hammered by softwood lumber duties and tariffs on supercalendered paper and now faces them on newsprint.³ According to a report by Skerritt (2017), Resolute was already paying as much as \$75 million in duties to the U.S. on its exports of softwood lumber and supercalendered paper.

Before discussing the recent action on newsprint, it is important to understand the different forestry products under discussion. This paper uses the terms newsprint and uncoated groundwood paper, or UGW, interchangeably. According to the USITC, the products under consideration broadly defined as uncoated groundwood paper include, but are not limited to, standard newsprint, high bright newsprint, book publishing paper, directory paper, and printing and writing papers. The scope includes paper that is white, off-white, cream, or coloured.⁴ Excluded from the scope of these investigations are certain uncoated groundwood papers printed with the final content of printed text or graphics, as well as papers that have undergone a supercalendering process. According to the USITC, supercalendering imparts a glossy finish produced by the movement of the paper web through further processing, and supercalendered paper is the subject of a separate trade action.⁵

It is important to understand that the CVDs and anti-dumping duties (ADs) on imports of newsprint from Canada will not only affect Canadian producers but will also hurt the end users of the products in the United States. Just as U.S. tariffs on Canadian softwood lumber hurts the U.S. construction industry, the tariffs on newsprint increase the costs of producing newspapers. Canada supplies about 75 per cent of the newsprint used in the United States. Although demand for newsprint has been declining, newsprint prices have been increasing due to supply conditions, and duties on newsprint from Canada will increase costs of production for the newspaper industry. According to Bloomberg, higher costs will squeeze U.S. newspapers already coping with 28 straight years of declining circulation and increased competition from the internet. Although larger news organizations, such as The Wall Street Journal, will be hurt by the duties, these costs will be catastrophic for over 1,000 smaller local news providers, such as the Idaho Press-Tribune. (Skerritt 2017b)

Canada is the largest exporter of newsprint in the world and according to the government of Canada's Trade Data Online, Canadian exports of uncoated-groundwood and newsprint paper to the United States totalled about \$2 billion in 2017. While exports of newsprint are a fairly small share of Canada's overall trade with the U.S., the Canadian government, and all Canadians, should be particularly concerned with this case as it reflects a broader increase in American protectionism. President Donald Trump's anti-trade rhetoric and protectionist trade policy agenda is reaching broadly across industries and potentially affecting more Canadian producers than ever before. Although his pulling out of the U.S.-led Trans-Pacific Partnership (TPP) agreement and his threats to tear up NAFTA, as well as his disdain for the WTO, are widely known, what is less well known is how his words and actions are driving a real

³ See article by Skerritt (2017a).

⁴ Specifically, the USITC states that "The merchandise covered by this investigation is certain paper that has not been coated on either side and with 50 per cent or more of the cellulose fiber content consisting of groundwood pulp, including groundwood pulp made from recycled paper, weighing not more than 90 grams per square meter. Groundwood pulp includes all forms of pulp produced from a mechanical pulping process, such as thermo-mechanical process (TMP), chemi-thermo mechanical process (CTMP), bleached chemithermo mechanical process (BCTMP) or any other mechanical pulping process. The scope includes paper shipped in any form, including but not limited to both rolls and sheets."

⁵ According to the USITC, "...supercalender is a stack of alternating rollers of metal and cotton (or other softer material). The supercalender runs at high speed and applies pressure, heat, and friction which glazes the surface of the paper, imparting gloss to the surface and increasing the paper's smoothness and density."

protectionist push in the United States. With about 76 per cent of Canadian exports going to the United States in 2016, the Canadian economy is facing an increased impact of protectionism emanating from our largest trading partner.⁶

This paper examines this troubling case of CVDs and ADs in the area of newsprint. Although the longstanding softwood lumber dispute has been widely studied, the newsprint case is new and is emblematic of deeper challenges facing the Canadian economy in a new era of aggressive American unilateralism and protectionism. Very little is known at this time about how such a trade action will specifically affect the newsprint industry in Canada. This paper examines the potential impacts of such a trade action on the Canadian mills. It examines the impact on the newsprint industry and related industries and on the communities most likely affected by the trade action. The paper provides an overview of the case and puts it into a broader context of U.S. trade protection in the forestry sector. It provides background on the economics of the case and analyzes how this trade dispute is affecting the Canadian industry and communities. It concludes with a discussion on policy options.

OVERVIEW OF CVDS AND ADS IN THE NEWSPRINT INDUSTRY

One of the key provisions in the WTO and in regional trade agreements (RTAs) like NAFTA are trade remedies or escape clauses that are designed and in place to address unfair trade practices among trading partners. There are several different types of these trade remedies, but countervailing duties (used when a trading partner's government is accused of subsidizing exports) and anti-dumping duties (employed when firms are accused of charging lower prices in a foreign market than in the domestic market) have become the two most widely used trade-remedy tools. The use of these tools can be part of a healthy trading relationship but they can also be part of a more pernicious protectionist agenda. The United States has significantly increased its use of these measures and has also expanded the breadth of the types of protectionist trade actions it has used. According to the WTO, the use of these and other practices as a form of trade protection is on the rise worldwide, and the U.S. is leading the way. It is important to note that the WTO does enforce discipline on the use of these tools in the form of dispute-settlement procedures. Moreover, a key provision of the Canada-U.S. Free Trade Agreement (CUSFTA) and the subsequent North American Free Trade Agreement (NAFTA) is the Chapter 19 dispute-settlement provision, which also imposes discipline on the use of trade-remedy tools and protects all three countries from protectionist policies enacted by any of the other NAFTA members. In the current climate, Chapter 19 protects Canada and Mexico from some of the more aggressive forms of U.S. protectionism and the dispute-settlement mechanism in the CUSFTA and NAFTA include a vital tool for managing trade disputes within the discipline of the agreements. Although Chapter 19 is a mechanism used by all three NAFTA members, the removal of these dispute-settlement provisions from NAFTA (i.e., Chapter 19) is one of the key U.S. objectives in the current NAFTA negotiations and is part of the increasingly protectionist U.S. trade agenda. Removal of Chapter 19 is a key objective of the U.S. negotiators and is considered a deal breaker for Canada and Mexico.⁷

⁶ See Statistics Canada (2017). According to Statistics Canada, the value of Canada's total merchandise trade (exports plus imports) with the United States on a customs basis reached \$673 billion in 2016, accounting for 64.0 per cent of Canada's total merchandise trade with the world. This was down slightly from 2015 when a record \$688 billion was traded between the two countries.

⁷ See Fournier (2017).

According to Feldman (2017), Chapter 19 was key to the eventual resolution of the softwood lumber dispute and the return of 80 per cent of the duties collected to Canadian producers.

Although the softwood lumber dispute between Canada and the U.S. is considered one of the oldest trade disputes in the world, there is a new and troubling dimension to the trade dispute in the industry that expands the dispute to other industries within the forestry industry. Trade actions by the U.S. have expanded to include the supercalendered and now the newsprint industry, a.k.a. uncoated groundwood paper.

On Aug. 9, 2017, the North Pacific Paper Co. (NORPAC) from Longview, Wash. filed a petition with the U.S. International Trade Commission (USITC) alleging that the industry in the United States is materially injured or threatened with material injury from imports of UGW from Canada that are sold at “less than fair value” and subsidized. The first step after a petition is filed is for the USITC to investigate and rule whether there is evidence of material injury. The USITC instituted a countervailing-duty investigation and an anti-dumping duty investigation in this case. On Sept. 25, 2017, the USITC determined that there is a reasonable indication that the U.S. industry is materially injured by reason of imports of uncoated groundwood paper from Canada that are alleged to be sold in the United States at less than fair value (“LTFV”) and to be subsidized by the government of Canada.⁸ The second step in a case like this is for the Department of Commerce to investigate the case and to rule on the extent of subsidies and dumping and to implement what it determines are the appropriate CVDs and ADs. Commerce computes the magnitude of the duty based on the difference between the exporter price of the product and the fair value of the product determined by industry comparisons. On Jan. 8, 2018, the Department of Commerce announced preliminary countervailing duties of up to 9.93 per cent on imported Canadian uncoated groundwood paper. There are different rates for different producers as reported in Table 1:

TABLE 1 CVD RATES (PRELIMINARY FROM THE DEPARTMENT OF COMMERCE)

Firm	CVD rate
Catalyst Paper Corp. (Catalyst)	6.09%
Kruger Trois-Rivieres L.P. (Kruger)	9.93%
Resolute FP Canada Inc. (Resolute)	4.42%
White Birch Paper Canada Co. (White Birch)	0.65% (de minimis)
All others	6.53%

On March 13, 2018, the U.S. Department of Commerce provided a preliminary ruling on the case of dumping. Commerce investigated alleged dumping based on estimated dumping margins of 23.45 per cent to 54.97 per cent for UGW paper from Canada.⁹ Dumping margins are computed by comparing the price charged in the importing market compared to the costs of producing the product or the price charged in the exporters’ domestic market. As expected, Commerce announced its affirmative preliminary determination in the anti-dumping duty investigation of imports of uncoated groundwood paper from Canada. According to the fact

⁸ When companies are found to have been dumping and/or have received unfair subsidies, and the U.S. International Trade Commission finds that the relevant U.S. industry has been materially injured or threatened with material injury as a result of the unfairly traded imports, AD/CVD Operations instructs the customs department to collect duties equal to the amount of subsidization. See USITC (October 2017). The industry codes listed by the USITC are provided for in subheadings 4801.00.01, 4802.61.10, 4802.61.20, 4802.61.31, 4802.61.60, 4802.62.10, 4802.62.20, 4802.62.30, 4802.62.61, 4802.69.10, 4802.69.20, 4802.69.30, 4805.91.50, 4805.91.70, and 4805.91.90 of the Harmonized Tariff Schedule of the United States.

⁹ See Department of Commerce (2018) Fact Sheet.

sheet it released, Commerce affirmed the dumping case and calculated a preliminary dumping rate of 22.16 per cent for Catalyst Pulp and Paper Sales Inc./Catalyst Paper General Partnership (collectively, Catalyst). Commerce calculated preliminary dumping rates of zero per cent for Resolute and White Birch Paper. Commerce determined a preliminary dumping rate of 22.16 per cent for all other producers and exporters of uncoated groundwood paper from Canada.

According to its fact sheet, Commerce is scheduled to announce its final determination on or about Aug. 2, 2018. If Commerce makes an affirmative final determination, and the U.S. International Trade Commission (ITC) makes an affirmative final determination that imports of uncoated groundwood paper from Canada materially injure or threaten material injury to the domestic industry, Commerce will issue an AD order. If either Commerce's or the ITC's final determination is negative, no AD order will be issued. The ITC is scheduled to make its final injury determination approximately 45 days after Commerce issues its final determination, if it is affirmative.

How is this case similar and different from the softwood case and are there lessons Canada can learn from the softwood case that carry over to the newsprint case? What warning signals does this send to Canadian (and Mexican) negotiators in the NAFTA negotiations? These questions will be addressed, but first we will take a closer look at the industry.

OVERVIEW OF THE NEWSPRINT INDUSTRY IN CANADA AND NORTH AMERICA

About 66 per cent of UGW is sold directly to end users (including newspaper publishers, retailers, commercial printers, cataloguers, and book and magazine publishers) and the rest to merchants/brokers. UGW paper is lighter weight and less expensive than other paper and used in printing newspapers and flyers where weight and cost are particularly important considerations. There are over 4,500 workers in the industry in Canada. Canada is the largest exporter of newsprint in the world and Canadian exports of newsprint are predominantly destined for U.S. markets with 72 per cent of Canadian exports going to the U.S. in 2016. In that year, Canada exported over \$2 billion of UGW to the United States. The UGW industry is already reeling from declining demand due to the dramatic shrinking of the newspaper industry. In fact, exports to the United States of these products have decreased 51 per cent since 2008. (Trade Data Online: Nov. 8, 2017) Table 2 presents some production and trade data on the UGW industry in Canada and the United States from 1990–2016. The industry can be broken down into two grades of paper: newsprint and uncoated mechanical paper. As seen in the table, newsprint is the largest part of the industry by production volumes and in 2016 newsprint production in Canada and the United States was 4,837,975 metric tonnes while uncoated mechanical was 3,100,046 for a total of 7,938,021 metric tonnes. Altogether, newsprint is currently approximately 61 per cent of the total production in the industry.

TABLE 2 NORTH AMERICAN PRODUCTION OF UGW BY CANADIAN REGION (1990–2016)

North American Production of UGW by Canadian Region (Newsprint and Uncoated Mechanical) 1990–2016 (metric tonnes)						
Newsprint Production						
	1990	1995	2000	2005	2010	2016
Atlantic	1,400,285	1,542,805	1,600,626	1,400,969	532,268	266,023
Quebec	4,107,431	4,050,909	3,847,748	3,421,001	2,632,471	2,053,710
Ontario	1,627,827	1,790,343	1,924,120	1,444,362	816,561	482,259
B.C. and Prairies	1,932,643	1,841,905	1,848,346	1,503,377	658,152	550,581
Canada (total)	9,068,186	9,225,962	9,220,840	7,769,709	4,639,452	3,352,573
United States	5,996,672	6,351,941	6,568,978	4,892,041	3,110,659	1,485,402
Total Canada and U.S.	15,064,858	15,577,903	15,789,818	12,661,750	7,750,111	4,837,975
Uncoated Mechanical Production						
Atlantic	48,977	143,065	494,045	790,744	850,879	681,054
Quebec	790,016	1,427,459	1,728,489	1,987,348	1,072,448	722,172
Ontario	575,246	665,735	725,971	714,516	314,137	30,912
B.C. and Prairies	360,622	415,833	506,867	738,735	697,246	444,908
Canada (total)	1,774,861	2,652,092	3,455,372	4,231,343	2,934,710	1,879,046
United States	1,644,075	1,942,751	1,658,410	1,698,404	2,024,408	1,221,000
Total Canada and U.S.	3,418,936	4,594,843	5,113,782	5,929,747	4,959,118	3,100,046
Shares (Canadian Provincial Share of Canadian Production)						
Newsprint Production						
Atlantic	15%	17%	17%	18%	11%	8%
Quebec	45%	44%	42%	44%	57%	61%
Ontario	18%	19%	21%	19%	18%	14%
B.C. and Prairies	21%	20%	20%	19%	14%	16%
Total Canadian share of N.A.	60%	59%	58%	61%	60%	69%
Uncoated Mechanical Production						
Atlantic	3%	5%	14%	19%	29%	36%
Quebec	45%	54%	50%	47%	37%	38%
Ontario	32%	25%	21%	17%	11%	2%
B.C. and Prairies	20%	16%	15%	17%	24%	24%
Total Canadian share of N.A.	52%	58%	68%	71%	59%	61%

Source: Pulp and Paper Products Council, <https://www.pppc.org/info/about-pppc/index.html>.

It is also clear from Table 2 that Canada produces the majority of both newsprint and uncoated mechanical paper out of the two countries. Canada currently produces 69 per cent of newsprint and 61 per cent of uncoated mechanical paper. The most striking feature of Table 2, however, is the large decline in UGW production since 1990. This is already an industry in decline in both countries and the trade actions will further hurt the industry. In 1990, the two countries produced over 15 million metric tonnes of newsprint and over 3.4 million metric tonnes of uncoated mechanical paper and these production levels increased until around 2000, when production began to decline. Between 1990 and 2016, production of newsprint in the two countries declined by 69 per cent from its peak of 15.8 million metric tonnes in 1990 to 4.8 million metric tonnes in 2016. Uncoated mechanical production peaked in 2005 and declined 48 per cent from 5,929,747 in 2005 to 3,100,046 in 2016. Figures 1a to 1c clearly show these trends in production. Production of newsprint was fairly flat from 1990 to 2000 and then declined and the decline was more rapid and larger in the U.S. (77 per cent decline) than in Canada (64 per cent decline).

We also see in Table 2 and figures 1a to 1c that Canada is the larger producer in this industry and that Canada's share in newsprint production increased from 60 per cent of production in the two countries in 1990 to 69 per cent in 2016. Canada's production share of uncoated mechanical paper also increased over the period from 52 per cent of production in 1990 to 71 per cent in 2005 and down to 61 per cent in 2016.

Table 2 also breaks down production by province and we see that there are important regional differences in newsprint production in Canada. Quebec produced the largest share of UGW in Canada with 61 per cent of Canadian newsprint production in 2016 and 38 per cent of uncoated

mechanical paper production. B.C. and the Prairies accounted for 16 per cent of Canadian newsprint production in 2016, Ontario produced 14 per cent and the Atlantic provinces produced eight per cent. The Atlantic provinces' share of newsprint production declined from as high as 18 per cent of Canadian production in 2005 before declining to only eight per cent in 2016. Ontario and B.C. and the Prairies also saw smaller shares of overall newsprint production in Canada as Quebec emerged to produce over 60 per cent of Canadian newsprint. Quebec remains the largest producer of uncoated mechanical paper in Canada but its share of production has declined with production in Atlantic Canada picking up the difference. Atlantic Canada share has increased from only three per cent of production in 1990 to 36 per cent in 2016 and B.C. and the Prairies have also increased their share of production to 24 per cent by 2016. Quebec's share declined from 45 per cent to 38 per cent of uncoated paper but Ontario's share of production declined dramatically and reached only two per cent of national production by 2016. Taken as a whole, in 2016, Quebec produced 53 per cent of all grades of UGW paper in Canada, B.C. and the Prairies came in at 19 per cent, followed closely by Atlantic Canada at 18 per cent and Ontario at 10 per cent. As we saw for Canada overall, production declined in all regions, but by far the largest reduction was in Ontario where production of UGW declined 80 per cent from its peak in 2000, whereas production declined 58 per cent in B.C. and the Prairies, 57 per cent in Atlantic Canada and 50 per cent in Quebec.

FIGURE 1A CANADIAN AND U.S. NEWSPRINT PRODUCTION

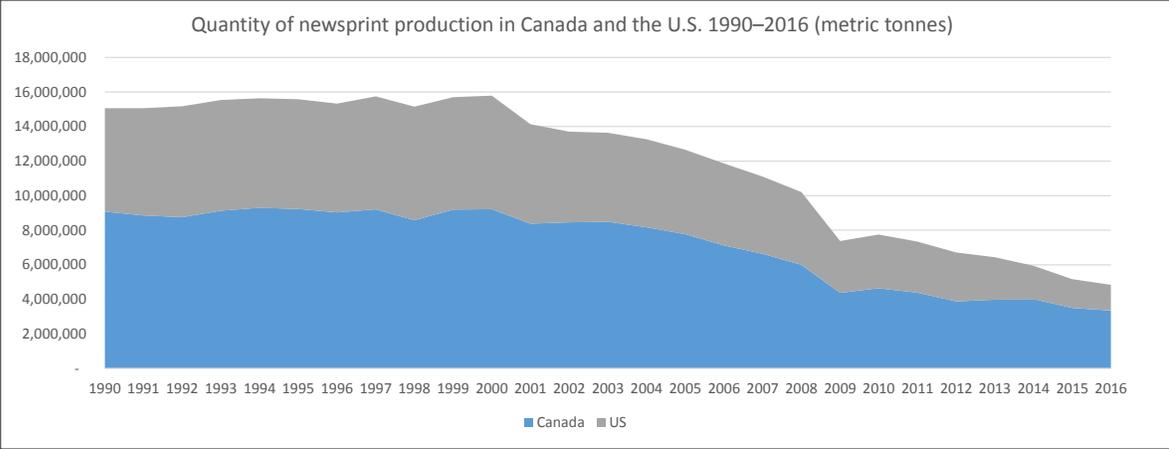


FIGURE 1B CANADIAN AND U.S. PRODUCTION OF UNCOATED MECHANICAL PRODUCTION

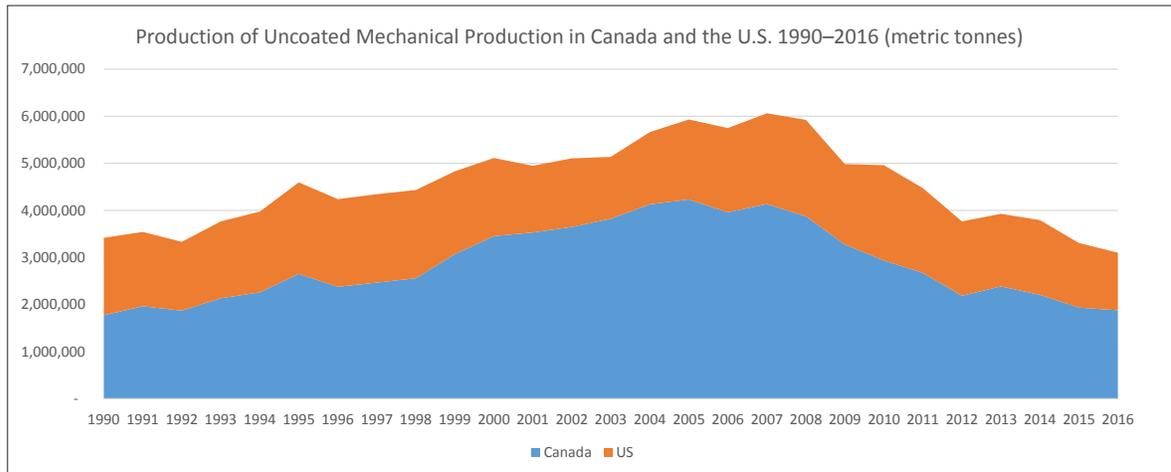
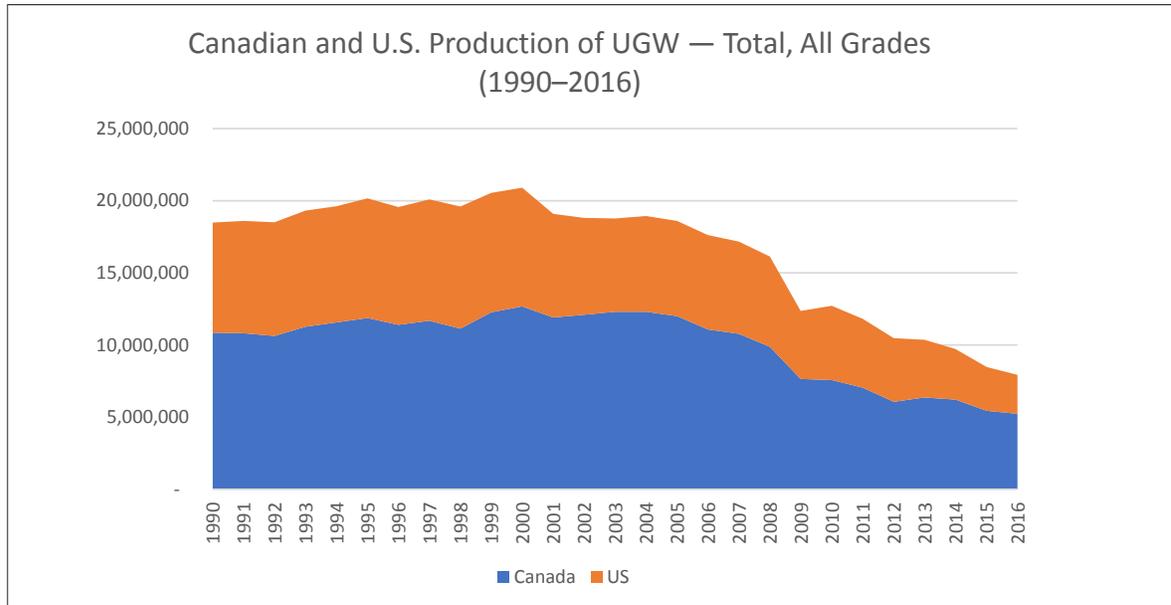


FIGURE 1C CANADIAN AND U.S. PRODUCTION OF UGW



Source: Pulp and Paper Products Council, <https://www.pppc.org/info/about-pppc/index.html>.

Table 3 takes a closer look at Canadian aggregate production of newsprint from 2014 to 2018 with data for 2017 and 2018 based on projections. The data are from the USITC and due to definitional differences and differences in methodology the production numbers may not match perfectly with Table 2, but they paint a similar image of the industry. The data also show capacity, inventories and export data.

TABLE 3 CANADIAN PRODUCTION AND EXPORTS OF NEWSPRINT 2014-18

	2014	2015	2016	2017	2018
Capacity	5,275,922	4,513,814	4,460,596	4,060,577	3,968,474
Production	4,778,613	4,252,861	4,234,673	3,966,790	3,894,598
End-of-period inventories	258,794	216,690	254,322	245,336	244,273
Commercial home-market shipments	772,700	703,260	677,280	647,149	629,312
Export shipments to:					
U.S.	2,628,061	2,387,315	2,316,541	2,136,892	2,101,179
All other markets	1,361,577	1,197,987	1,200,841	1,188,716	1,165,170
Total exports	3,989,638	3,585,302	3,517,382	3,325,608	3,266,349
Ratios and shares (per cent)					
Capacity utilization	90.6	94.2	94.9	97.7	98.1
Inventories/production	5.4	5.1	6	6.2	6.3
Exports to U.S./total exports	65.9	66.6	65.9	64.3	64.3
Exports to U.S./production	55.0	56.1	54.7	53.9	54.0
Total exports/production	83.5	84.3	83.1	83.8	83.9

Source: From USITC — Table VIII-3; Compiled from data submitted in response to Commission questionnaires. 2017 and 2018 are projections.

The Canadian capacity and production of newsprint declined 14 and 11 per cent respectively from 2014 to 2015. Capacity and production are projected to decline further in 2017 and 2018 but the decline is not expected to be as extreme. The capacity-utilization rate has increased over the period from just over 90 per cent in 2014 to very near full capacity at 98 per cent in 2018.¹⁰ Table 3 reveals that exports to all destinations comprise about 84 per cent of total Canadian production and this share of exports has remained fairly constant over the past four years (see last row of Table 3). About 65 per cent of Canada's total exports of UGW go to the U.S. and the other 35 per cent of exports goes to other countries (see row of U.S. exports/total exports). According to the USITC, Canadian exports of UGW to the U.S. represent about 55 per cent of total Canadian production. Table 4 provides more details on the destination of Canadian exports.

According to other data released by the USITC, the share of Canadian exports going to the U.S. is slightly higher. Table 4 is based on data from the USITC and reports that about 70 per cent of Canada's exports go to the United States (by volume) with between six and nine per cent of exports going to India, three to five per cent of exports going to Brazil and, depending on the year, 1.6 to 3.6 per cent of Canadian newsprint exports going to the United Kingdom. The rest of the countries receive less than two per cent of Canadian exports. A striking feature of the data presented in Table 4 is that the unit value of exports has declined precipitously. The unit value of exports to the United States declined from \$701 per metric tonne in 2014 to \$575 per metric tonne in 2016. Also note that the unit value of Canadian newsprint exports tends to be the highest in Mexico (\$634 per metric tonne in 2016) and is high in the United States as well but is much lower in other countries.

¹⁰ Capacity utilization measures the ratio of an industry's potential economic output to its actually realized output – that is, it is the proportion of [output](#) that is produced with the installed equipment, and the potential output that could be produced with it, if capacity was fully employed.

TABLE 4 CANADIAN EXPORTS OF UGW 2014-16

Canadian Exports of UGW 2014-2016						
	Quantity (metric tonnes)			Value (US thousand dollars)		
	2014	2015	2016	2014	2015	2016
U.S.	4,015,225	3,513,643	3,190,077	2,814,366	2,257,042	1,834,504
India	378,050	395,644	417,078	222,707	201,965	206,742
United Kingdom	92,707	132,864	165,238	68,985	77,640	82,281
Brazil	272,906	202,050	122,316	167,788	109,761	60,863
Israel	83,122	40,331	55,605	42,104	15,167	22,256
Colombia	74,385	68,404	53,400	50,623	43,979	30,701
Mexico	55,204	40,125	52,221	36,877	25,642	33,100
Peru	49,784	33,219	47,111	30,938	19,194	27,261
Taiwan	108,079	66,859	43,113	49,989	32,293	21,344
All others	631,777	453,584	421,439	398,788	249,570	226,194
Total	5,761,238	4,946,723	4,567,598	3,883,164	3,032,253	2,545,244
	Share of quantity (percent)			Unit value (US dollars per metric tonne)		
	2014	2015	2016	2014	2015	2016
U.S.	69.7	71	69.8	701	642	575
India	6.6	8	9.1	589	510	496
United Kingdom	1.6	2.7	3.6	744	584	498
Brazil	4.7	4.1	2.7	615	543	498
Israel	1.4	0.8	1.2	507	376	400
Colombia	1.3	1.4	1.2	681	643	575
Mexico	1	0.8	1.1	668	639	634
Peru	0.9	0.7	1	621	578	579
Taiwan	1.9	1.4	0.9	463	483	495
All others	11	9.2	9.2	631	550	537
Total	100	100	100	674	613	557

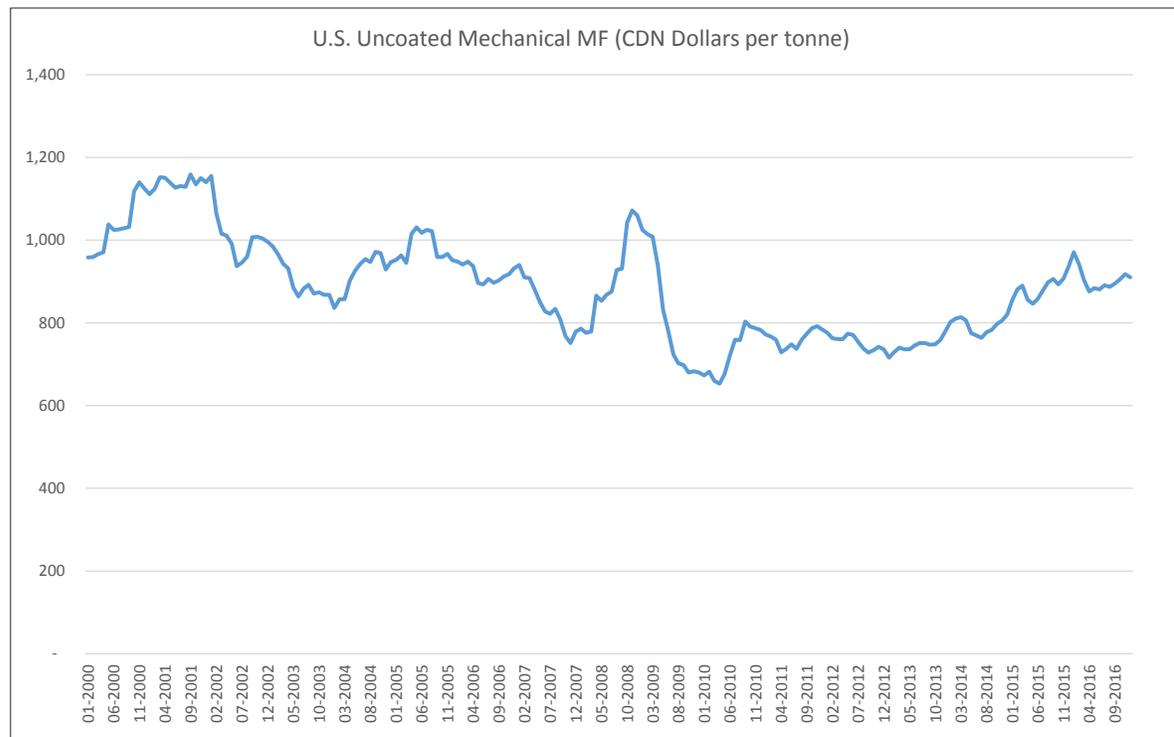
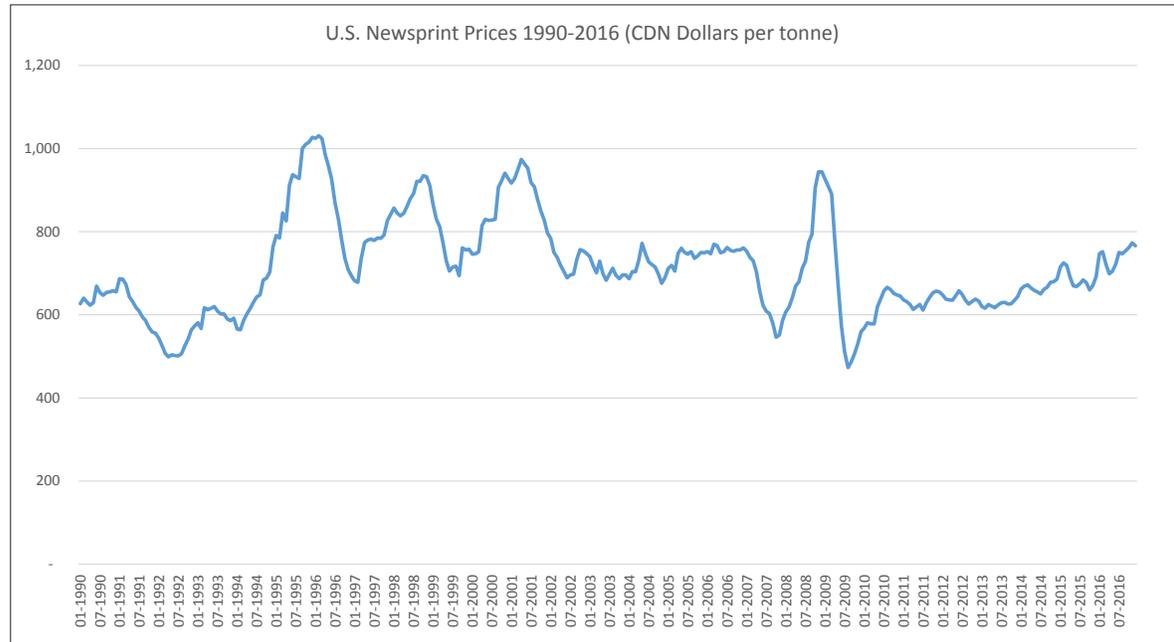
Source: USITC (2017), Table VII-5. Official export statistics under HS subheadings 4801.00, 4802.61, 4802.62, and 4802.69 as reported by various national statistical authorities in the IHS/GT database, accessed August 29, 2017. Data reported under these subheadings likely include some merchandise outside the scope of these investigations.

Table 5 presents an overview of where newsprint is imported into the United States. Almost 55 per cent of newsprint goes to the Northeast and almost 36 per cent goes to the Midwest. The rest of the imports (10 per cent of U.S. imports) are spread out across the country.

As seen in Figure 2, newsprint prices have been increasing since 2008 from a low of \$511 per tonne in August 2009 to a high of \$766 per tonne in December 2016. Prices have fluctuated since 1990 when they were around \$600 per tonne, they increased to around \$800 per tonne in the mid-late 1990s and dropped below \$800 per tonne before spiking with other commodity prices prior to the 2008 financial crisis. Since the financial crisis, newsprint prices have been on the rise to the current range of over \$750 per tonne. Uncoated mechanical paper is higher value and it has gone through a similar cycle as newsprint, going through a decline in price from 2000 to 2008 and then increasing from 2009 to 2016. Overall, the newsprint industry has been in decline in Canada and this trade dispute will significantly weaken a struggling industry. FPAC has calculated that roughly 21 newsprint mills across Canada will be directly impacted by the anti-dumping and countervailing duties. It is also important to realize that the

industry itself has been developing new products and innovating in order to build and maintain a sustainable industry.¹¹

FIGURE 2 NEWSPRINT AND UNCOATED PAPER PRICES



Source: FPAC.

¹¹ More information on innovation in the industry is available here: <http://www.fpac.ca/wp-content/uploads/Innovation.pdf>.

The Case of Countervailing Duties: Reasonable Indication of Material Injury

According to U.S. trade law, once a petition is filed in a dumping or countervailing case, the USITC investigates and makes a preliminary ruling on injury. In this case, the USITC ruled that there is a reasonable indication the UGW industry in the United States is materially injured or that it is threatened with material injury. In cases like this, the USITC examines the volume of imports, their effect on prices for the domestic product, and their impact on domestic producers. The USITC is mandated to consider all relevant economic factors that bear on the condition of the industry under investigation. The USITC has discretion in determining whether there is a reasonable indication that the domestic industry is “materially injured by reason of” unfairly traded imports.

As is well known, and as discussed above, Canadian forestry products have long been the target of trade actions by the United States in disputes over the softwood lumber. More recently, the U.S. has targeted supercalendared paper. Although it is beyond the scope of this paper to examine these other cases in detail, suffice it to say that the U.S. has gone after these other forestry products and Canada has used the WTO and NAFTA dispute mechanisms to challenge U.S. trade actions in these cases.¹² A NAFTA dispute panel was key in significantly reducing the tariffs in the supercalendared paper case. The investigation on supercalendared paper began in February 2015 based on a petition filed by the Coalition for Fair Paper Imports, an association of U.S. producers that includes Madison Paper Industries Inc. and Verso Corp. During the initial final determinations by Commerce, the CVD rates were as high as 20.18 per cent. After a NAFTA panel reviewed the investigation, it determined that the rates should be revisited. Therefore, during the review of the investigation, the United States announced new rates on April 24, 2017 and the rates were 20.18 per cent on Port Hawkesbury paper, 17.87 per cent on Resolute Forest Products, 5.87 per cent on Irving Paper Ltd. and 94 per cent on Catalyst Paper Corp.

TABLE 5 U.S. IMPORTS OF NEWSPRINT BY REGION, 2016

	Quantity (metric tonnes)	Share (per cent)
Northeast	1,004,327	54.6
Midwest	656,951	35.7
Southeast	26,770	1.5
Central Southwest	---	---
Mountains	40,186	2.2
Pacific Coast	84,875	4.6
Other	25,851	1.4
Continental US	1,813,109	98.6
All US	1,838,960	100

Source: From USITC (2017). Official U.S. import statistics using HTS statistical reporting numbers 4801.00.0020 and 4801.00.0040, accessed September 5, 2017, and proprietary customs records to count the number of unique importer of record numbers.

¹² See Feldman (2017) for an excellent overview of the softwood lumber dispute.

The duties are subject to annual review, and on Jan. 3, 2018, the U.S. International Trade Administration published the preliminary results of the administrative review of the countervailing duties applied to Canadian supercalendered paper, determining that Port Hawkesbury Paper, Resolute Forest Products and Irving Paper Ltd. received subsidies from Aug. 3, 2015 to Dec. 31, 2015. Based on this, Catalyst has been excluded from the order, and the administrative review with respect to Catalyst is rescinded. The other duties were revised downward as follows:

Company	Preliminary-review countervailing-duty rate
Port Hawkesbury Paper	15.65% (down from 20.18%)
Resolute Forest Products	1.79% (down from 17.87%)
Irving Paper	5.13% (down from 5.87%)

It is important to note that Canada is not the only country targeted by U.S. trade actions in the forestry industry. The U.S. has filed CVDs and ADs on forestry products from other countries, notably China and Indonesia. On Sept. 23, 2009, a petition alleged that imports of certain coated paper suitable for high-quality print graphics (“certain coated paper”) from China and Indonesia were being sold at “less than fair value” and subsidized by their respective governments. Commerce concluded with affirmative dumping and subsidy determinations and issued anti-dumping duties of 7.62 per cent to 135.83 per cent for imports from China, and 20.13 per cent for imports from Indonesia. In addition, Commerce also issued CVDs of 19.46 per cent to 202.84 per cent for imports from China, and 17.94 per cent for imports from Indonesia.

WHAT IS A SUBSIDY?

The USITC cites 63 different provincial and federal programs as alleged subsidies to newsprint exports from Canada. The list of programs is broad and includes several programs intended for broad policy objectives such as government programs supporting innovation, investment, employment, apprenticeship, public infrastructure, sustainable development, municipal renewal, renewable energy and research and development. It also includes a number of programs that are targeted directly at forestry, but many of those programs target objectives such as green transformation, the pine beetle infestation, and silviculture (growing and cultivation of trees and forest management systems). There are some programs that focus on supporting exporters, but these are broad-based programs to help any exporters or potential exporters overcome the challenges of global commerce; they are not specific to newsprint exporters.

The Department of Commerce’s preliminary determination affirming the subsidies cite a number of subsidies that vary by company and province of operations. Commerce finds that the stumpage fees charged for trees harvested on Crown land constitute a subsidy and refers to it as the “Provision of Stumpage for Less Than Adequate Remuneration (LTAR).” The majority of timber bought and sold from Canadian forests is from Crown land. Commerce cites its recent decisions on softwood lumber (namely, “Lumber V,” the trade dispute over Canadian softwood lumber exports to the U.S. begun in 2017) to provide a precedent for its determination in this case.

Commerce also cites the Canadian and B.C. log-export restraints as a countervailable subsidy to Canadian newsprint producers. The alleged subsidy to newsprint producers occurs because export restrictions drive a wedge between Canadian prices of lumber and world prices of lumber, with the export-restricted price for lumber being lower than the world price. Therefore,

export restrictions reduce the price that Canadian producers pay for logs, representing a subsidy to producers. According to the ruling “Therefore, we find that the provincial stumpage programs constitute a financial contribution in the form of a good, and that the provinces are providing the good, i.e., standing timber, to producers of UGW paper. Therefore, consistent with our findings in Lumber V, we continue to find that the provision of standing timber constitutes a financial contribution provided to producers of UGW paper within the meaning of section 771(5)(D)(iii) of the Act.”¹³

Similar to the USITC ruling, Commerce also found that other government programs constitute countervailable subsidies to newsprint exports. Specifically, Commerce states that some Canadian federal and provincial tax programs “constitute a financial contribution in the form of revenue foregone, within the meaning of section 771(5)(D)(ii) of the Act. We further preliminarily find that these programs are specific under section 771(5A) of the Act for the reasons discussed below. Finally, we preliminarily determine that the tax incentives confer benefits under section 771(5)(E) of the Act and 19 CFR 351.509.”¹⁴ Commerce finds that provincial school tax-credit programs and municipal development programs such as the Powell River City revitalization tax program is a countervailable subsidy. The list of government programs is long and includes broad-based programs with varied objectives. The types of programs include the following: scientific research and development tax credits; construction and major repair of public access roads and bridges; tax credits for the acquisition of manufacturing and processing equipment; the Federal Pulp and Paper Green Transformation Program (FPPGTP); the Canada-B.C. Job Grant Program; and the BC Hydro Power Smart Program. The long list of programs also includes labour market programs designed to assist companies with labour adjustments such as: downsizing, upsizing, new development, relocation, impact of new technologies, labour shortages, shortage of year-round job opportunities, and lack of community and organizational capacity for human-resource planning. Also included are government loan programs and programs to assist the treatment and management of pest infestations. In addition, Commerce identifies 28 other general federal and provincial programs that it plans to investigate going forward in the newsprint case.

It is beyond the scope of this paper to determine the appropriate treatment of these programs in the alleged subsidy case, but it does seem to be an extreme stretch to argue that most of these programs fit within the specificity considerations. The WTO agreement on subsidies and countervailing measures — known as the SCM Agreement — applies to subsidies that are specifically provided to an enterprise or industry and defines both the term “subsidy” and the concept of “specificity.”¹⁵ Only a measure that is a “specific subsidy” within the agreement’s meaning is subject to multilateral disciplines and can be subject to countervailing measures. The WTO’s definition of subsidy by a member country contains three basic elements: “(i) a financial contribution (ii) by a government or any public body within the territory of a Member (iii) which confers a benefit.”¹⁶ The basic principle of specificity is that if a subsidy is widely available within an economy, such a distortion in the allocation of resources is presumed not to

¹³ Commerce (2018) p. 28.

¹⁴ See Commerce (2018), p. 48.

¹⁵ See World Trade Organization website, “Agreement on Subsidies and Countervailing Measures (‘SCM Agreement’),” https://www.wto.org/english/tratop_e/scm_e/subs_e.htm.

¹⁶ *ibid.*

occur. Thus, only “specific” subsidies are subject to the SCM Agreement disciplines. There are four types of “specificity” within the meaning of the SCM Agreement:

1. Enterprise-specificity: A government targets a particular company or companies for subsidization;
2. Industry-specificity: A government targets a particular sector or sectors for subsidization.
3. Regional specificity: A government targets producers in specified parts of its territory for subsidization.
4. Prohibited subsidies: A government targets export goods or goods using domestic inputs for subsidization.

It is clear from the list of programs that Commerce alleges are subsidies to Canadian exports that almost none of them are specific in nature with respect to types 1 and 4 listed above. Some of the subsidies are directed at the industry (type 2) and some are regional in nature (type 3). The concern here is that if these broad labour-adjustment programs and programs directed at adjustment from a beetle infestation or directed at innovation are viewed as subsidies, then it would be difficult to find Canadian exports that are not considered to be subsidized. This is a concern, and Canada needs to work to challenge this use of CVDs.

WHY SHOULD CANADA BE CONCERNED?

As mentioned above, it appears that the newsprint case is emblematic of a more protectionist trade regime in Washington. The policy direction seems to be the application of more and more trade-remedy actions against Canada (and Mexico) and one of the key objectives of the American NAFTA negotiators is to make it easier for the U.S. to employ trade remedies against its North American partners. Moreover, the U.S. is using tariffs, or the threat of tariffs, as part of a negotiating strategy as was made explicitly clear in the case of the steel and aluminum tariffs that were announced by the president in March 2018. There is a general increase in the use of ADs and CVDs against Canada and the administration is using “new” trade-remedy laws that have never been employed — or that have not been used since the U.S. pursued a policy of aggressive unilateralism decades ago in the 1980s. Keep in mind that the 1980s version of aggressive unilateralism was a key motivation for Canada to initiate CUSFTA negotiations and why securing a dispute-settlement mechanism was considered an important piece of CUSFTA for Canada (and for Mexico through NAFTA). Although all three countries benefit from the dispute-settlement provisions, it is clear that the U.S. wants to remove these provisions in a renegotiated NAFTA. The dispute-settlement provisions of NAFTA’s Chapter 19 are crucial parts of the deal for Canada and Mexico and the U.S. has set eliminating Chapter 19 from the agreement as an objective to make it easier to implement trade-remedy laws. The other key aspect of NAFTA that should be noted is that through NAFTA, Canada and Mexico have been exempted from other trade-remedy actions by the U.S. In short, the current U.S. administration wants to make it easier for the United States to restrict imports from Canada and Mexico.¹⁷

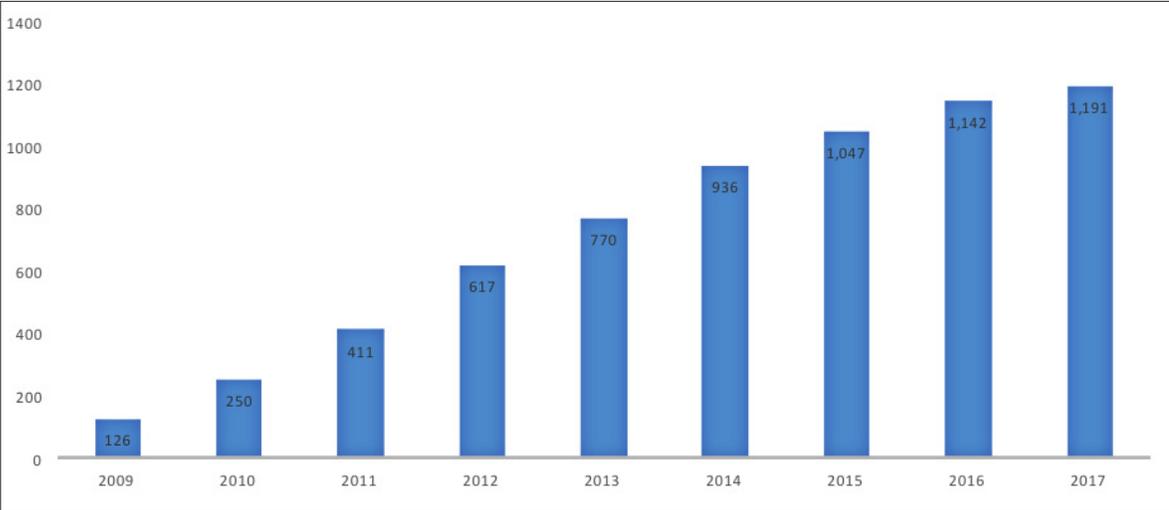
¹⁷ See Bown (2017).

According to Bown (2017), “The document issued on July 17 by the United States Trade Representative (USTR) proposes actions to:

- eliminate the Chapter 19 dispute settlement mechanism and
- eliminate the NAFTA global safeguard exclusion so that it does not restrict the ability of the United States to apply measures in future investigations.”

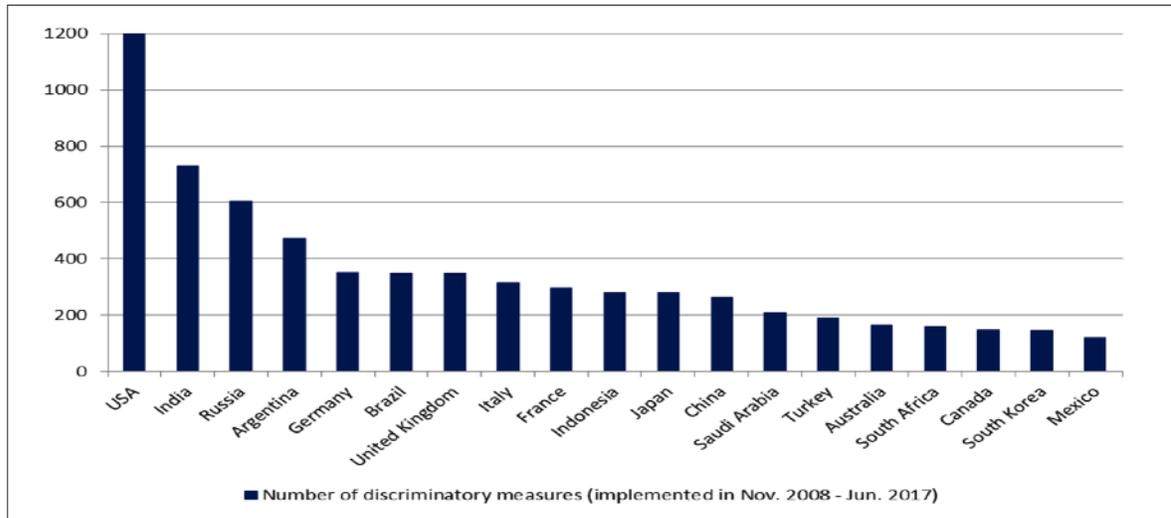
The use of protectionist trade policy tools is on the rise. A large number of protectionist measures and an expansion to new forms of trade protection have become commonplace. Figure 3 provides an overview of the number of discriminatory trade measures employed by G20 countries from 2009 to 2016. As we can see, the number of cases has been growing and Figure 4 shows that the U.S. is leading the way.

FIGURE 3 NUMBER OF G20 DISCRIMINATORY MEASURES ENFORCED BY THE U.S.



Sources: G. Felbermayr, M. Steininger and E. Yalcin, “Global Impact of a Protectionist U.S. Trade Policy,” ifo Forschungsberichte 89, ifo Institute (2017); Data from Global Trade Alert Data.

FIGURE 4 NUMBER OF G20 DISCRIMINATORY MEASURES



Sources: G. Felbermayr, M. Steininger and E. Yalcin, “Global Impact of a Protectionist U.S. Trade Policy,” ifo Forschungsberichte 89, ifo Institute (2017); Data from Global Trade Alert Data.

A Department of Commerce press release on Jan. 17, 2018 quotes Commerce Secretary Wilbur Ross in referring to a recent preliminary affirmative finding on stainless steel flanges as saying: “With a 58 per cent increase in trade cases initiated since President Trump took office, this Administration has made it a clear priority to defend domestic businesses from unfair trade practices.” According to that press release, Commerce has initiated 84 anti-dumping and countervailing-duty investigations between Jan. 20, 2017 and Jan. 17, 2018 — a 62-per-cent increase from 52 in the previous year.

The protectionist measures in newsprint are just the tip of the iceberg and Canada faces new measures in other sectors. In mid-January 2018, the American Line Pipe Producers Association filed petitions with the USITC against six countries — including Canada and China — accusing them of unfairly dumping imports of large-diameter pipe into the U.S. and alleging that some foreign producers benefit from state-sponsored support programs. China and Canada were targeted as the biggest exporters of allegedly dumped products.

The U.S. administration is pursuing protectionism following the president’s lead. President Trump has stated that “Protection will lead to great prosperity and strength.”¹⁸ According to Bown (2017), the Trump approach entails an aggressive enforcement of an ever-widening set of existing U.S. laws that permit unilateral steps to restrict imports. For example, the administration has invoked rarely used rationales such as national security for the imposition of trade barriers and has declared its intention to initiate its own investigations and actions rather than waiting for companies to request them, as is typically the practice. Further, the administration’s approach is to combine routine, technocratic trade policy responses to low-priced imports with overheated political rhetoric that invites retaliation by trade partners. The president has tweeted that trade wars are easy to win. Since President Trump came to office, the major new actions have nearly doubled the share of imports covered by this sort of protection.

According to Bown (2018) these actions represent “an unprecedented and tectonic shift in U.S. trade policy.” The use of the national-security justifications for new tariffs is particularly troublesome for a number of reasons. The details of these investigations are secret and the

¹⁸ Reported in Bown (2017).

decision on whether to eliminate billions of dollars of trade is now up to the president alone. Unlike safeguard measures that are temporary in nature and subject to review, there is no statutory process for ending tariffs implemented under the guise of national security. As with newsprint, most of the new tariffs increase costs for U.S. manufacturers and for infrastructure projects. Thousands of companies and millions of workers who rely on targeted products as inputs into production can be hurt, and eventually consumers face price increases. Even more troubling is that the Trump administration imposing steel and aluminum tariffs based on a national-security rationale may set off more claims of other threats to national security related to trade in the U.S. as well as in other countries.

WHAT SHOULD CANADA DO?

Canada should challenge the newsprint case through a NAFTA Chapter 19 panel review. For the same reasons that the U.S. tariffs on softwood lumber go against trade rulings, the newsprint tariffs are invalid. It is very likely that a NAFTA panel will find these tariffs are contrary to trade rules and order that the duties be reversed and the money refunded. Canada has challenged the softwood duties through NAFTA and through the WTO and these dispute panels have repeatedly sided with Canadian lumber producers. We can expect similar results in the case of newsprint, especially since the U.S. is using softwood arguments as part of its arguments in favour of duties on newsprint.

Canada should also be creative in continuing its approach of making full use of trade rules available in the WTO and NAFTA. For example, on Jan. 10, 2018, Canada launched a request with the WTO to investigate U.S. trade remedies, citing almost 200 examples of alleged U.S. wrongdoing. Almost all of the examples concern other trading partners besides Canada, such as China, India, Mexico, Brazil and the European Union, but also include the U.S. cases against Canadian softwood lumber and supercalendered paper. The complaint focused on technical details of the U.S. trade rulebook, from the U.S. treatment of export controls to the use of retroactive duties and split decisions by the six-member U.S. International Trade Commission. This challenge is part of the overall strategy to all the forest products cases that currently suffer anti-dumping or countervailing duties from the U.S.

Canada should continue to make the case that U.S. procedures broke the WTO's Anti-Dumping Agreement, the Agreement on Subsidies and Countervailing Measures, the General Agreement on Tariffs and Trade and the Understanding on Rules and Procedures Governing the Settlement of Disputes. According to the WTO, the United States has been challenged by members for years over how it calculates unfair pricing or dumping. The U.S. has already lost a string of WTO disputes after its calculation methodology was ruled to be out of line with the WTO rule book.

Canada should also continue to pursue the political angle and work with companies, states and regions, and consumers of newsprint who are adversely affected by the higher cost of newsprint.

Finally, the federal and provincial governments should continue to work with the Canadian forest products industry to help manage the fact that the newsprint sector is declining. An important and key element of this approach is to work with industry on innovation.¹⁹

¹⁹ For more information on the work to innovate in the industry, see: Forest Products Association of Canada, "Expect us in the Unexpected," <http://www.fpac.ca/wp-content/uploads/Innovation.pdf>.

CONCLUSIONS

The recent U.S. trade actions on UGW (newsprint) imports from Canada is part of a challenging trend toward aggressive unilateralism and trade protectionism by Canada's largest trading partner. After investigating complaints by U.S. producers against Canadian newsprint imports, the USITC determined that material injury was reasonably indicated in the case and the Department of Commerce announced tariffs based on the preliminary results of the countervailing-duty and anti-dumping investigations. This case is part of a broader trend of protectionist trade actions coming from the U.S. and could do significant damage to the newsprint-paper-producing industry and the affected communities that are home to this industry in Canada. There are over 4,500 workers in the industry in Canada and 21 newsprint mills across Canada will be directly impacted by the anti-dumping and countervailing duties. Canada is the largest exporter of newsprint in the world and over 55 per cent of Canadian production is exported to the United States. The industry is already reeling from declining demand due to the dramatic shrinking of the newspaper industry and exports to the United States of these products have decreased 51 per cent since 2008. A prolonged trade dispute and tariffs on these products will further negatively affect firms and employment in the affected industry. These trade actions will hurt Canadian producers and will also hurt U.S. purchasers of newsprint. Although exports of newsprint are a fairly small share of Canada's overall trade with the U.S., the government and all Canadians should be particularly concerned with this case as it reflects a broadening of American protectionism. With almost half of Canadian trade being with the United States, the Canadian economy is facing an increased impact from protectionism emanating from our largest trading partner.

The Canadian government should seek to challenge the case through a NAFTA Chapter 19 panel. As with the case of softwood lumber, Canada will likely do well through the dispute-resolution chapter of NAFTA (Chapter 19) and the NAFTA panel process is more efficient than WTO reviews. NAFTA is a preferred avenue over a WTO panel as a win through the NAFTA process will mean any duties collected prior to the ruling are supposed to be returned. This provision does not exist in the WTO.

The Canadian government should also avoid pursuing disputes through multiple forums as, according to Feldman (2017), this caused problems in the case of the softwood dispute known as "Lumber IV." This also requires that the Canadian government stand fast against U.S. proposals to eliminate or gut provisions of Chapter 19 in NAFTA. The newsprint case may be the tip of the iceberg in terms of trade actions by the U.S. against all trading partners. The Canadian and provincial governments and industry representatives should work with U.S. industry and business groups as well as state governments and congressional representatives to make sure the case for free trade and an integrated North American economy continues. They should continue making the case that the industry is declining due to lower demand for newsprint and that the U.S. tariffs will not help the industry and will hurt users of newsprint. Canada should look to get other countries with an interest in this to stand up against the America shift to aggressive unilateral protectionist trade policy. The recent Canadian broader WTO challenge against the U.S. use of trade remedies is a good start.

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LIST OF CANADIAN AND PROVINCIAL GOVERNMENT PROGRAMS CITED AS ALLEGED SUBSIDIES

1	Federal Forestry Industry Transformation Program
2	The Federal Pulp and Paper Green Transformation Program (FPPGTP)
3	Forest Innovation Program
4	Transformative Technologies Pilot Scale Demonstration Program (TTPSDP)
5	Sustainable Development Technology Canada (SDTC)
6	Bioenergy Producers Credit Program (BPCP) Grant in Alberta
7	Alberta Innovates
8	Alberta Mountain Pine Beetle Project
9	Canada - BC Job Grant
10	British Columbia Hydro Power Smart: Industrial Energy Managers Program
11	BC Hydro Power Smart: Thermomechanical Pulp (TMP) Program
12	BC Hydro Power Smart: Load Curtailment
13	BC Hydro Power Smart: Incentives
14	New Brunswick Financial Assistance to Industry Program
15	New Brunswick Total Development Fund
16	Northern New Brunswick Economic Development and Innovation Fund
17	New Brunswick Workforce Expansion: One Job Pledge
18	Forest Industry Grants under the Ontario Forest Sector Prosperity Fund
19	Ontario Forestry Growth Fund
20	Pilot Biorefinery Program
21	Ontario Northern Industrial Electricity Rate Program
22	Investment Program for Treated Partial Forests in Québec
23	Wood Fibre Technology Project for White Birch Paper's Papier Masson Mill in Québec
24	Alberta Resource Road Program
25	New Brunswick Provision of Silviculture Grants
26	New Brunswick License Management Fee
27	Business Development Program
28	Atlantic Innovation Fund
29	Western Economic Diversification Canada's Western Innovation Initiative
30	Newfoundland and Labrador Provision of Loans to Corner Brook
31	Loan Guarantee Program in Ontario
32	Provision of Below-Market Rate Loans from Investissement Quebec
33	Investissement Quebec Investment in Kruger
34	Federal Accelerated Capital Cost Allowances for Class 29 Assets
35	Federal Scientific Research and Experimental Development Tax Credit
36	Federal Apprenticeship Job Creation Tax Credit
37	Atlantic Investment Tax Credit
38	Alberta Tax-Exempt Fuel Program for Marked Fuel and Alberta's Tax Rebates for Clear Fuel
39	British Columbia Powell River City Tax Exemption Program

40	British Columbia Lower Tax Rates for Coloured Fuel/BC Coloured Fuel Certification
41	Government of Newfoundland & Labrador Gasoline Tax Exemption or Rebate
42	Newfoundland and Labrador Manufacturing and Processing Profits Tax Credit
43	Quebec Tax Holiday for Large Investment Projects
44	Tax Credit for the Acquisition of Manufacturing and Processing Equipment in Quebec
45	Quebec Capital Cost Allowance for Property Used in Manufacturing and Processing
46	Credits for the Construction and Major Repair of Public Access Roads and Bridges in Forest Areas in Quebec
47	Tax Incentives for Private Forest Producers - Property Tax Refund for Forest Producers on Private Woodlands in Quebec
48	Alberta Scientific Research and Experimental Development Tax
49	British Columbia Scientific Research and Experimental Development Tax Credit
50	New Brunswick Research and Development Tax Credit
51	Newfoundland and Labrador Scientific Research and Development Tax Credit
52	Quebec Columbia Scientific Research and Experimental Development Tax Credit
53	Export Guarantee Program
54	Alberta Export Support Fund
55	British Columbia Export Log Restraints Program
56	BC Hydro's Electricity Purchase Agreements
57	New Brunswick Large Industrial Renewable Energy Purchase Program
58	Quebec Purchase of Electricity for More than Adequate Remuneration
59	Alberta Provision of Stumpage for Less than Adequate Remuneration
60	British Columbia Provision of Stumpage for Less than Adequate Remuneration
61	New Brunswick Provision of Stumpage for Less than Adequate Remuneration
62	Ontario Provision of Stumpage for Less than Adequate Remuneration
63	Quebec Provision of Stumpage for Less than Adequate Remuneration

About the Author

Eugene Beaulieu is a professor in the Department of Economics and the Director of the International Economics Program at The School of Public Policy at the University of Calgary. Eugene has been at the University of Calgary since 1997 after completing his Ph.D. at Columbia University in New York City. Eugene has worked as economist for the government of Kenya and the Bank of Canada and has been a visiting professor at Carleton University and the University of Western Australia. He has held numerous awards including the Petro-Canada Young Innovators Award, the Killam Resident Fellowship, and the Norman Robertson Fellowship at the International Trade Canada.

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