

DEPARTMENT OF COMMERCE

Bureau of Export Administration

[Docket No. 980323074-01]

Notice of General Order Prohibiting Exports of Unprocessed Timber From Certain Public Lands

AGENCY: Bureau of Export Administration, Commerce.

ACTION: Notice; Order on log exports.

SUMMARY: Section 602(b) of Title VI of Pub. L. 105-83 requires the Secretary of Commerce to issue an Order concerning the export of timber originating from non-Federal public lands in the western continental United States pursuant to the Forest Resources Conservation and Shortage Relief Act of 1990, as amended (16 U.S.C. 620 *et seq.*). This notice announces the Department's Order and publishes that Order as an appendix to this notice.

DATES: Order signed on January 9, 1998.

FOR FURTHER INFORMATION CONTACT: Bernard Kritzer, Manager, Short Supply Program, Office of Chemical and Biological Controls and Treaty Compliance, Bureau of Export Administration, U.S. Department of Commerce, Washington, D.C. 20230. Telephone: (202) 482-0894; Fax: (202) 482-0751.

SUPPLEMENTARY INFORMATION:

Background

Section 602(b) of Title VI of Pub. L. 105-83 requires the Secretary of Commerce to issue an Order making permanent the total prohibition contained in section 491(b)(2)(A) of the Forest Resources Conservation and Shortage Relief Act of 1990, as amended (16 U.S.C. 620 *et seq.*), on the export of unprocessed timber originating from public lands in states west of the 100th meridian in the contiguous 48 states with more than 400,000,000 board feet of annual sales volumes of such timber.

The Secretary of Commerce has delegated the authority for carrying out the policies and programs necessary to administer laws regarding the control of U.S. exports to the Under Secretary of Commerce for Export Administration. On January 9, 1998, the Under Secretary of Commerce for Export Administration signed an Order prohibiting exports of unprocessed timber as described above. The Order is reproduced in the following Appendix.

Dated: April 6, 1998.

R. Roger Majak,

Assistant Secretary for Export Administration.

Appendix

General Order Prohibiting Exports of Unprocessed Timber From Certain Public Lands

This order is issued pursuant to Pub. L. 105-83. Section 602(b) of Pub. L. 105-83 requires the Secretary of Commerce to make permanent the total prohibition of section 491(b)(2)(A) of the Forest Resources Conservation and Shortage Relief Act of 1990, as amended (16 U.S.C. 620 *et seq.*) (the Act) on the export of unprocessed timber originating from public lands in states west of the 100th meridian in the contiguous 48 States with more than 400,000,000 board feet of annual sales volumes of such timber.¹ As the Secretary of Commerce has delegated the authority for carrying out the policies and programs necessary to administer laws regarding the control of U.S. exports to the Under Secretary for Export Administration, I therefore order the following:

(a) *States with annual sales volumes of greater than 400,000,000 board feet of unprocessed timber originating from state or other public lands.* Notwithstanding any other provision of law, the export, from the United States to any destination, of unprocessed timber originating from public lands in any state located west of the 100th meridian in the contiguous 48 States with annual sales volumes of such timber greater than 400,000,000 board feet is prohibited. This prohibition is effective November 14, 1997. (Section 602(b) of Title VI of Pub. L. 105-83 and 16 U.S.C. 620c(b)(2)(A) and (B)).

(b) *Prohibition on substitution.* Notwithstanding any other provision of law, all persons are prohibited from purchasing, directly or indirectly, unprocessed timber originating from public lands in a state if:

(1) Such unprocessed timber would be used in substitution for exported unprocessed timber originating from private lands in that state; or

(2) Such person has, during the preceding 24-month period, exported unprocessed timber originating from private lands in that state. (16 U.S.C. 620c(b)(3)(A)).

(c) *Exemption.* The prohibitions in section (b) of this Order do not apply in a state on or after the date on which:

(1) The Governor of that state provides the Secretary of Commerce with notification of a prior state program under section 491(d)(2)(C) (16 U.S.C. 620c(d)(2)(C)) of the Act; or

(2) The Secretary of Commerce approves a state program under section 491(d)(2)(A) (16 U.S.C. 620c(d)(2)(A)) of the Act; or

¹The Secretary of Commerce's August 23, 1993 General Order Prohibiting Exports of Unprocessed Timber From Certain Public Lands continues in effect to prohibit the export from the United States, to any destination, of unprocessed timber originating from public lands in states located west of the 100th meridian in the contiguous 48 States with annual timber sales volumes of 400,000,000 board feet or less.

(3) The Secretary of Commerce issues implementing regulations under the Act, whichever occurs first.² (16 U.S.C. 620c(b)(3)(B).)

(d) *Prior contracts.* This Order does not apply to any contract for the purchase of unprocessed timber from public lands entered into before September 10, 1990, with respect to states with annual sales volumes of 400,000,000 board feet or less, or January 1, 1991, with respect to states with annual sales volumes greater than 400,000,000 board feet, or any contract under which exports were permitted pursuant to an Order of the Secretary of Commerce in effect under the Act before October 23, 1992. (16 U.S.C. 620c(e).)

(e) *Western Red Cedar.* This Order shall not be construed to supersede the controls on the export of Western Red Cedar required by section 7(i) of the Export Administration Act of 1979, as amended (50 U.S.C. app. 2406(i)), as supplemented by the International Emergency Economic Powers Act (50 U.S.C. 1701-1706), Executive Order 12924 of August 19, 1994 (3 CFR 1994 Comp. at 916 (1995)), as extended by Presidential Notice on August 15, 1995 (3 CFR 1995 Comp. at 501 (1996)), on August 14, 1996 (3 CFR 1996 Comp. at 298 (1997)), and on August 13, 1997 (62 FR 43629 (August 15, 1997)) and as set out in § 754.4 of the Export Administration Regulations (15 CFR 754.4). (16 U.S.C. 620c(f).)

(f) *Definitions.*—(1) *Public lands.* As defined in section 493(5) (16 U.S.C. 620e(5)) of the Act, "public lands" means lands west of the 100th meridian in the contiguous 48 states that are held or owned by a state or political subdivision thereof, or any other public agency. Such term does not include any lands the title to which is:

- (i) Held by the United States;
- (ii) Held in trust by the United States for the benefit of any Indian tribe or individual;
- (iii) Held by any Indian tribe or an individual subject to a restriction by the United States against alienation; or
- (iv) Held by any Native Corporation as defined in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602).

(2) *Unprocessed Timber.* As defined in section 493(7) (16 U.S.C. 620e(7)) of the Act, the term "unprocessed timber" means trees or portions of trees or other roundwood not processed to standards and specifications suitable for end product use. The term "unprocessed timber" does not include timber processed into any one of the following:

(i) Lumber or construction timbers, except Western Red Cedar, meeting current American Lumber Standard Grades or Pacific Lumber Inspection Bureau Export "R" or "N" list grades, sawn on 4 sides, not intended for remanufacture.

(ii) Lumber, construction timbers, or cants for remanufacture, except Western Red Cedar, meeting current American Lumber Standards Grades or Pacific Lumber Inspection Bureau Export "R" or "N" list clear grades, sawn on four sides, not to exceed twelve inches in thickness.

²On June 1, 1995, the Secretary of Commerce gave final approval to the programs of Washington and Oregon.

(iii) Lumber, construction timbers, or cants for remanufacture, except Western Red Cedar, that do not meet the grades referred to in clause (ii) and are sawn on four sides, with wane less than one-quarter of any face, not exceeding eight and three-quarters inches in thickness.

(iv) Chips, pulp, or pulp products.

(v) Veneer or plywood.

(vi) Poles, posts, or piling cut or treated with preservatives for use as such.

(vii) Shakes or shingles.

(viii) Aspen or other pulpwood bolts, not exceeding 100 inches in length, exported for processing into pulp.

(ix) Pulp logs or cull logs processed at domestic pulp mills, domestic chip plants, or other domestic operations for the purpose of conversion of the logs into chips.

(3) *Substitution.* Consistent with section 493(8) (16 U.S.C. 620e(8)) of the Act, the acquisition of unprocessed timber from public lands west of the 100th meridian in the contiguous 48 States to be used in "substitution" for exported unprocessed timber originating from private lands means acquiring unprocessed timber from such public lands and engaging in export, or selling for export, unprocessed timber originating from private lands within the same geographic and economic area.

(4) *Acquisition.* As defined in section 493(1) (16 U.S.C. 620e(1)) of the Act, the term "acquire" means to come into possession of whether directly or indirectly through a sale, trade, exchange, or other transaction and the term "acquisition" means the act of acquiring.

(5) *Person.* As defined in section 493(3) (16 U.S.C. 620e(3)) of the Act, the term "person" means any individual, partnership, corporation, association, or other legal entity and includes any subsidiary subcontractor or parent company and business affiliates where one affiliate controls or has the power to control the other or when both are controlled directly or indirectly by a third person.

Dated: January 9, 1998.

William A. Reinsch,

*Under Secretary for Export Administration,
Department of Commerce.*

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DEPARTMENT OF COMMERCE

International Trade Administration

[A-588-054 and A-588-604]

Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, from Japan, and Tapered Roller Bearings, Finished and Unfinished, and Parts Thereof, From Japan: Final Court Decisions and Amended Final Results of Antidumping Duty Administrative Reviews

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

ACTION: Notice of final court decisions and amended final results of antidumping duty administrative reviews.

SUMMARY: Since the publication of the August 18, 1976, antidumping finding on tapered roller bearings (TRBs), four inches or less in outside diameter, and components thereof, from Japan (41 FR 34974) (the A-588-054 TRBs case), and the October 6, 1987, antidumping duty order on TRBs, finished and unfinished, and parts thereof, from Japan (52 FR 37352) (the A-588-604 TRBs case), the Department of Commerce (the Department) has published final results in the TRBs cases as follows:

Date of publication	Periods reviewed
For the A-588-054 Case	
6/15/82, 3/9/84, and 6/1/90.	1974-79.
11/10/94	1979-86.
9/20/90	1986-87.
6/6/91	1987-88.
12/16/91	1988-89.
2/11/92	1989-90.
3/16/92	1989-90 (amended).
12/9/93	1990-92.
1/18/94	1990-92 (amended).
11/7/96	1992-93.
For the A-588-604 Case	
8/21/91	1987-88.
2/11/92	1988-89.
2/11/92	1989-90.
3/16/92	1989-90 (amended).
12/9/93	1990-92.
1/18/94	1990-92 (amended).
11/7/96	1992-93.
3/13/97	1994-95.
3/13/97	1994-95.

Subsequent to our publication of each of the above final results of administrative reviews, parties to the proceedings challenged certain aspects of our final results determinations before the Court of International Trade (CIT) and, in certain instances, before the United States Court of Appeals for the Federal Circuit (CAFC) (collectively, the Court).

With respect to the 1974-79 A-588-054 final results and the 1987-88 A-588-054 final results, we have already issued instructions to the U.S. Customs Service (Customs) to liquidate entries of TRBs within the scope of the A-588-054 finding during these periods as a result of final and conclusive court decisions made with respect to the litigation for these proceedings at earlier dates.

With respect to the 1988-89 final results for the A-588-054 case and the 1992-93 and 1994-95 final results for both TRBs cases, the Court has not yet

issued final and conclusive decisions. Therefore, we are unable at this time to publish amended final results for these periods and we are unable to instruct Customs to liquidate entries of subject merchandise made by certain manufacturers/exporters during these periods.

The Court, however, recently affirmed final remand results affecting final assessment rates for certain manufacturers/exporters for the 1979-86 A-588-054, 1986-87 A-588-054, 1987-88 A-588-604, 1988-89 A-588-604, 1989-90 A-588-054, 1989-90 A-588-604, and the 1990-92 A-588-054 and A-588-604 proceedings. As there are now final and conclusive court decisions with respect to certain litigation for these final results, where applicable, we are amending our final results of review and will subsequently instruct Customs to liquidate entries subject to these reviews.

EFFECTIVE DATE: April 10, 1998.

FOR FURTHER INFORMATION CONTACT: Ilissa Kabak or John Kugelman, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482-0145 or (202) 482-0649, respectively.

SUPPLEMENTARY INFORMATION:

Background

Below is a summary of the litigation for each of the TRBs final results for which the Court has issued final and conclusive decisions. The summary highlights those court orders/decisions which were not in harmony with the Department's original final results and/or required a recalculation of a respondent's final results margin. It is important to note that, due to the fact that litigation for each TRBs final results was unconsolidated, often the Court issued two or more orders throughout the course of litigation for a given final results which required us to recalculate a respondent's final results margin several times. To ensure the accurate calculation of amended final results, any recalculation we performed for a given respondent pursuant to a specific order reflected all recalculations we performed for that respondent pursuant to earlier orders. As a result, our recalculation pursuant to the last order requiring a recalculation of a respondent's final results margin reflects the final amended margin for the respondent, provided that final and conclusive decisions have been made by the Court with respect to each segment of litigation which impacted the respondent's final results.