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Canada – U.S. Softwood Lumber Dispute

Canada

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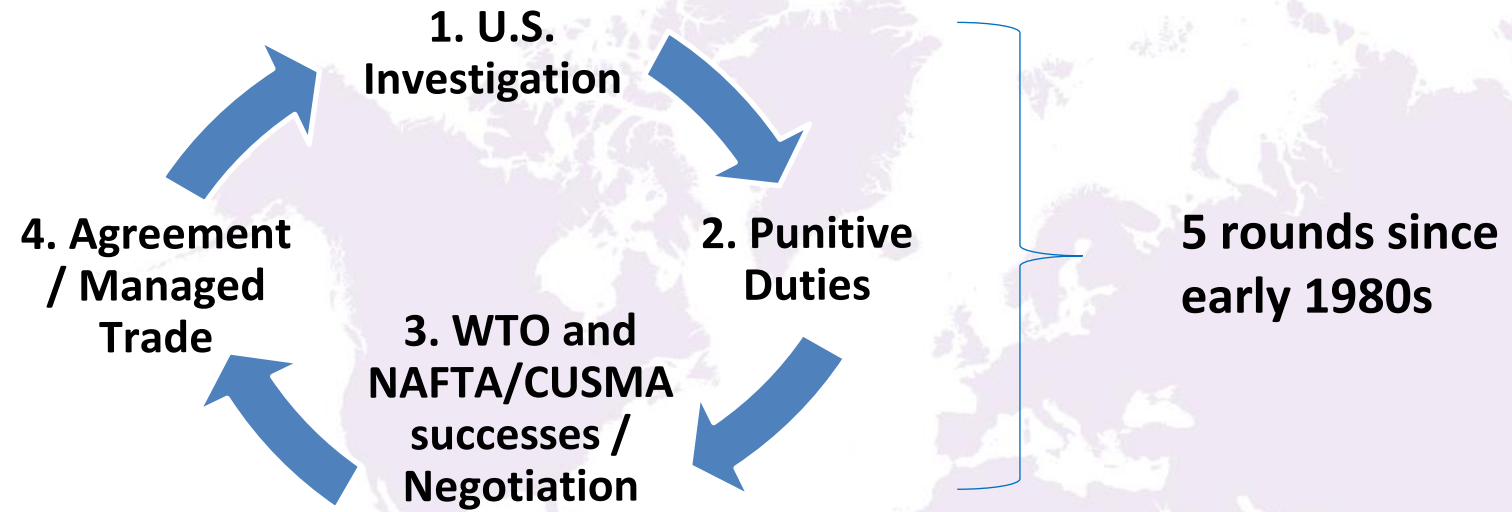
Agenda



- Brief History of Dispute
- Lumber V
- U.S. Trade Remedies System
- Canada's Legal Challenges
- State of Trade
- Looking Ahead



Brief History of Dispute



Last round ended with the 2006 Softwood Lumber Agreement (SLA)

Lumber V



- 2006 Softwood Lumber Agreement expired in 2015
- United States imposed CVD and AD and on most Canadian exports of softwood lumber in 2017
- Exports from Newfoundland and Labrador, Nova Scotia, and Prince Edward Island (certified by Atlantic Lumber Board) excluded from CVD and AD

U.S. Trade Remedies



Trade remedies are measures (e.g. additional duties) imposed by a country on imports that are found to be causing adverse effects (i.e. "injury") to a domestic industry.

Role of U.S. Department of Commerce

- Investigates alleged unfair **subsidization** and/or **dumping**.

Role of U.S. International Trade Commission (ITC)

- Investigates **injury** after Commerce investigation which alleges unfair subsidization and/or dumping. - when a subsidized or dumped good causes injury or threatens to injure the domestic industry.

Administrative Reviews



Commerce conducts an annual administrative review (AR) of the AD and CVD orders:

- typically begin in January and are completed in 12-18 months.
- applies only to companies that are subject to those reviews.
- establishes:
 - Company-specific rates for selected respondent companies and a weighted-average all-rate for “all other” exporters;
 - Duty assessment rates for shipments entered during a specific period of review (POR); and
 - The new duty deposit rates going forward until the next annual AR.
- Since 2017, Commerce has initiated *six* administrative reviews of the duties on softwood lumber:
 - AR1, AR2, AR3 and AR4 – complete
 - AR5 and AR6 – in progress

Administrative Reviews



AR4 & AR5 – Duty Rates

	Fourth administrative reviews (<u>currently in effect</u>)			Fifth administrative reviews (Preliminary Result – Do <u>not</u> take effect)		
Company	CVD Rate	AD Rate	Combined CVD + AD Rates	CVD Rate	AD Rate	Combined CVD + AD Rates
Canfor	1.36%	5.25%	6.61%	6.14%	9.65%	15.79%
West Fraser	2.19%	7.06%	9.25%	6.74%	5.33%	12.07%
J.D. Irving	1.72%	6.26% (All Others)	7.98%	3.88%	7.15% (All Others)	11.03%
Tolko*	1.79% (All Others)	6.26% (All Others)	8.05% (All Others)	9.61%	7.15% (All Others)	16.76%
All Others	1.79%	6.26%	8.05%	6.71%	7.15%	13.86%

Sunset Reviews



- Commerce and the USITC conduct a **sunset review** every five years.
- Determines whether revoking the duty orders would likely lead to a continuation or recurrence of dumping, countervailable subsidies, and material injury to U.S. industry.
- **December 2022:** First Sunset Review initiated.
- **December 2023:** USITC published its final SR determination to maintain the duties imposed on Canadian SWL products.
- **January 2024:** Canada filed challenge to the findings under Chapter 10 of CUSMA.

Expedited Reviews



- Conducted by Commerce to allow companies to apply to obtain a company-specific countervailing duty (CVD) rate, as opposed to the final “all-others” rate from a Commerce investigation.
- **June 2019:** Eight companies (7 QC, 1 NB) participated in the ER process.
- 5 received de minimus CVD rates, and 3 received company-specific rates lower than the all-others rate.
- **Augus 2021:** Rates were revoked by the USCIT.
- **October 2021:** Canada (and 7 companies) appealed to the CAFC. This appeal was upheld, and several elements were remanded back to the CIT. At this point, only 6 companies remained.
- **November 2023:** USCIT reinstates the exclusion from the CVD order. Four companies were given *de minimus* rates:
 - Scierie Alexandre Lemay & Fils Inc.
 - Les Produits Forestiers D&G
 - Marcel Lauzon Inc.
 - North American Forest Products Ltd., including its cross-owned affiliates Parent-Violette Gestion Ltée and Le Groupe Parent Ltée
- The four *de minimus* companies to receive refunds retroactive to August 2021.

Canada's Legal Challenges

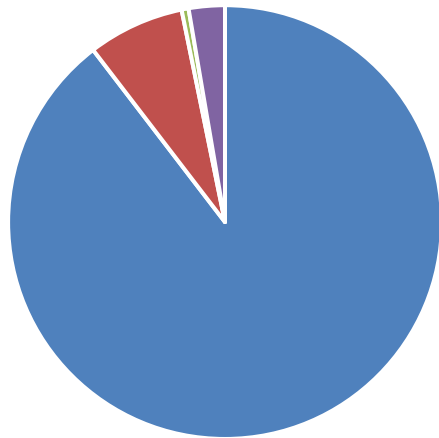


- 13 ongoing legal challenges against U.S. duties.
 - **NAFTA Chapter 19:** CVD and AD determinations from initial investigations.
 - **CUSMA Chapter 10 :** CVD and AD results of AR1, AR2 and AR3; AR4 CVD results; Sunset Review.
 - **U.S. Court of International Trade (USCIT):** AR4 AD results.
 - **WTO:** Two ongoing cases that are stalled

Canada's Global Softwood Lumber Exports

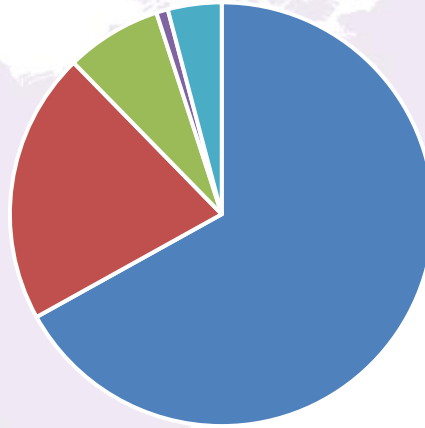


2003
US – 90% of exports
China – 0.4% of exports



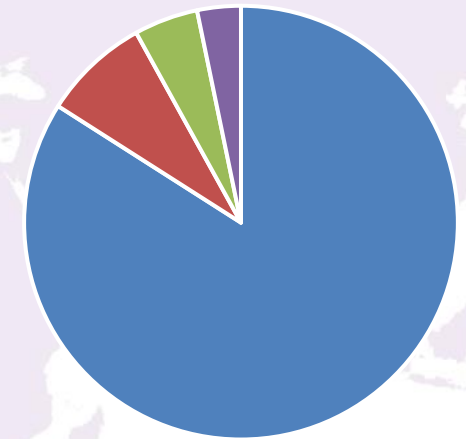
■ United States ■ Japan ■ Taiwan ■ Others

2013
US 67% of exports
China – 21% of exports



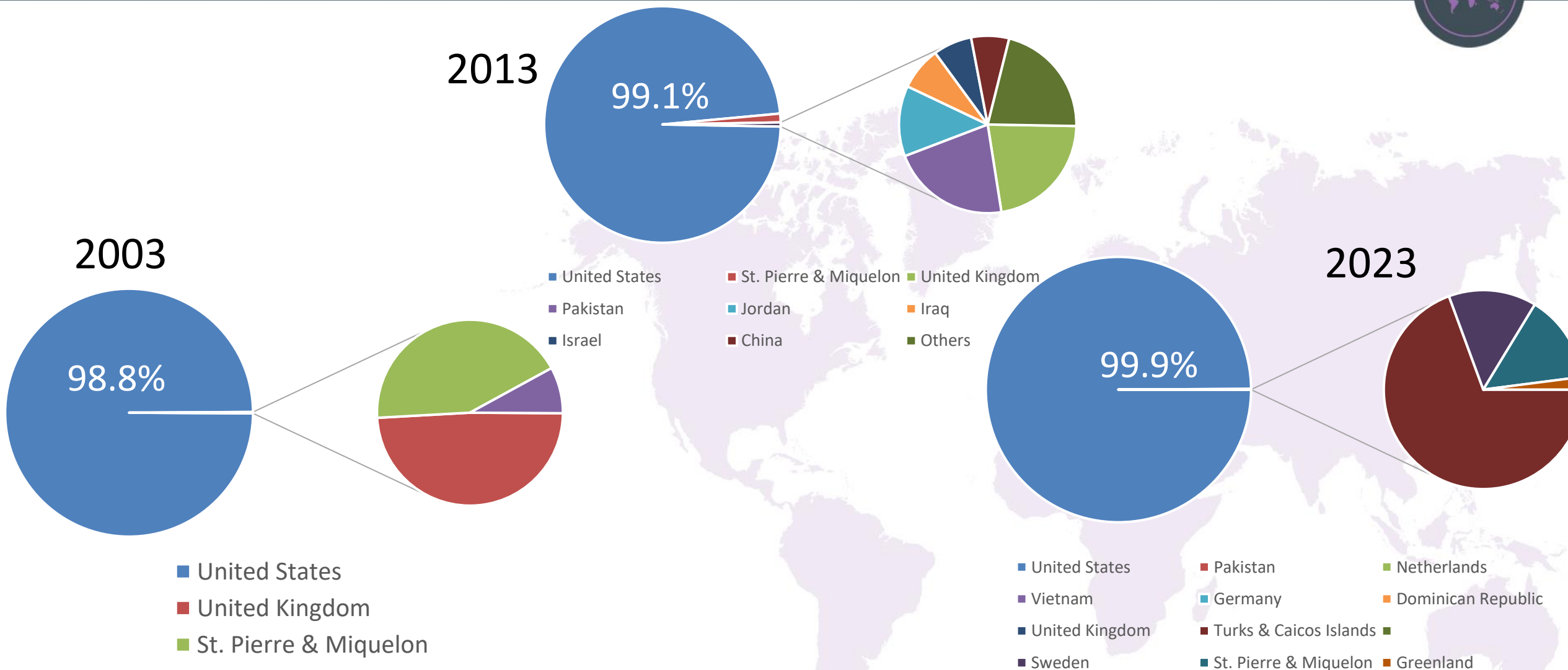
■ United States ■ China ■ Japan
■ Taiwan ■ Others

2023
US – 84% of exports
China – 8% of exports



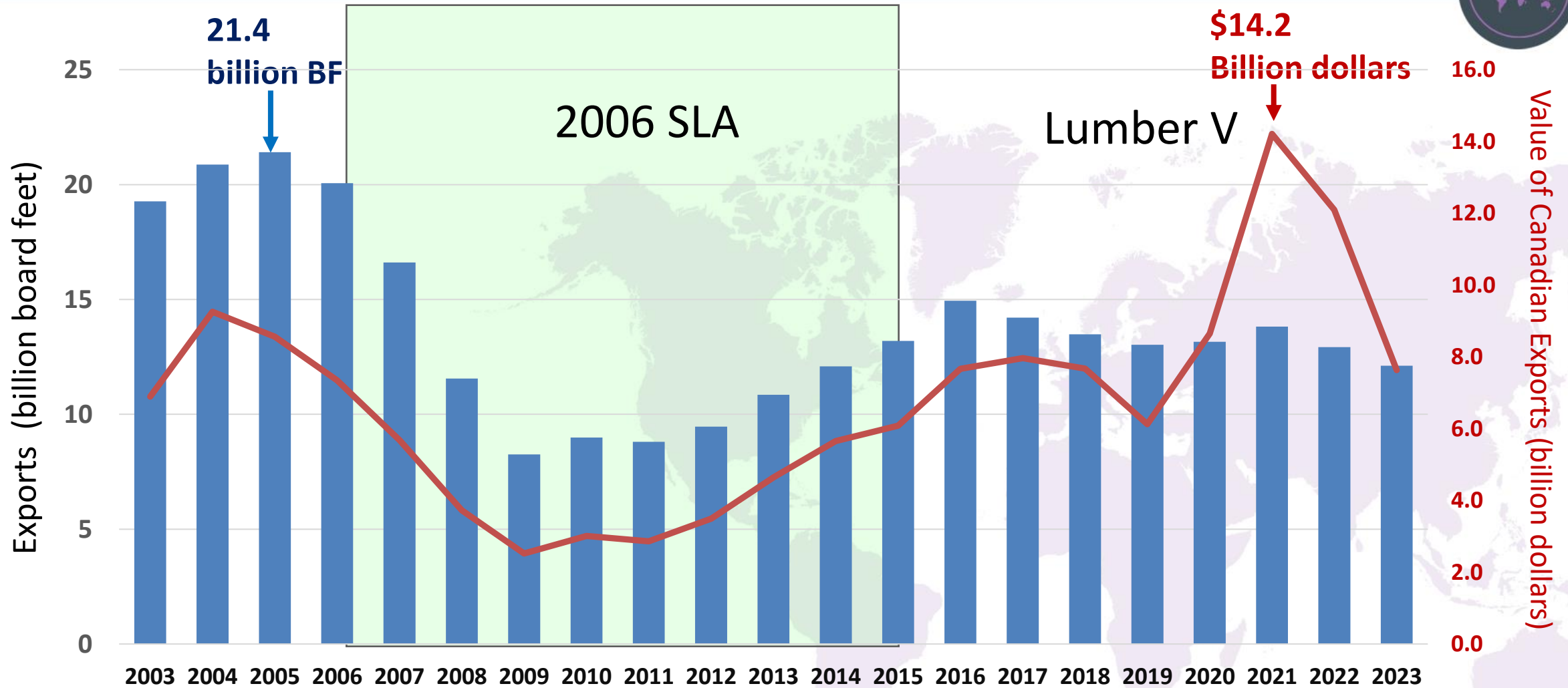
■ United States ■ China ■ Japan ■ Others

Atlantic Provinces' Softwood Lumber Exports

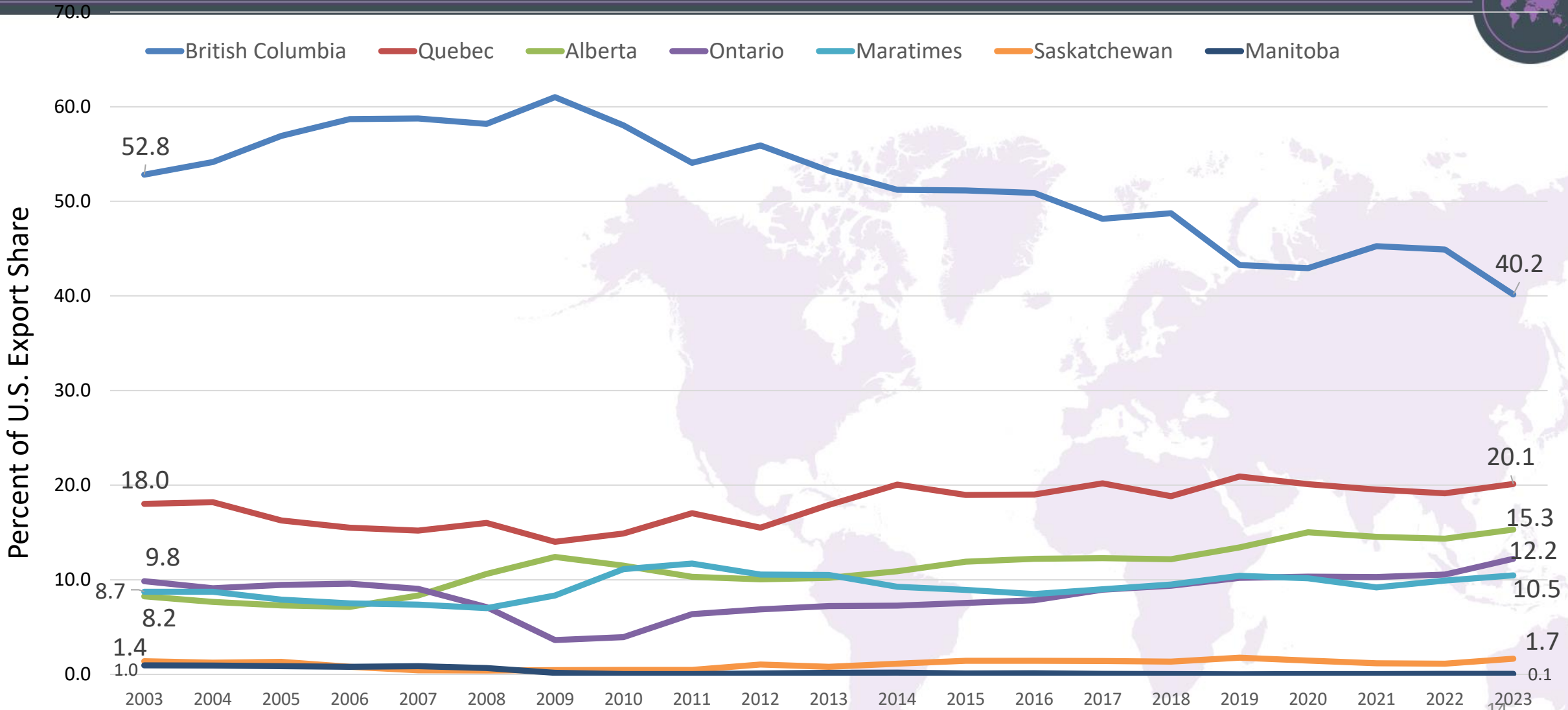


Source: S&P Global Trade Atlas (S&P GTA)

Canadian Softwood Lumber Exports to the U.S.

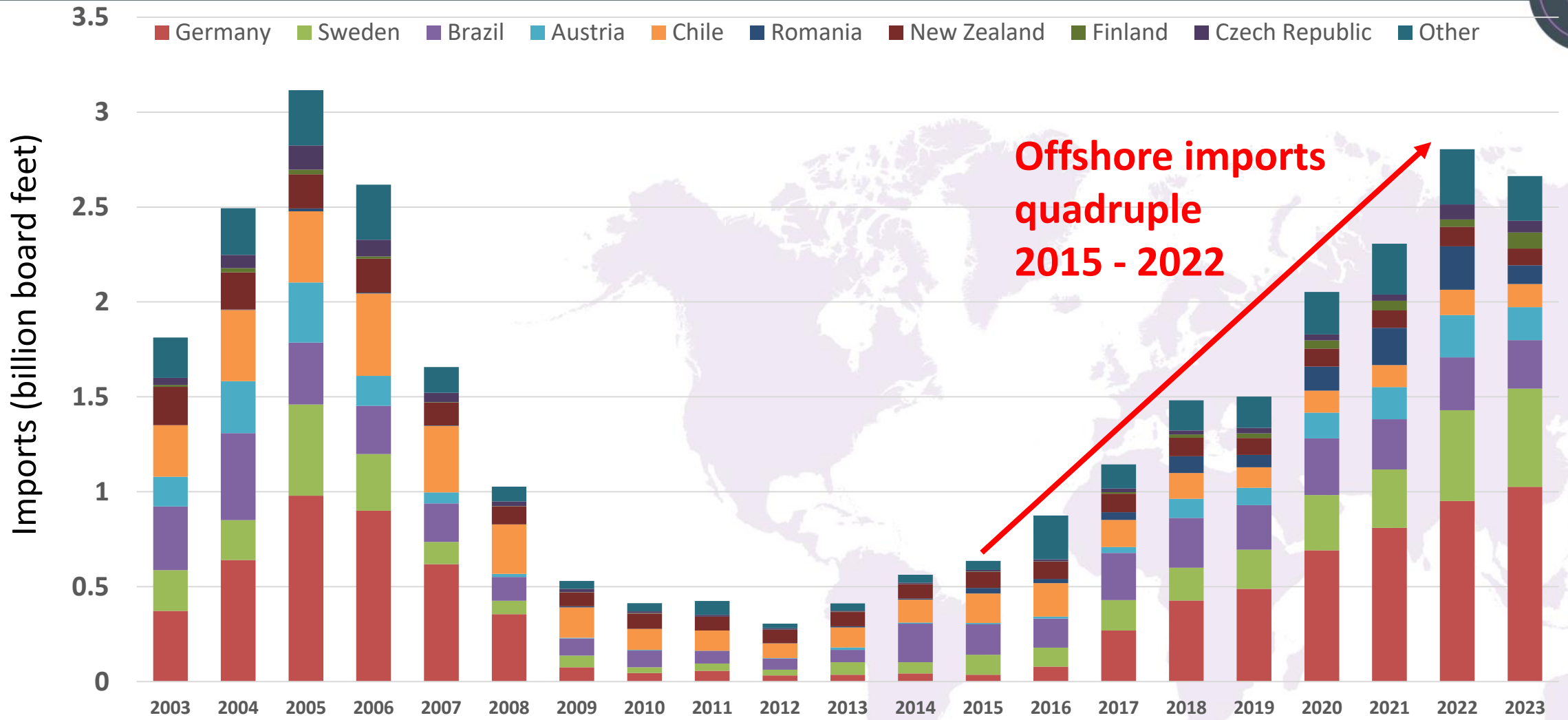


Canadian Softwood Lumber Exports to the U.S.



Source: S&P Global Trade Atlas (S&P GTA)

U.S. Softwood Lumber Offshore Imports



Source: S&P Global Trade Atlas (S&P GTA)

Looking Ahead



- August 5: Deadline for Commerce to issue remand redetermination in NAFTA CVD case.
- Summer 2024: AR5 final results
- September 2024: CUSMA AR1 CVD Hearing
- November 2024: U.S. Election

Further information



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Thank you
Merci