

FEDERAL TRADE COMMISSION DECISIONS

Findings, Opinions and Orders

IN THE MATTER OF

BOISE CASCADE CORPORATION, ET AL.

ORDER, OPINION, ETC., IN REGARD TO ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT

Docket 8958. Complaint, April 18, 1974 — Final Order, Jan. 11, 1978

This order, among other things, requires a Boise, Idaho manufacturer and seller of softwood plywood, and four of its competitors, to cease, in connection with sales and transportation of their products, employing weight estimates to determine freight charges; and using any rate of freight other than that applicable to particular business transactions. The order further requires that respondents, when offering delivered prices, provide purchasers of their products the option of obtaining point of origin prices and furnishing their own transportation. Additionally, respondents must advise persons responsible for sales and policy of the terms of the order, and publish such terms, as prescribed.

Appearances

For the Commission: *James C. Egan, Jr., Amy R. Richter, Roger J. Leifer and Robert J. Enders.*

For the respondents: *Hammond E. Chaffetz, James H. Schink, Steven D. McCormack and Stephen C. Neal, Kirkland & Ellis, Chicago, Illinois for Champion International Corporation, Georgia-Pacific Corporation, Weyerhaeuser Company and Willamette Industries, Inc. John T. Loughlin, Robert T. Johnson, Jr. and Robert W. Sheppy, Bell, Boyd, Lloyd, Haddad & Burns, Chicago, Illinois for Boise Cascade Corporation.*

COMPLAINT

The Federal Trade Commission, having reason to believe that the above-named respondents have violated and are now violating Section 5 of the Federal Trade Commission Act (15 U.S.C. 45), and believing that a proceeding by it in respect thereof is in the public interest, hereby issues its complaint charging as follows:

PARAGRAPH 1. Respondent Boise Cascade Corporation is a corporation organized, existing and doing business under the laws of the State of Delaware with its principal office and place of business at Boise, Idaho. In 1971, Boise Cascade Corporation had sales of \$1,785,870,000.

PAR. 2. Respondent Champion International Corporation is a corporation organized, existing and doing business under the laws of

the State of New York with its principal office and place of business at 777 3rd Ave., New York, New York. In 1971, Champion International Corporation had sales of \$1,599,829,000. [2]

PAR. 3. Respondent Georgia-Pacific Corporation (hereinafter "Georgia-Pacific") is a corporation organized, existing and doing business under the laws of the State of Georgia with its principal office and place of business at 900 S.W. 5th Ave., Portland, Oregon. In 1971, Georgia-Pacific had sales of \$1,447,300,000.

PAR. 4. Respondent Weyerhaeuser Company is a corporation organized, existing and doing business under the laws of the State of Washington with its principal office and place of business at Tacoma, Washington. In 1971, Weyerhaeuser Company had annual sales of \$1,299,533,000.

PAR. 5. Respondent Willamette Industries, Inc., is a corporation organized, existing and doing business under the laws of the State of Oregon with its principal office and place of business at 3800 1st National Bank Building, Portland, Oregon. In 1971, Willamette Industries, Inc., had sales of \$194,173,636.

PAR. 6. Each of the respondents is substantially engaged in the manufacture, sale and distribution of softwood plywood. In the course and conduct of their business, each of the respondents is and has been for a substantial period of time engaged in selling such products to purchasers located in various States of the United States, and has caused such products to be transported from their facilities in various States of the United States to purchasers located in various other States of the United States. Each of the respondents is therefore engaged in "commerce," as "commerce" is defined in the Federal Trade Commission Act, and has been continuously so engaged for several years.

Definitions

PAR. 7. For the purpose of this complaint, the following definitions shall apply:

(a) "Softwood" - woods from coniferous trees such as pine, fir, spruce, and hemlock, which are generally light in texture, non-resistant and easily worked. [3]

(b) "Softwood plywood" (sometimes referred to as "plywood" in this complaint) - material consisting of sheets of softwood glued or cemented together with the grains of adjacent layers arranged at right angles or at a wide angle usually being made of uniformly thin veneer sheets on either side of a thicker central layer.

(c) "Phantom freight" - the difference between the actual freight and the phantom freight.

actual freight costs incurred in shipping a product and higher freight charges used as the basis for billing the customer.

Nature of Trade and Commerce

PAR. 8. The manufacture and sale of softwood plywood is a substantial and expanding industry in the United States. In 1971, domestic shipments were \$1,246,911,000. Softwood plywood is a material which enters heavily into the cost of construction of residential and commercial buildings. There has been a trend toward factory-built housing in which 29 percent - 39 percent more plywood is used than in conventional housing. Large markets for softwood plywood include the major urban areas and suburban centers in the northeast and northcentral regions of the nation and certain urban areas in the South and the West.

PAR. 9. Historically, plywood was made from Douglas-fir trees and manufactured almost entirely in the coastal areas of the Pacific Northwest. In more recent years, the industry expanded to inland areas as types of softwood other than Douglas-fir began to be used in the manufacture of plywood. As a result of the development of new laminating techniques permitting utilization of the woods of southern pine, Georgia-Pacific established the first plywood mill in the South in Fordyce, Arkansas in 1963. Most of the large western plywood manufacturers thereafter established plants in the South. All of the respondents now have softwood plywood plants in the South.

PAR. 10. By the end of 1971, there were 51 softwood plywood plants located in the South. Since 1963, there has been a significant increase in the production of softwood plywood nationally, with most of the increase occurring in the South. By the end of 1971, production of plywood in the South reached approximately one quarter of total U.S. output. [4]

PAR. 11. In 1969, the top eight softwood plywood producers accounted for approximately 64 percent of domestic plant shipments and the top four producers accounted for approximately 48 percent of shipments. The concentration level has increased since that time. The 1969 concentration level increased from 1963 when the top four and top eight softwood plywood producers had approximately 36 percent and 50 percent of domestic plant shipments, respectively.

PAR. 12. In 1971, the top eight softwood plywood producers accounted for approximately 74 percent of southern production and the top four producers accounted for approximately 61 percent of that production. A number of plants have recently been built in the South by the leading producers and this has resulted in an increase in

concentration in the South. The respondents are among the leading producers in either the nation or in the South.

Pacific Northwest Single Basing Point

PAR. 13. Before Georgia-Pacific opened its first softwood plywood plant in the South, respondents were charging softwood plywood delivered prices based upon rail freight rates computed from Portland, Oregon. Georgia-Pacific and each of the respondents which subsequently opened plants in the South have continued to charge delivered prices for softwood plywood computed on the basis of rail freight from the Pacific Northwest, despite substantial shipments of softwood plywood from respondent's plants located in the South and other places geographically distant from the Pacific Northwest. As part of this basing point system, respondents have refused to permit customers the option of purchasing softwood plywood at the plant at f.o.b. prices which did not include freight from the Pacific Northwest or to allow their customers to arrange for the mode of transportation cheapest to the customer.

PAR. 14. The parallel conduct of respondents and others in adhering to delivered prices based upon rail rates from the Pacific Northwest for shipments from mills located in other areas of the country has resulted in substantial margins of phantom freight accruing to respondents, particularly for shipments from plants in the South made to customers located in the southern, eastern, and northcentral areas of the [5] country. This conduct enables those respondents which have plants in the West to ship plywood from their western plants to customers in the East without being undercut in price by southern mills which have a substantial geographic cost advantage. An example of the extent of phantom freight involved in the basing point system is as follows:

In September 1972, a retail dealer in New Orleans, Louisiana, purchased softwood plywood produced at a plant located 60 miles away in Holden, Louisiana. The dealer paid a delivered price of \$4,289, which was computed on the basis of rail freight from Portland, Oregon. Portland is 2500 miles away and the freight was \$764. The supplying plant in fact shipped the plywood to the purchaser by truck at a freight charge of \$80. Approximately 16% or \$684 of the purchaser's total delivered price consisted of phantom freight.

PAR. 15. The American Plywood Association, 1119 A St., Tacoma, Washington, to which most of the respondents belong, has disseminated to the industry freight books specifying appropriate rail rates from the Pacific Northwest. This has facilitated the workings of the above-described basing point system.

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estimated weights to quote delivered prices to customers. Inaccuracies in a number of these weights further inflate the amount of phantom freight.

Nature of the Offense

PAR. 17. In the conduct of the aforesaid business, the respondents individually, and in combination with other companies, are now using and for a number of years have used and pursued parallel courses of business behavior constituting unfair methods of competition and unfair and deceptive acts in commerce. Among the unfair methods of competition and the unfair and deceptive acts and practices which respondents individually, and in combination, have been and are now engaged are the following: [6]

(a) establishing and maintaining a system of delivered prices based on computation of rail freight from the Pacific Northwest for shipments made from mills located outside of that region;

(b) establishing and maintaining a system of delivered prices based on computation of rail freight and applying it to shipments made by other and cheaper modes of transportation;

(c) refusing to permit customers who purchase from southern plants the option of picking up purchases at the plant at true f.o.b. mill prices; and

(d) using identical and inaccurate estimated weights as basis for quoting delivered prices.

Effects

PAR. 18. The capacity, tendency and effects of the conduct of respondents hereinbefore alleged are, among others, to:

(a) stabilize prices and provide certainty in the pricing of softwood plywood among competitors;

(b) reduce and hinder actual and potential competition among respondents in the sale and distribution of softwood plywood;

(c) create disincentives to the most efficient location of producing points;

(d) create disincentives to customers to locate close to producing points;

(e) discourage use of the cheapest and most efficient mode of transportation in given cases;

(f) discriminate in prices between customers; and [7]

(g) mislead and deceive customers with respect to freight.

PAR. 19. The conduct of respondents hereinbefore alleged were and are unfair methods of competition, and unfair or deceptive acts in

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commerce in violation of Section 5 of the Federal Trade Commission Act (15 U.S.C. 45), as amended.

INITIAL DECISION BY MORTON NEEDELMAN, ADMINISTRATIVE LAW
JUDGE

NOVEMBER 29, 1976

[2] I

STATEMENT OF THE CASE

The complaint in this proceeding issued on April 18, 1974. It charges that respondents, manufacturers of softwood plywood, have, individually, and in combination, pursued parallel courses of business behavior constituting unfair methods of competition, and unfair and deceptive acts and practices in violation of Section 5 of the Federal Trade Commission Act (15 U.S.C. 45).

Specifically the complaint alleges that respondents, individually and in combination, have: (a) established and maintained a system of delivered prices for plywood¹ which is based on computation of the freight charge from the Pacific Northwest for shipments made from mills located in the South; (b) established and maintained a system of delivered prices based on computation of rail freight and applied these computations to shipments made by other and cheaper modes of transportation; (c) refused to permit customers the option of purchasing at respondents' southern plywood plants at a true F.O.B. price; and (d) used identical and inaccurate estimated weights as the basis for delivered price quotes. (Complaint ¶'s 17(a)-(d)).

The complaint further alleges that the effects of these practices have been to: stabilize prices and provide certainty in the pricing of plywood among competitors; reduce and hinder actual and potential competition among respondents in the sale and distribution of plywood; create disincentives to the most efficient location of plywood producing points; create [3] disincentives for customers to locate close to plywood producing points; discourage use of the cheapest and most efficient mode of transporting plywood; discriminate in prices between customers; and to mislead and deceive customers with respect to freight. (Complaint ¶'s 18(a)-(b)).

Respondents' answers, filed by Boise Cascade on May 22, 1974 and by the others on June 7, 1974, admit certain corporate and jurisdictional facts, but deny all substantive allegations in the complaint.

¹ Unless otherwise specified, the term "plywood" as used in this initial decision means softwood plywood only. The

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In the prehearing stage, complaint counsel had extensive discovery of respondents' records. Upon completion of the discovery phase, the case-in-chief began on December 2, 1975, and was concluded on December 22, 1975. The defense case was presented between January 19, 1976, and April 1, 1976. The rebuttal and surrebuttal cases were heard between April 19 and June 8, 1976. During these hearings, all counsel were afforded full opportunity to be heard, and to examine and cross-examine witnesses.

The record was closed on June 30, 1976, for the receipt of evidence. Proposed findings of fact and conclusions of law, together with briefs were filed by the parties on July 30, 1976. Answering briefs were filed on August 30, 1976. Oral argument on the briefs was heard on September 8, 1976. On September 7, 1976, complaint counsel moved to strike from the record certain documentary exhibits which had not been relied on either in proposed findings or in replies. This motion was opposed in part by respondents, and except for those deletions which respondents were against, complaint counsel's motion was granted by my order dated September 13, 1976. By leave of the Commission, the date for filing this initial decision was set for November 29, 1976. [4]

After reviewing all the evidence, the proposed findings, conclusions, and briefs submitted by the parties, and based on the entire record, including my observation of the demeanor of all witnesses, I make the following findings of fact.²

² Proposed findings not adopted in the form proposed or in substance, are rejected as either not supported by the entire record, or as involving immaterial matters.

The following abbreviations are used in citing to the record: "Tr." (transcript of testimony); "CX" (complaint counsel's exhibits); "RX" (respondents' exhibits). CX 1, an index to complaint counsel's exhibits, contains a description of each document, date received or rejected, source, and part of the document which is in evidence. (Exhibits which were offered and received for only a part of the document, indicate received portion bracketed in red.) The same information for respondents' exhibits appears on RX 1.

All *in camera* exhibits are listed in my omnibus *in camera* order of June 23, 1976. By the terms of this order (§ 4) there is no limitation whatever on the public use of this material in decisions written by the undersigned, the Commission, or other reviewing authorities. Also, my *in camera* order of June 23, 1976 (§ 5) states that *in camera* status will end on June 30, 1981, when all *in camera* exhibits are to be placed on the public record.

In reviewing documentary exhibits, it is helpful to consult CX's 801A-805E which give the employment history of senders and recipients of respondents' memoranda and letters. [5]

The record, excluding pre-hearing conferences, consists of 4,703 pages (121 of which are oral argument on briefs). There are approximately 1,000 trial exhibits consisting of several thousand pages. The witnesses were as follows:

| Name | Called By | Tr. Pages |
|--|---------------------|-----------|
| Robert E. Smith | Complaint | 314-367 |
| C.C. Crow Publications, Inc. | Counsel ("c.c.") | 535-569 |
| Lester E. Anderson | | |
| Random Lengths Publications, Inc. | c.c. | 368-527 |
| Gordon J. King | | |
| Hampton Lumber Sales (formerly with Boise Cascade) | c.c. | 570-702 |
| James C. Schmidt | | |
| Louisiana Pacific Corporation (formerly with Boise Cascade) | | |

(Continued)

[8] II

FINDINGS OF FACT

The Respondents

1. Respondent Georgia-Pacific Corporation ("Georgia-Pacific") is a Georgia corporation with its principal office and place of business located at 900 S.W. Fifth Ave., Portland, Oregon. (Complaint and Georgia-Pacific Answer ¶ 3.)

2. Georgia-Pacific is a manufacturer and distributor of softwood and hardwood plywood, paper and other forest products. In 1971, Georgia-Pacific's total corporate sales were \$1,447,300,000. (Complaint and Georgia-Pacific Answer ¶ 3; CX 460.)

3. Respondent Champion International ("Champion") is a New York corporation. At the time complaint issued its principal office and place of business were located at 777 3rd Ave., New York, New York. (Complaint and Champion Answer ¶ 2.) Champion's corporate headquarters was subsequently moved to Stamford, Connecticut. (Tr. 2570.)

4. Champion (through its United States Plywood Division) is a manufacturer and distributor of plywood and other wood products. (Tr. 2561.) Champion's 1971 sales of all products were \$1,599,829,000. (Complaint and Champion Answer ¶ 2.)

5. Respondent Boise Cascade Corporation ("Boise") is a Delaware corporation with its principal office and place of business located in Boise, Idaho. (Complaint and Boise Answer ¶ 1.)

6. Boise manufactures and distributes wood products, including plywood,³ and had total sales [9] in 1971 from all products of \$1,785,870,000. (Complaint and Boise Answer ¶ 1.)

7. Respondent Weyerhaeuser Company yellow is a State of Washington corporation with its principal office and place of business located in Tacoma, Washington. (Complaint and Weyerhaeuser Answer ¶ 4.)

8. Weyerhaeuser is a manufacturer and distributor of plywood and other forest products, including lumber, particleboard, wallboard, and paper. In 1971, Weyerhaeuser's sales of all products were \$1,299,533,000. (Complaint and Weyerhaeuser Answer ¶ 4; CX's 101H-i, 110E, 807B.)

9. Respondent Willamette Industries, Inc. ("Willamette") is an Oregon corporation, with its principal office and place of business located at 3800 1st National Bank Building, Portland, Oregon. (Complaint and Willamette Answer ¶ 5.)

10. Willamette is a manufacturer and distributor of paper products, plywood, lumber, and particleboard. In 1971, Willamette's total

³ In addition, Boise's Eastern Division produces "Kingsberry" pre-fabricated homes which are manufactured in panelized sections and assembled on site. (CX 421, p. 9.)

sales from all products were \$194,173,636. (Complaint and Willamette Answer ¶ 5; CX 65B.)

The Product

11. This case involves plywood manufactured by respondents from two types of softwood evergreen trees — the Douglas fir grown principally in or near the Pacific Northwest, and the yellow pine grown in the South.⁴ [10]

12. Plywood is a flat wood panel, constructed of thin sheets of wood bonded together with the grain direction of each sheet or “ply” at right angles to the one adjacent to it. The plywood “sandwich” consists of thin outer veneer sheets on either side of a thicker central layer. (CX 320, p. 2; Tr. 572, 1374, 1895.)

13. Plywood is manufactured by debarking and cutting logs into “peeler blocks” approximately 8 feet 6 inches in length. The peeler blocks are softened by steaming. (Tr. 1373.)⁵

14. After the steaming process, the “peeler blocks” are then revolved against a sharp blade and “peeled” into continuous sheets in much the same manner as paper is unwound from a roll. (Tr. 1373-74.)⁶ These peeled veneer sheets are passed down a conveyor, clipped to the desired lengths and dried. (CX 320, pp. 2-3, 11-12; Tr. 1374.)

15. The veneer sheets are then graded by quality according to the incidence of defects. The highest grades, designated “N” (intended for natural finish) and “A,” must be completely smooth and devoid of any open defects when sanded. The remaining grades — “B,” “C,” and “D” — may have defects of specified size and in some instances of specified number. Grade “D” veneer [11] may have any number of defects so long as these defects do not seriously impair the strength or serviceability of the panel. (CX 320, pp. 2-3, 11-12; Tr. 386-87, 1894-95.)

16. The veneers are coated with glue and arranged together in the desired number of plies — most plywood is made in 3, 4, or 5 plies — to form the plywood “sandwich.” The stacked veneers are then glued under pressure in a hot press. (CX 320, p. 2; Tr. 572, 1374.)

17. Plywood panels with inner cores composed of D grade veneers are known as “interior type.” Interior grade panels are not used in

⁴ “Southern yellow pine” is not one species. It is a term applied to Loblolly, Slash, Shortleaf, and Longleaf pines. (CX 320, p. 4.)

⁵ The technical standard for the manufacture of plywood is established by the plywood industry under the auspices of the Product Standards Section of the U.S. Department of Commerce and is published by the National Bureau of Standards in “Softwood Plywood — Construction and Industrial Standard PS 1-66,” and its successor, PS 1-74. (CX 320; Tr. 1895.)

⁶ Because it is impossible to peel the log entirely, there is always a small “core block” remaining after the peeler block is converted into veneers. These cores constitute a by-product of the plywood production process and are either sold outright or ground into chips and then sold. (CX 320; Tr. 4299.)

applications where there is constant exposure to weather. Plywood panels of "exterior type" construction, which may be exposed to weather, are constructed with C grade inner veneers. (CX 320, pp. 2-3; Tr. 350.)⁷

18. Following the drying process the plywood panels are trimmed to desired size. Panels 4 feet by 8 feet are the most commonly produced. (RX's 434A-435F; Tr. 350, 1374.)

19. Plywood panels containing higher veneer grades are often sanded to meet the requirements of such specialized end-uses as interior cabinet work and stair treads. In addition, panels may be improved or upgraded by repairs (patches) which eliminate defects in the face veneers. (CX 320, pp. 11-12, 20; Tr. 1374.) Plywood which incorporates the N, A or B grades of veneer on the face panel and which is fully sanded for complete smoothness on both sides is known as "sanded" plywood. (CX 320, p. 11.)

20. Unsanded plywood — also known as "sheathing" — contains C and D grades of veneer in the face and back. Since plywood grade designation is expressed by reference to the face and back veneers, sheathing designated as [12] "CD interior" consists of C grade veneer on the face, D grade veneer on the back and D grade inner plies. (CX 320, p. 11; Tr. 353, 1895-96.)

21. In addition to the sanded and sheathing products,⁸ plywood veneers of various grades may be manufactured into specialty products designed for particular uses. Among these are special engineering grades designed for applications in which unusually rigid structural properties are important. (CX 320, p. 20.)

22. Of the 12.5 billion square feet of plywood shipments reported by the American Plywood Association in 1974, approximately 8.7 billion square feet, or 69.7 percent, were sheathing; 2.7 billion square feet (21.9 percent) were sanded; and 1 billion square feet (8.3 percent) were specialty products. The most commonly produced softwood plywood product is CD interior with exterior glue,⁹ which accounted for approximately 66.6 percent of sheathing shipments reported by the American Plywood Association in 1974. (RX's 11N, Q.)

23. Residential construction in which CD sheathing is widely used for flooring, walls, and roofing,¹⁰ is the principal plywood application. The American Plywood Association estimates that 54.8 percent of

⁷ Almost all plywood — western or southern, interior or exterior — is now made with a moisture repellent exterior glue line. (Tr. 361.)

⁸ "Plyform" or "concrete form" is a plywood product which has an oiled edge and is used to form the mold for poured concrete. After the concrete hardens, the plyform is removed and used again. (Tr. 353, 536.)

⁹ Also known as "Standard Exterior" or "CDX." Note that CDX is an "interior"-type panel bonded with an exterior glue. (Tr. 360-61, 1894-96.)

¹⁰ Plywood has taken over almost all of the roof-sheathing market, and is an important factor in sidewall sheathing as well as in flooring where it is replacing the traditional oak floor. (Tr. 1375.)

industry production in 1973 was used in residential construction. [13] Other construction accounted for 13.6 percent. The industrial market including such applications as packaging materials and furniture accounted for 18.6 percent. The agricultural and over-the-counter markets accounted for 13 percent of industry production. (RX 12G; Tr. 353, 1374-75, 1423.)¹¹

The Industry

24. The production and sale of plywood is a substantial industry. In 1964 there were 164 plywood mills producing 11,678,621 thousand square feet (3/8 inch basis).¹² In 1974 the number increased to 195 mills which produced 15,878,380 thousand square feet (3/8 inch basis). (RX 11E.)

25. From the origin of the plywood industry in the early twentieth century until 1947, all plywood was produced in the States of Washington and Oregon. In 1947 the western plywood industry expanded into northern California, and in 1952 to the States of Idaho and Montana. (RX's 11E-F.) [14]

26. During the early 1960's, the technology of laminating southern pine veneers into a successful plywood bond was developed. The first southern mill specifically designed for plywood was constructed by Georgia-Pacific at Fordyce, Arkansas,¹³ and the first shipment of plywood from that mill was made in December 1963. (CX 460; p. 10; Tr. 1377-78.) Before the lamination problem was solved, southern pine was mainly used in the manufacture of pulp, paper or lumber, but it was not used for plywood. (RX 90B.)

27. Today there are three major plywood producing regions in the United States: the original "western" region encompassing the States of Oregon and Washington west of the Cascade mountains and

¹¹ These end-use percentages have remained relatively constant during the time period 1971-73:

| | 1971 | 1972 | 1973 |
|------------------------------|-------|-------|-------|
| Residential construction | 53.6% | 54.6% | 54.8% |
| General construction | 12.8 | 12.8 | 13.6 |
| Industrial | 19.5 | 19.2 | 18.6 |
| Agriculture/over-the-counter | 14.0 | 13.4 | 13.0 |

(RX 12G)
¹² For statistical purposes, various thicknesses of plywood are frequently converted to a uniform 3/8 inch basis for measuring volume in square feet regardless of thickness. For example, a 4 foot x 8 foot panel of 1/2 inch plywood contains 32 square feet (4 feet x 8 feet) of surface footage on an actual basis and 42.7 square feet [1/2 inch divided by 3/8 inch (4 feet x 8 feet)] of surface footage on a 3/8 inch basis.

¹³ During 1962 and 1963, Georgia-Pacific acquired the Crossett Company in Crossett, Arkansas and the nearby Fordyce Lumber Company. With these acquisitions, which together cost about \$140 million, Georgia-Pacific obtained 800,000 acres of pine timber. (RX 90B.)

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northern California; the "inland" (or "Inland Empire") region, which includes those portions of Washington and Oregon east of the Cascade mountains, and the States of Idaho and Montana; and the "southern" region comprising Maryland, Virginia, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Arkansas, Louisiana, Texas, and Oklahoma. (RX 11C.) The production share by region in 1974 was as follows:

| | |
|----------|-------|
| Western | 61.4% |
| Southern | 32.3 |
| Inland | 6.3 |

(RX 11D)

In terms of the key product manufactured in the South, plywood sheathing, the regional shares in 1974 were as follows:

| | |
|----------|-------|
| Southern | 45.7% |
| Western | 35.6 |
| Inland | 18.7 |

(RX 11Q)

[15] 28. Total industry and respondents' production of all softwood plywoods are as follows:

TABLE 1: Production of All Plywood By Industry and By Individual Respondents

(In thousands of square feet - 3/8 inch basis)

| | 1964 | 1969 | 1971 | 1973 |
|-----------------|------------|------------|------------|------------|
| Industry | 11,678,621 | 13,694,392 | 16,634,971 | 18,304,599 |
| Georgia-Pacific | 1,038,000 | 1,944,000 | 2,709,000 | 2,434,000 |
| *Boise | 401,985 | 920,419 | 1,366,648 | 1,352,480 |
| Weyerhaeuser | 624,280 | 851,600 | 1,036,700 | 1,213,200 |
| *Champion | 763,683 | 1,046,125 | 1,134,717 | 1,200,600 |
| *Willamette | 510,463 | 811,434 | 1,001,523 | 1,074,800 |

(Source: CX 930C)

* Includes all production of joint venture mills in which the particular respondent is a joint venture partner.

29. The five respondents account for the following percentage of total industry production:

TABLE 2: Percentage of Total Production Controlled By Each Respondent

| | 1964 | 1969 | 1971 | 1973 |
|-----------------|------|-------|-------|-------|
| Georgia-Pacific | 8.89 | 14.20 | 16.28 | 13.30 |
| *Boise | 3.44 | 6.72 | 8.22 | 7.39 |

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|--------------|------------------|-------|-------|-----------|
| Weyerhaeuser | 5.35 | 6.22 | 6.23 | 6.63 |
| *Champion | 6.54 | 7.64 | 6.82 | 6.56 |
| *Willamette | 4.37 | 5.93 | 6.02 | 5.87 |
| 5 firm total | 28.59 | 40.70 | 43.57 | 39.74 |

(Source: Finding 28)

* Includes all production of joint venture mills in which the particular respondent is a joint venture partner.

[16] 30. Total industry and respondents' production of southern pine plywood are as follows:

TABLE 3: Total Softwood Plywood Production By Industry And By Respondents

(In thousands of square feet - 3/8 inch basis)

| | 1964 | 1969 | 1971 | 1973 |
|-----------------|--------|-----------|-----------|-----------|
| Industry | 80,024 | 2,875,355 | 4,410,062 | 5,558,618 |
| Georgia-Pacific | 64,000 | 962,000 | 1,729,000 | 1,824,000 |
| *Boise | 0 | 52,802 | 66,202 | 123,447 |
| Weyerhaeuser | 0 | 196,000 | 310,100 | 472,600 |
| *Champion | 0 | 189,041 | 264,037 | 265,481 |
| *Willamette | 0 | 157,650 | 280,696 | 328,407 |

(Source: CX 930C)

* Includes all production of joint venture mills in which the particular respondent is a joint venture partner.

31. The five respondents account for the following percentage of total southern plywood production:

TABLE 4: Percentage of Total Southern Production Controlled By Each Respondent

| | 1964 | 1969 | 1971 | 1973 |
|-----------------|-------|-------|-------|-------|
| Georgia-Pacific | 79.98 | 33.46 | 39.21 | 32.81 |
| *Boise | 0 | 1.84 | 1.50 | 2.22 |
| Weyerhaeuser | 0 | 6.82 | 7.03 | 8.50 |
| *Champion | 0 | 6.57 | 5.99 | 4.78 |
| *Willamette | 0 | 5.48 | 6.36 | 5.91 |
| 5 firm total | 79.98 | 54.17 | 60.09 | 54.22 |

(Source: Finding 30)

* Includes all production of joint venture mills in which the particular respondent is a joint venture partner.

[17] 32. The record does not contain precise proof of the dollar value of annual plywood production, but it can be estimated. In 1973, Georgia-Pacific, the dominant southern plywood producer, had an average sales realization of approximately \$100 (per thousand square feet) on sales from its southern sheathing plants. (RX 452 *in camera*.) Applying the Georgia-Pacific experience to total southern production

sales of southern sheathing of \$555,861,800. Western production is more difficult to estimate because the product mix of the western and inland regions is varied and includes higher priced items such as sanded and specialty. In any event, since southern production was only 30 percent of total industry production in 1973 (CX 321, p. 3), it can readily be seen that total industry production (18,304,599 thousand feet) produced sales of approximately \$2 billion. Census data, which combines softwood plywood with veneers, show 1972 sales valued at \$2,011,500,000. (CX's 677A-E.)

33. Georgia-Pacific is the largest manufacturer of softwood plywood, and it is recognized by other softwood plywood manufacturers, including respondents, as the industry leader and the dominant southern plywood producer. (CX's 110Z9, 325B, 356A, 461, p. 47, 502A, 589, 616; RX 90A-B.)

Respondents' Plywood Operations

34. With the exception of respondent Willamette,¹⁴ which for all practical purposes has no distribution outlets apart from its mills, respondents operate multiple level distribution systems where sales are made either directly from producing mills through centralized mill sales offices (usually in carload lots or from owned and operated and geographically dispersed distribution outlets variously called "distribution centers," "branches," "warehouses," "CSC's" ("Customer Service Centers," [18] Weyerhaeuser's name for its outlets) or "BM & S's" ("Building Materials and Service," Boise's name for its outlets). (See Findings 35-58.)

These distribution outlets may make sales out of inventory in "break-bulk" quantities or may sell on the basis that the plywood is to be shipped directly from the mill in carload or truckload lots, referred to as a "direct mill" sale by a branch. Customers of both the mills or the distribution outlets may range across the entire spectrum of plywood customers from end-users such as residential and industrial contractors and manufacturers to intermediate buying groups, retail lumberyards, and the distribution outlets of other plywood producers. But essentially, respondents' distribution outlets are wholesale warehouses which sell to lumber dealers who, in turn, resell to building contractors. (CX's 56A, 461, p. 48; Tr. 995-96, 1133-34).

¹⁴ Almost all of Willamette's sales are made from its mills: only 2 percent of its sales are made from company-owned retail lumberyards located in Oregon. (See Finding 55.)

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35. In 1975 Georgia-Pacific produced plywood at 18 mills located as follows:

West

Coos Bay, Ore.
 Coquille, Ore.
 Springfield, Ore.
 Toledo, Ore.

South

Crossett, Ark. (2 mills)
 Emporia, Va.
 Fordyce, Ark.
 Gloster, Miss.
 Louisville, Miss.
 Monticello, Ga.
 Russellville, S. C.
 Savannah, Ga.
 Taylorsville, Miss.
 [19] Whiteville, N. C.
 Talladega, Ala.
 Warm Springs, Ga.
 Prosperity, S. C.¹⁵

(CX's 452; Tr. 1529-30)

36. Georgia-Pacific's Building Products Division initially market all of Georgia-Pacific's softwood plywood (whether produced at Georgia-Pacific mills in the West or South or purchased from other producers) through sales departments located in Portland, Oregon; Crossett, Arkansas; and Augusta, Georgia. The Crossett and Augusta sales departments are under the control of the Portland sales office. About 90 percent of Building Products Division sales of plywood are made to Georgia-Pacific's own Distribution Division. (CX 133A; Tr. 1427, 1570.)

37. In addition to its own production, Georgia-Pacific purchases plywood from several sources including both manufacturers and independent wholesalers. (Tr. 2087.) Virtually all of the plywood purchased from outside sources is sold by the Georgia-Pacific

¹⁵ A Georgia-Pacific mill in Chiefland, Florida was closed during 1974. Three mills (Urania, Louisiana; New Waverly, Texas; and Corrigan, Texas) were spun off in 1972 to Louisiana-Pacific Corporation pursuant to an order of

