

RENEWAL OF THE U.S. – CANADA SOFTWOOD LUMBER AGREEMENT

OBJECTIVE: Renewal of a Softwood Lumber Agreement (SLA) between the United States and Canada to allow for the continued stable product supply of framing lumber for retailers, home builders and consumers.

BACKGROUND: The most recent Softwood Lumber Agreement between the U.S. and Canada – which placed an export tax on Canadian softwood lumber imported into the U.S. – expired on October 12, 2015. There was a one-year cooling off period where neither country was allowed to engage in litigation on the issue. Litigation now appears increasing likely as the two sides remain far apart in reaching a new agreement.

At the center of the dispute is the claim that the Canadian lumber industry is *unfairly subsidized* by its federal and provincial governments, as most timber in Canada is owned by the provincial governments. The prices charged to harvest the timber (stumpage fee) are set administratively, as opposed to the practice in the U.S. where prices are set mostly through the competitive market. American lumber producers claim this constitutes an unfair subsidy, and is thus subject to U.S. trade remedy laws, where foreign goods benefiting from subsidies can be subject to a countervailing duty tariff, to offset the subsidy and bring the price of the commodity back up to market rates.

The Canadian government and lumber industry dispute this assertion based on a number of factors, including that Canadian timber is provided to a wide range of industries, and the lack of specificity make it ineligible to be considered a subsidy under U.S. law. Under U.S. law, a countervailing subsidy must be specific to a particular industry. American lumber producers have filed suit against the Canadian government on several occasions in the past alleging that it illegally subsidizes softwood lumber imported to the U.S.; however, Canada has won all three times in the international court system regarding the dispute.

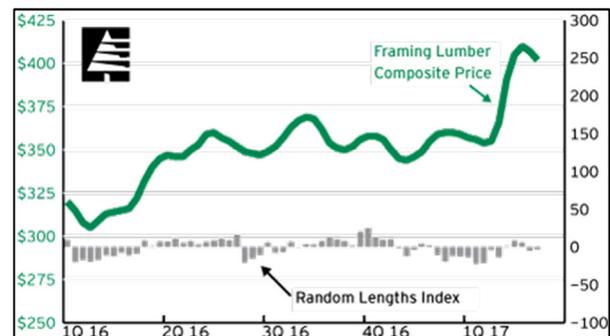
U.S. lumber producers have approximately 65 to 71 percent of the U.S. softwood lumber market, and Canadian producers' market share fluctuates between 28 and 34 percent. There is relatively little softwood lumber imported into the U.S. from countries other than Canada.

INVESTIGATION OF TRADE PRACTICES: On November 25, 2016, the U.S. Lumber Coalition, which represents American softwood lumber producers, petitioned the U.S. Department of Commerce and the U.S. International Trade Commission (ITC) to restore what it considers to be the conditions of fair trade in softwood lumber between the U.S. and Canada.

In its petition, the U.S. Lumber Coalition alleges that Canadian provincial governments are providing standing trees to Canadian producers for an administered fee that is far below the market value of the timber, as well as a number of other subsidies. In addition, the coalition petition alleges that Canadian softwood lumber is being sold for less than fair value in the U.S. The U.S. Lumber Coalition wants the U.S. government to impose duties on Canadian imports to offset the harm Canadian imports have caused U.S. mills and lumber-reliant communities.

The U.S. International Trade Commission (ITC) has delayed its countervailing duty (CVD) determination against Canadian lumber imports until April 24 due to the complexity of the case. An antidumping (AD) duty determination is expected by the ITC in May. If a CVD or AD duty is affirmed and "critical circumstances" apply in this case, duties could be applied retroactively up to 90 days.

RECENT PRICE INCREASES: In anticipation of duties on Canadian softwood lumber imports the price has increased substantially over the past two months. The Random Lengths Framing Lumber Composite price jumped from \$366 per thousand board feet on February 3 to \$391 on February 10, the greatest weekly gain since August 2003. On March 10, the price had stabilized somewhat to \$402. A year ago, the price was \$322.



CURRENT STATUS: Officials from the U.S. and Canada continue to publicly express support for a new SLA. However, behind the scenes both sides appear more pessimistic that litigation can be avoided. The last time a trade case was brought by the U.S. lumber industry against the Canadian Government, it took several years to resolve the dispute and there were duties placed on Canadian imports until a new agreement was reached. There is growing concern of a prolonged legal battle between the U.S. lumber industry and the Canadian Government.

NLBMDA POSITION: NLBMDA supports the U.S. and Canada reaching a new SLA that helps meet domestic demand for softwood lumber, does not put American lumber producers at a competitive disadvantage, unnecessarily restrict the availability of products, or increase the cost of housing to the detriment of prospective homebuyers and U.S. consumer.

REQUEST: NLBMDA encourages members of Congress to send a letter to Acting U.S. Trade Representative Maria Pagan to consider the interests of all domestic lumber stakeholders as negotiations with Canada continue on a new softwood lumber agreement.

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