
INTERNATIONAL TRADE DEVELOPMENTS

Lumber in North America: The Calm Before the Storm?

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The expiration of the U.S.-Canada Softwood Lumber Agreement at the end of March 2001 has been anticipated on both sides of the border for the past year. Supporters and opponents in each country include lumber producers, legislators, environmentalists, consumer spokespersons, and trade policy analysts. The relative peace of the last five years is likely to be followed by more division on the bilateral trade front.

Overview

Lumber has been the subject of one of the longest running bilateral disputes between the United States and Canada, dating from 1982.² During that time, there have been three investigations, a series of CFTA panel reviews,³ and a memorandum of understanding between both governments. The U.S. industry—faced with increased market share by Canada—threatened another countervailing duty (CVD) action in late 1995-early 1996. This would have been the fourth such investigation in 14 years. High-level negotiations resulted in a 5-year agreement-in-principle between both countries. Under the terms of the Softwood Lumber Agreement (SLA), which became effective in the spring of 1996, Canada agreed to apply fees to exported amounts in excess of 14.7 billion board feet destined for the United States, while the United States agreed to take no official action against lumber imports from Canada.

¹ The views and conclusions expressed in this article are those of the author. They are not necessarily the views of the U.S. International Trade Commission as a whole or of any individual Commissioner.

² Sources consulted for this article include previous issues of the ITC's annual series, *The Year In Trade*, 1991-96.

³ CFTA stands for the Canada-U.S. Free Trade Agreement.

U.S.-Canadian Softwood Lumber Agreement

On May 29, 1996, the United States and Canada formally entered into a 5-year agreement "intended to ensure that there is no material injury or threat thereof to an industry in the United States from imports of softwood lumber from Canada."⁴ The agreement was originally announced on April 2, 1996, and the legal details were finalized over the subsequent 8 weeks.

The 5-year agreement established annual allocations and fees for lumber exports to the United States from the Canadian provinces of Alberta, British Columbia, Ontario, and Quebec.⁵ The SLA stipulated that up to 14.7 billion board feet of lumber may be exported annually without additional fees (i.e. export taxes); however, for quantities between 14.7 billion and 15.35 billion board feet, a fee of US\$50 per thousand board feet would be assessed; and a fee of US\$100 per thousand board feet would be assessed for exports in excess of 15.35 billion board feet per year. The Government of Canada was responsible for allocating export

⁴ Paragraph 1 of the agreement. Formally known as the Softwood Lumber Agreement Between the Government of the United States of America and the Government of Canada, hereafter referred to as the SLA.

⁵ The Yukon and Northwest Territories were also subject to the SLA.

allowances to the four provinces. Each province has an allocation and exported amounts over the allocation are assessed fees.

Under the SLA, U.S. lumber companies, unions, and trade associations pledged that they would not seek recourse to U.S. trade laws against imports of softwood lumber from Canada for the duration of the 5-year agreement. Furthermore, Canada was assured that the U.S. Department of Commerce would not self-initiate any trade action during the life of the agreement and would dismiss any petition from this sector that was brought under the countervailing duty or antidumping laws as long as the agreement was in effect and not breached. With the SLA expiring on March 31, 2001, discussion of the agreement and its perceived shortcomings dominated the bilateral trade situation during 2000 and early 2001.

Background

Under consultative procedures agreed by the United States and Canada prior to the SLA in late 1994, both sides were required to enter into a dialogue on the issues that underlay this longstanding bilateral trade dispute. Officials from U.S. and Canadian governments and executives from lumber industries, met throughout 1995 to discuss the various forestry practices in their respective jurisdictions with the objective that all sides would come to understand the respective forestry practices and policies. Realizing that forestry policies varied greatly among the Provinces, and that applying one solution across provincial lines was impossible, U.S. and Canadian negotiators decided that individual provincial solutions were needed.

On February 16, 1996, the United States and Canada entered into an agreement-in-principle limiting the amount of Canadian exports of softwood lumber to the United States and thus ending a long-standing trade dispute between the two countries. The agreement-in-principle called for an export tax to be levied on U.S.-destined lumber originating in British Columbia, Canada's largest lumber exporting province, and an increase in stumpage fees⁶ that producers pay the provincial government to fell trees in Quebec, Canada's second largest lumber producing province. Under the accord announced on February 16, 1996, British Columbia agreed to reduce its volume of exports to the United States by about 14 percent, while Quebec, resisting the export tax regime employed by British Columbia, agreed to raise its stumpage fees. In return for these concessions, Canada was assured that no further trade

complaints would be launched against softwood lumber by the United States for the 5-year duration of the accord.

After concluding the February 16, 1996 accord, both sides entered into a series of negotiations needed to reach agreement on the implementation and enforcement of the agreement-in-principle. On April 2, 1996, United States Trade Representative (USTR) Ambassador Kantor announced that the agreement-in-principle of February 16, 1996, had been finalized, albeit in a different fashion. Realizing that a province-by-province solution was not possible as previously envisaged, Canada and the four major exporting provinces concluded that a straightforward, unified approach would be more workable and effective. Specifically, Alberta, British Columbia, Ontario, and Quebec agreed to tax shipments over 14.7 billion bd. ft. from the 1995 level of 16.2 billion board feet to 14.7 billion for the year starting April 1, 1996. However, a provision allowed for additional Canadian lumber from these provinces to enter the U.S. market in times of increased demand. This lumber was to be subject to a Canadian export tax at a rate of US\$50 per thousand board feet for the first 650 million board feet in excess of the annual threshold and US\$100 per thousand board feet in excess of the additional amount.

Recent Developments

The agreement continued throughout the ensuing period, but periodic expressions of dissatisfaction were not unusual. During the year 2000, as the expiration of the SLA approached, the negotiations seemed to begin informally in the press. Both sides argued that a return to "free trade" would improve the situation. In the United States, the debate on the agreement pitched the lumber industry on one side against consumer interests on the other. The former maintained that the moratorium on countervailing duty action against Canadian lumber was harmful to U.S. businesses, while the latter camp held that the agreement limited the supply of finished lumber in this country, causing an increase in the price of new housing. A split also occurred in Canada, where one camp focused on negotiating a successor agreement while another camp focused on allowing the existing agreement to expire, with the result being an end to any further government intervention. The lack of consensus in both countries further complicated resolution of the issue.

During 2000, a number of attempts were made to jump start the movement toward a successor agreement, or otherwise anticipate the expiration of the SLA. Some of these attempts involved U.S. legislators requesting information from the USTR, while others indicated their support for one course of action or another. Environmental groups in both countries spoke out on perceived shortcomings in the bilateral agreement as well as the lumber policy in each country.

⁶ Stumpage is the term used to refer to the charges imposed by provincial governments on lumber producers harvesting timber on public lands in Canada. The level of stumpage fees has been one of the foremost controversies between the parties in the underlying countervailing duty investigations and trade negotiations.

Overall, environmental groups have been arguing for less management of trade, but also for greater management of forests as a natural resource. The softwood lumber dispute has been considered by some observers to be a case study of the intersection between environmental and trade issues.

A nonpartisan research institute in the United States published an assessment of the SLA in July 2000, arguing against any continuation of the agreement. It characterized the agreement as “a boondoggle that benefits a few lumber producers here in the United States at the expense of millions of workers in lumber-using industries—not to mention millions of American homebuyers.”⁷

⁷ Brink, Lindsey, Mark A. Groombridge, and Prakash Loungani, *Nailing the Homeowner: The Economic Impact of Trade Protection of the Softwood Lumber Industry*, Trade Policy Study No. 11, The Cato Institute, July 6, 2000, p. 10.

None of these considerations prevented the termination of the agreement, which expired on schedule on March 31, 2001. Subsequently, the Coalition for Fair Lumber filed a petition with the U.S. Department of Commerce and the U.S. International Trade Commission to institute an investigation into unfairly traded lumber from Canada.⁸ The petition lists 254 U.S. companies in support of the allegations of unfair trade, and these companies are said to represent 65 percent of total U.S. softwood lumber production in the year 2000. Among the major producers not directly associated with the petition are: Weyerhaeuser, Boise-Cascade, and Georgia-Pacific. Interested parties on both sides of the border are now waiting to see how much this current lumber dispute is likely to resemble its predecessors or whether new solutions can be found.

⁸ In filing the case, the Coalition was joined by two U.S. labor unions.