

SLA: UNDERSTANDING THE CONSEQUENCES OF NO AGREEMENT

By Robin Brunet

If Justin Trudeau's assurances carry any weight, there may be a chance of a happy ending to the softwood lumber issue by the end of this year: the Prime Minister's Office said Canada and the US have recommitted to hammering out a new agreement, and progress has been made in negotiations—which will continue “at an intensive pace.”

But many factors prevent observers from sharing in the optimism, not the least of which is that regardless of which presidential candidate is elected in November, Donald Trump and Hillary Clinton are both perceived as embracing a wave of nationalism that will likely see a surge of protectionist measures aimed at bolstering anemic US economic

growth at the expense of everyone else.

So, what if the worst happens and countervailing duties are imposed against Canada?

That was the question *Truck LoggerBC* posed to key industry experts, with an emphasis on examining the impact the 2002 duties had on the BC industry and how to prepare for a return of them.

The question is especially salient to Susan Yurkovich, President and CEO of the Council of Forest Industries, who is also president of the BC Lumber Trade Council. “If we are not able to reach a new managed trade agreement with the US, then we will undoubtedly be facing litigation, with the US imposing countervailing and anti-dumping duties.

Naturally, this would create a financial burden for producers here, and companies need to be prepared.”

Bill Markvoort, retired Vice President of Probyn Log, points out that log export controls have been imposed since the early years of the 20th century, resulting in the discrepancy between domestic and export log prices and prompting the Americans, who view the Canadian industry as being subsidized, to seek punitive action. (Another key motivator is their displeasure of our stumpage system.)

The beginning of the modern softwood lumber trade dispute dates back to 1982; the US lumber industry unsuccessfully petitioned the Department of

Commerce (DoC) to impose a countervailing duty. A second petition was launched in 1986, and this time, in lieu of a 15 percent duty proposed by the DoC, the US and Canada agreed to a phased tariff whereby Canada would levy a 15 per cent export tax on lumber traveling south across the border and provinces had the chance to reduce this tax if they performed any action (such as charging higher stumpage) intended to counterbalance their so-called subsidies. (The tax in BC was removed in 1987.)

In 1996, after further disputes, the US and Canada signed the five-year Softwood Lumber Agreement, which limited Canadian lumber exports to 14.7 billion board feet per year. But in April of 2001, with neither country able to reach consensus on a replacement agreement, the US industry again petitioned for countervailing duties, and one year later the DoC announced subsidy and anti-dumping rates of 18.79 percent and 8.43 percent respectively, for a combined 27.22 percent.

The impact was immediate, as Kevin Mason, Managing Director of ERA For-

est Products Research, vividly recalls. "Everything happened very quickly, from the filing of the trade case to the events of June 2002, when six large com-

Pine sawmill the following year, which would cost 500 workers their jobs.

By that point, the cutbacks had thrown about 18,000 people out of work. "In

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panies including Canfor announced production curtailments," he says. "Slocan took downtime, and West Fraser and Weldwood took lumber out of production, as did several eastern mills."

In August of that year came what Mason calls "the real hit, on cedar. Skana Industries shut down, and Doman curtailed its mills, as did Interfor and Weyerhaeuser, for the simple reason that about \$500 per thousand board feet had been added onto their costs."

The bad news continued that month, with Doman—having closed its Silver-tree cedar mill—announcing it would lay off 1,000 loggers by September. Then, in November, Weyerhaeuser Co. Ltd. said it would shut its k3 particle-board plant and its Canadian White

early 2001, the BC coast was producing 3.4 billion board feet annually, but by the end of 2002 it was down to around 2.5 billion board feet—a level it stayed around until the collapse of the US housing market after 2006. The countervailing duties and anti-dumping duties imposed by the US played the defining role in the downturn," says Mason.

Mason remains guardedly optimistic that if new countervailing duties are imposed on Canada, "the hit might not be as big on some coastal producers because cedar prices are a bit better now, plus we're a lot stronger as a global trader than we were in 2001-02."

When pressed to give advice, Mason says, "Companies shouldn't overextend themselves, because inevitably there will



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be a pull-back in logging and lumber production. In looking out for major impacts amongst the public companies, some investors say Interfor is carrying a bit too much debt, although we aren't that concerned given Interfor's US exposure. As for the private sector, it's difficult to determine if they're overreaching or not. You'd think the banks would prevent them from doing so, but you never know."

While Markvoort hopes the US/Canada negotiations will be successful, he takes a broader view of the situation. "We can't go backwards and put barriers around countries," he argues. "We're now more than ever in a global environment and therefore have to act on many fronts," he says. "If we're hit with tariffs, we should step up relations with other venues and continue to enhance our status as an exporter to Asia, Europe and other regions. Developments such as the expanded Panama Canal and larger container ships make transportation easier, cheaper and create opportunities for new markets."

"We have a unique ability to grow and extract trees," continues Markvoort.

"Milling can move based on costs but—bottom line—the trees can't move. I believe we need to invest in our forests. On the BC coast, we can grow high quality trees in a relatively short time so it's important to make sure we're growing healthy trees and have the right to harvest them. BC loggers are efficient, follow environmentally sound practices and are ready and willing to go to work as long as the trees are there and what they produce can be sold—be it lumber, pulp, logs, veneer, pellets, etc."

Yurkovich provides a timeline of events, should negotiations break down. "Litigation could commence after the October 12 expiry of the one year standstill period with a filing by the US industry, after which the US Department of Commerce and US International Trade Commission would make their preliminary determinations," she says. "A preliminary duty deposit rate could be imposed in March of 2017, and there is no way to accurately predict what the rate would be."

Peter Clark, one of Canada's leading international trade strategists, believes litigation is inevitable. Writing in the

Politics website he states, "There will be plenty of fencing and jousting on the way to common ground. But as Canada's provinces struggle to get on the same page, it's vital to remember that delays and uncertainty always favour the US Lumber Coalition. And because of this, notwithstanding the best efforts of both federal governments, Canadians need to brace themselves to deal with litigation before a settlement is reached."

Yurkovich notes that, "over the last 30 years, we've either operated under a managed trade agreement or under litigation. If we do end up in litigation and face new duties, it will definitely impact our ability to invest in our plants and equipment. That's obviously not great for our industry or other communities where we operate. But, we have faced this situation before and our industry and the people who support it have proved to be resilient."

"We will see what the next few weeks bring. In the meantime, we're all working hard to find a way forward."▲



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