
TO: CITY MANAGER **DATE:** 2006 October 11

FROM: DIRECTOR PLANNING & BUILDING

SUBJECT: **SOFTWOOD LUMBER AGREEMENT**

PURPOSE: To convey information on the current status of the Softwood Lumber Agreement.

RECOMMENDATION:

1. **THAT** this report be received for information.

REPORT

1.0 BACKGROUND

At its meeting of 2006 July 10, Council received correspondence from the New Westminster and District Labour Council pertaining to its “Communities in Crisis” resolution regarding the softwood lumber dispute. The Labour Council requested the support of Burnaby for the resolution at the upcoming UBCM Convention, scheduled for October 23 to 27 in Victoria, B.C. Arising from consideration of this matter, Council requested a report on the current status of the softwood lumber dispute, including information as to which municipalities have adopted the resolution.

Resolutions for the UBCM Convention must be submitted by a municipality. As such, the Labour Council resolution has not advanced to the UBCM. However, Port Alice has submitted a similar resolution for consideration at the UBCM Convention, *attached*. Like the Labour Council resolution received by Council at its July meeting, the Port Alice resolution includes a number of issues: softwood lumber, Mountain Pine Beetle, raw log exports and the impact of forest policy changes on resource-based communities. In response to Council’s request, this report addresses the status of the softwood lumber dispute.

2.0 HISTORY OF THE SOFTWOOD LUMBER DISPUTE

Softwood lumber includes easy to cut wood such as pine, spruce and fir typically used in the construction industry. Softwood lumber is one of Canada’s most important export sectors to the U.S., valued at over CAN\$8.5 billion in 2005. In 2005, B.C. accounted for over 57% of Canada’s exports to the U.S., followed by Quebec (16%), Ontario (9%), the Maritimes (8%), Alberta (7%), Saskatchewan (1%) and Manitoba (1%).

Since 1982, a group of American lumber producers, the U.S. Coalition for Fair Lumber Imports (CFLI) has petitioned the U.S. government four times to impose duties on Canadian softwood lumber imports. The CFLI has alleged that Canada unfairly subsidizes the Canadian softwood lumber industry through provincial stumpage practices, federal and provincial log export restraints and various federal and provincial programs. In 1986, the U.S. imposed a 15% countervailing duty, which was later replaced by a 15% export tax following a Canada-U.S. Memorandum of Understanding. This MOU was in place from 1986 to 1991.

In 1991, the U.S. imposed another countervailing duty of 6.51%, which was eventually revoked following a Canadian legal victory. In 1996, a quota-based agreement was reached, which remained in effect until March 2001. Under that agreement, Canadian lumber producers were permitted to export 14.7 billion board feet per year without duties.¹ In 2002, the U.S. imposed duties of 27.22% on Canadian softwood lumber imports, which were subsequently lowered to 20.15% in December 2004 and to 10.8% in December 2005. To date, Canadian companies have paid approximately CAN\$5.3 billion in U.S. imposed duties.

Canada has requested reviews of the softwood lumber duties by the World Trade Organization as well as under NAFTA provisions. Despite numerous decisions in Canada's favour, the U.S. Department of Commerce continued to impose countervailing and anti-dumping duties.

3.0 SOFTWOOD LUMBER AGREEMENT

On 2006 July 01, Canada and the U.S. initialled an agreement on softwood lumber. The agreement will revoke the U.S. countervailing and anti-dumping duties, and return over US\$4.4 billion in duties collected by the U.S. since 2002.² The U.S. also agreed not to initiate any anti-dumping or countervailing duty investigations on Canadian softwood lumber exports for the term of the agreement. The agreement is to last seven years, with the option for a two year extension if both parties agree.

Under the terms of the agreement, Canadian softwood lumber exports will pay an export charge when the price of lumber is at or below US\$355 per thousand board feet. Canadian regions can select one of two export charge systems, one based strictly on price and the other on price and volume.³ Export charges collected by Canada are to be distributed to the provinces.

1 This agreement did not include lumber harvested in the Atlantic provinces, as it comes largely from private land and was therefore exempt from the U.S. rules. When the agreement was signed in 1996, the Maritimes accounted for about 5% of Canada's lumber production. Over the next five years, production in Nova Scotia and New Brunswick increased by 62% to more than 1.2 billion board feet, approximately 8% of Canadian production (compared with 1.5 billion board feet produced in Ontario). In New Brunswick, 90% of softwood lumber exports go to the U.S.

2 \$1 billion is the amount of Canadian duties that will be retained and distributed to various American initiatives, including \$500 million to the U.S. Coalition for Fair Lumber Imports, the organization which petitioned the U.S. government four times to impose duties on Canadian softwood lumber imports.

3 Exceptions to this include the Atlantic provinces, Yukon Territory, Northwest Territories, Nunavut and 32 companies previously found by U.S. authorities not to benefit from the alleged subsidies, which include all of the Quebec border mills.

On 2006 September 12, both countries signed the agreement. The intent was to bring the agreement into force on 2006 October 01. However, several articles in the press indicated that a number of lumber exporters refused to withdraw legal actions against the U.S. regarding the duties levied to date. The withdrawal of Canadian litigation suits is required prior to the agreement coming into effect. In a resolution to this issue, on 2006 October 06, International Trade Minister David Emerson stated that Canada and the U.S. “have successfully met all the requirements necessary to implement the Softwood Lumber Agreement next week, and have found a satisfactory resolution to the outstanding legal and administrative issues.” As such, the agreement is scheduled to come into effect on 2006 October 12.

3.1 Government Perspective

The Government of Canada has specified that it sought an agreement which promoted a stable bilateral trade environment, would see the return of most of the duties collected on softwood lumber and maximize benefits to the Canadian industry and to its employees and communities.

Despite concerns with the initial agreement, in a press release of 2006 August 16, the BC Government indicated support for the softwood lumber agreement.

In opposition, the NDP Critic for International Trade, Peter Julian (Burnaby-New Westminster), has indicated that the softwood agreement would commit Canada to an export tax on Canadian lumber and varying quotas if and when there is any change in market conditions from their current state. Further, Julian contends that the deal undermines Canada's repeated victories through the NAFTA dispute settlement process.

3.2 Industry Perspective

Lumber industry groups in B.C., Alberta and Quebec originally stated that they would not support the agreement. Without detailing the nature of its members' concerns, the BC Lumber Trade Council, which represents the majority of BC lumber companies, stated in a press release of 2006 July 02:

... the Province of British Columbia sent a letter to the government of Canada outlining certain principled issues that both the Province and BC's forest industry have with the agreement and which would have to be addressed if the deal is to be completed.

“The federal and provincial governments must take the opportunity to resolve these outstanding issues in a way that will give all parties the comfort needed to give final sign-off,” said John Allan, president of the BC Lumber Trade Council.

“Until individual companies are sufficiently satisfied with the final text, many will be reluctant to withdraw their litigation against the U.S. and forfeit a portion of their duties to the U.S. needed for the agreement to be finalized,” Allan said. “In fact, a number of BCLTC members ... have made it clear that the final agreement has to address these outstanding issues or they will not halt the legal cases or transfer their deposits,” he added.

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Subsequent refinement of the agreement attempted to foster greater stability in the industry and make it more difficult for the U.S. to pull out of the agreement before it ends. For example, the U.S. cannot opt out of the agreement for at least two years, and the U.S. may not initiate new duties for a one year period if they do opt out of the agreement.

As of 2006 September 27, the BC Lumber Trade Council stated in a press release that it “is working with International Trade Minister David Emerson and his officials to implement the Canada-U.S. Softwood Lumber Agreement by October 1, 2006. We have made a tremendous amount of progress to date on the softwood lumber agreement.”

As noted in Section 3.0, above, a number of lumber exporters had refused to withdraw legal actions against the U.S. prior to the 2006 October 01 implementation date. In its press release of 2006 October 06, International Trade Minister David Emerson stated that Canada and the U.S. have successfully resolved outstanding matters. As such, the agreement is scheduled to come into effect on 2006 October 12.

3.3 Municipal Perspective

The Community Economic Development Committee of the UBCM considered the softwood lumber agreement at its meeting of 2006 July 20. The committee had been requested to take a position on the Softwood Lumber Agreement. However, the committee was of the opinion that as the UBCM represents all municipalities throughout the province, and that the Agreement will affect municipalities differently depending on the nature of industry within their community, that it would not be appropriate to take on a position on the new agreement. The committee recommended that each member must determine the implications of the agreement based on their discussions with the industries within their region.

A resolution has been submitted by Port Alice for consideration at the upcoming UBCM Convention in Victoria, scheduled from October 23 to 27. That resolution, attached, calls upon the UBCM to reject any softwood lumber agreement that does not include full repayment of all illegal duties imposed by the U.S. The resolution also references Mountain Pine Beetle, raw log exports and the impact of forest policy changes on resource-based communities.

The UBCM Resolutions Committee, which reviews resolutions submitted for debate at the annual convention, endorsed an amended resolution, attached, which is, in fact, silent on the Softwood Lumber Agreement. The Committee indicated that it removed this clause as the Provincial Government has already made its position known on the Softwood Lumber Agreement.

To date, Alert Bay has indicated support for the resolution as originally submitted, and no municipalities have indicated support for the resolution as amended.

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4.0 CONCLUSION

At its meeting of 2006 July 10, Council received correspondence from the New Westminster and District Labour Council pertaining to its "Communities in Crisis" resolution regarding the softwood lumber dispute. The Labour Council requested the support of Burnaby for the resolution at the upcoming UBCM Convention. Arising from consideration of this matter, Council requested a report on the current status of the softwood lumber dispute, including information as to which municipalities have adopted the resolution.

Port Alice has submitted a similar resolution for consideration at the UBCM Convention, which has been amended by the UBCM Resolutions Committee to exclude any reference to the Softwood Lumber Agreement. Like the Labour Council, the Port Alice resolution includes a number of issues: opposition to the Softwood Lumber Agreement, Mountain Pine Beetle, raw log exports and the impact of forest policy changes on resource-based communities.

This report has focussed on the status of the softwood lumber dispute, the Agreement and the perspectives of industry and government. Industry groups and associations originally expressed concerns with the Agreement, although many are now supporting it. From the municipal perspective, two communities have endorsed the original resolution pertaining to the Softwood Lumber Agreement. That specific resolution was not advanced for consideration at the upcoming UBCM Convention.

This is submitted for the information of Council.



B. Luksun
DIRECTOR PLANNING & BUILDING

KSF:
Attachment

cc. Deputy City Manager
Director Finance
City Solicitor

Section: B1

B46 RESOURCE BASED COMMUNITIES IN CRISIS

Port Alice

WHEREAS recent changes to policy, legislation and regulations have encouraged companies to disinvest from British Columbia; to export raw logs rather than process them domestically; to demand tax concessions from municipalities and wage and benefit concessions from their employees;

AND WHEREAS as a result of these policies and developments many communities are now suffering the effects of insufficient investment; mill and plant closures; declining or stagnating employment; lost opportunities and lost revenues, while in others the short-term burst of output due to processing of beetle-wood will soon be followed by a prolonged fall down in harvesting levels;

AND WHEREAS in spite of the huge stake that British Columbians and all Canadians have in a just and fair settlement of the softwood lumber dispute with the US and in long-term trade in lumber and other resource-based products, the federal government has recently ignored the concerns of industry, workers and communities and agreed to a hastily-concocted framework agreement with the US government on lumber exports:

THEREFORE BE IT RESOLVED that we urge the BC government to reject any softwood lumber agreement with the US that does not include:

- Full repayment to Canadian producers of all of the illegal duties imposed by the US government on Canadian lumber since May, 2002;
- Legislative action by the BC government to require that a significant portion of the duties paid by BC firms since May 2002 be collected and dedicated to a fund that will ensure investments in new plants and equipment in BC; worker training, retraining and skills development; adjustment programs such as early retirement, pension bridging and apprenticeship programs; infrastructure development and community adjustment programs in British Columbia;
- Clearly-stated protection against any future US attempts to direct Canadian forest policy through trade measures, taxation or legislative oversight;
- Clearly stated protection against US incursion or interference in British Columbia forest policy, including, but not limited to, annual allowable cut determinations, conservation objectives and raw log export restrictions;

AND BE IT FURTHER RESOLVED that action by the BC government to reduce raw-log exports and to ensure that all forest production provides clear and demonstrable benefits to the people of BC and to BC;

AND BE IT FURTHER RESOLVED that the BC government put in place a comprehensive transition program to deal with the short and long-term implications of the Mountain Pine Beetle Infestation and other emerging forest health issues on the industry, workers and communities;

AND BE IT FURTHER RESOLVED that the government review all its programs, policies, legislation and regulations with an eye to ensuring that there be clear and demonstrable benefits to the people of BC and to BC communities from all resource extraction, resource-based processing and other resource-development initiatives.

- NOT PRESENTED TO THE ASSOCIATION OF VANCOUVER ISLAND AND COASTAL COMMUNITIES
- UBCM RESOLUTIONS COMMITTEE RECOMMENDATION: *Endorse with Proposed Amendment*

THEREFORE BE IT RESOLVED that action be taken by the BC government to reduce raw-log exports and to ensure that all forest production provides clear and demonstrable benefits to the people of BC and to BC;

AND BE IT FURTHER RESOLVED that the BC government put in place a comprehensive transition program to deal with the short and long-term implications of the Mountain Pine Beetle infestation and other emerging forest health issues on the industry, workers and communities;

AND BE IT FURTHER RESOLVED that the Government review all its programs, policies, legislation and regulations with an eye to ensuring that there be clear and demonstrable benefits to the people of BC and to BC communities from all resource extraction, resource-based processing and other resource-development initiatives.

• UBCM RESOLUTIONS COMMITTEE COMMENTS:

The Resolutions Committee notes that this resolution covers a number of issues: softwood lumber, raw log exports; Mountain Pine Beetle and the impact of forest policy changes on resource-based communities.

With respect to softwood lumber, the first enactment clause is in response to the proposed deal that the federal government and the United States put forward to the provinces in late April. The Committee notes that UBCM members' position on softwood is to ensure free and unrestricted access for Canadian lumber exports to the United States and encourage the federal government to work with leaders from industry and provinces Canada wide to ensure a consistent and united approach to negotiations ensuring a fair and equitable agreement for all Canadian lumber producers (2002-LR6; 2001-SR2; 2001-A10). As well, last year members endorsed resolution B34, which requested that the federal government adopt a policy in which the softwood lumber dispute is negotiated and settled to Canada's satisfaction, and all tariffs and duties applied by the US government in contravention of NAFTA rulings are immediately returned to the appropriate forest company.

The Committee notes that, prior to the agreement being signed on July 1, the BC government did express concerns to the federal government about certain elements within the agreement and some of those concerns have been addressed, one of which was bullet three in the sponsor's resolution. Now that the deal has been signed, the Province has indicated that it will be letting the respective industries make their own decision about whether or not to accept the agreement since, at the end of the day, it will be the industries' decision. An amendment has been proposed to the resolution to remove this portion of the enactment clause since the provincial government has made its position known on the matter.

With respect to raw log exports, members have indicated their support for strengthening the ban of raw log exports (2003-B27; 2001-B31).

With regard to the Mountain Pine Beetle and a transition plan, again members have endorsed a number of resolutions seeking financial assistance and a long term economic development strategy to address the impacts of the Pine Beetle (2005-A6; 2004-B21; 2004-B86; 2002-B19). Members have also endorsed a resolution requesting that "Communities in Crisis" funding be extended to assist communities develop and implement economic diversification strategies (1999-B70).

With regard to BC and its citizens securing the benefits of our resource-based economy, members have supported a variety of resolutions seeking to ensure that the interests of resource-based communities are met and that they have a direct role in the control and use of the resources which surround them (2003-B93; 2000-LR6).

