



**U.S. Customs and
Border Protection**

August 30, 2010

MEMORANDUM FOR: Directors, Field Operations

FROM: Acting Executive Director, Trade Policy and Programs
Office of International Trade

SUBJECT: **Guidance:** Discontinuation of the 10 percent duties imposed by the Section 301 action on softwood lumber imports from Canada

This is to advise you that U.S. Customs and Border Protection (CBP) will no longer collect 10 percent duties on softwood lumber imports from Canada associated with the Section 301 action, effective for those entries that bear Canadian export permits with shipment dates of September 1, 2010 or later. The Office of the U.S. Trade Representative (USTR) issued a Federal Register Notice (August 30, 2010, 75 FR 53014) stating that the United States and Canada have come to an understanding that results in the United States discontinuing collection of this 10 percent duty.

Effective September 1, 2010, all CBP ports should carefully monitor softwood lumber imports from Canada to ensure that the 10 percent duty has been paid on those entries that have Canadian export permits with shipments dates of August 31, 2010 or earlier. Some guidelines regarding the 10 percent duty collection are listed in the table below:

Canadian Export Permit	Shipment Date	Entry Date	Pay 10% Duty?
If issued in the month of August (permit number begins with a "H")	Through August 31, 2010	Anytime (even after September 1, 2010)	Yes
If issued in the month of September (permit number begins with a "I")	On or after September 1, 2010	On or after September 1, 2010	No
If the export permit begins with a "R"	Through August 31, 2010	Anytime (even after September 1, 2010)	Request export permit from importer to check shipment date and refer to scenarios above

The HTSUS number 9903.53.01 will continue to be active until CBP can ensure that all associated duties have been collected.

Background

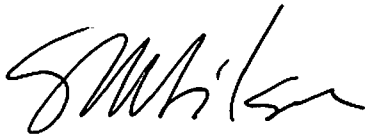
On April 15, 2009, USTR imposed a 10 percent ad valorem duty on softwood lumber and softwood lumber products that are subject to the United States – Canada Softwood Lumber Agreement (SLA) of 2006 and whose region of origin is one of the four eastern provinces of Canada (Ontario, Quebec, Manitoba, and Saskatchewan). This duty was imposed on goods entered for consumption or withdrawn for warehouse on or after April 15, 2009, until \$54.8 million is collected.

This action applies to importations of softwood lumber and softwood lumber products, as noted in the Annex to the Federal Register Notice (published April 14, 2009, 74 FR 17276) and defined in Annex 1A of the SLA. Although specific Harmonized Tariff Schedule of the United States (HTS) numbers are listed in this Annex, for purposes of determining if a product is covered by this action, the article descriptions should be used. Importations from companies that are excluded from the SLA are also excluded from this ad valorem duty.

On July 12, 2010, the Government of Canada passed legislation allowing Canada to impose an additional 10 percent export charge on all softwood lumber products that are subject to the Section 301 action imposed by the United States. The United States and Canada reached an understanding that the United States would cease collections of this duty on September 1, 2010 and that Canada would collect the monies as an export charge until CDN \$68.26 million is reached.

Copies of this memorandum should be made available to Port Directors, Assistant Port Directors, Supervisory Import Specialists, Import Specialists, Importers, Brokers and other interested parties.

Questions regarding this memorandum can be directed to Ms. Heather Sykes at heather.sykes@dhs.gov. Questions regarding this memorandum can also be sent to SWL2008@dhs.gov.



Stephen Hilsen

Attachment

cc: Trade Operations Division, OFO

published a notice in the **Federal Register** of August 17, 2010 concerning Fiscal Year 2011 tariff-rate quota allocations of raw cane sugar, refined and special sugar, and sugar-containing products. USTR is revising the effective date of that notice to September 1, 2010 from October 1, 2010.

DATES: *Effective Date:* September 1, 2010.

ADDRESSES: Inquiries may be mailed or delivered to Leslie O'Connor, Director of Agricultural Affairs, Office of Agricultural Affairs, Office of the United States Trade Representative, 600 17th Street, NW., Washington, DC 20508.

FOR FURTHER INFORMATION CONTACT: Leslie O'Connor, Office of Agricultural Affairs, telephone: 202-395-6127 or facsimile: 202-395-4579.

SUPPLEMENTARY INFORMATION: On August 19, 2010, the Secretary of Agriculture announced that sugar entering the United States under the Fiscal Year 2011 raw sugar tariff-rate quota will be permitted to enter the U.S. Customs Territory beginning September 1, 2010, a month earlier than the beginning of Fiscal Year 2011 on October 1, 2010. Accordingly, USTR is revising the effective date of its notice of allocation to accommodate the Secretary's announcement. All other information contained in the August 17, 2010 USTR notice remains unchanged and will not be repeated in this notice.

Ronald Kirk,

United States Trade Representative.

[FR Doc. 2010-21524 Filed 8-27-10; 8:45 am]

BILLING CODE 3190-W0-P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. USTR-2010-0015]

Notice and Modification of Action: Canada—Compliance with Softwood Lumber Agreement

AGENCY: Office of the United States Trade Representative.

ACTION: Notice and modification of action.

SUMMARY: Under the 2006 Softwood Lumber Agreement (SLA), Canada agreed to impose export measures on Canadian exports of softwood lumber products to the United States. At the request of the United States, an arbitral tribunal established under the SLA determined in March 2008 that Canada had breached certain SLA obligations. In February 2009, the tribunal issued a remedy award instructing Canada to collect an additional 10 percent *ad*

valorem export charge on softwood lumber shipments from Ontario, Quebec, Manitoba, and Saskatchewan, until an entire amount of CDN \$68 million has been collected. Canada did not begin collecting the additional export charge. In April 2009, the United States Trade Representative ("Trade Representative") initiated an investigation under Section 302 of the Trade Act of 1974, as amended ("Trade Act"). In that investigation, the Trade Representative determined that Canada's failure to implement the tribunal's remedy award had the effect of denying U.S. rights under the SLA; and, pursuant to Section 301 of the Trade Act, the Trade Representative imposed 10 percent *ad valorem* duties on imports of softwood lumber products subject to the SLA from the provinces of Ontario, Quebec, Manitoba, and Saskatchewan (the April 2009 action). Under the April 2009 action, the duties are to remain in place until such time as the United States collects \$54.8 million, the U.S. dollar equivalent of CDN \$68 million at the time. The Government of Canada, however, has now adopted its own measures to address Canada's breach of the SLA. In particular, Canada will begin collection of an additional 10 percent charge on exports of softwood lumber products from the provinces of Ontario, Quebec, Manitoba, and Saskatchewan, which will be effective with respect to softwood lumber products with a shipment date of September 1, 2010 or later. Per an understanding between the Governments of the United States and Canada, Canada will collect the additional 10 percent charge on exports until the total of the amounts collected under the U.S. import duty and the Canadian charge on exports is equal to CDN \$68 million. The Trade Representative has determined that Canada's measures satisfactorily grant the rights of the United States under the SLA. Accordingly, the Trade Representative has modified the April 2009 action by removing the 10 percent *ad valorem* duties on imports of softwood lumber products subject to the SLA from the provinces of Ontario, Quebec, Manitoba, and Saskatchewan, effective with respect to imports with a shipment date of September 1, 2010 or later.

DATES: The modification of the April 2009 action is effective with respect to imports of softwood lumber products subject to the SLA from the provinces of Ontario, Quebec, Manitoba, and Saskatchewan with a shipment date of September 1, 2010 or later.

FOR FURTHER INFORMATION CONTACT: John Melle, Deputy Assistant USTR for the Americas, (202) 395-3412, or Suzanne Garner, Assistant General Counsel, (202) 395-9663, for questions concerning the enforcement of U.S. rights under the SLA; Heather Sykes, Chief, Trade Policy Branch, U.S. Customs and Border Protection, Department of Homeland Security, (202) 863-6099, for questions concerning entries of softwood lumber products, or William Busis, Chair of the Section 301 Committee and Deputy Assistant USTR for Monitoring and Enforcement, (202) 395-3150, for questions concerning procedures under Section 301.

SUPPLEMENTARY INFORMATION:

A. Enforcement of U.S. rights under the SLA

For further information concerning U.S. rights under the SLA and the April 2009 action, see *Initiation of Section 302 Investigation, Determination of Action Under Section 301, and Request for Comments: Canada—Compliance With Softwood Lumber Agreement*, 74 FR 16,436 (April 10, 2009) (notice); 74 FR 17,276 (April 14, 2009) (annex).

B. Canada's Measures Addressing the Breach of the SLA

Canada has adopted measures to comply with the February 2009 remedy award by imposing a 10 percent export charge on exports of softwood lumber products subject to the SLA from the provinces of Ontario, Quebec, Manitoba, and Saskatchewan. Canada enacted the necessary legislation, in the form of an amendment to the Softwood Lumber Products Export Charge Act, 2006, with parliamentary approval and royal assent on July 12, 2010. On August 4, 2010, Canada issued an Order in Council setting September 1, 2010 as the date to begin imposing the 10% charge on shipments of softwood lumber products from the provinces of Ontario, Quebec, Manitoba, and Saskatchewan.

Per an understanding between the Governments of the United States and Canada, Canada will collect the additional 10 percent charge on exports until the total of the amounts collected under the U.S. import duty and the Canadian charge on exports is equal to CDN \$68 million. The understanding also provides for the United States and Canada to exchange information on the ongoing amounts collected under the U.S. import duty and the Canadian charge on exports.

C. Public Comment

In May 2010, the Section 301 Committee invited comments from interested persons with respect to the

possible modification or termination of the April 2009 action in the event the Government of Canada adopted a law imposing an additional 10 percent export charge on softwood lumber products from the provinces of Ontario, Quebec, Manitoba, and Saskatchewan. See 75 FR 30097 (May 28, 2010).

D. Modification of April 2009 Action

Section 307 of the Trade Act authorizes the Trade Representative to modify or terminate an action taken under Section 301 if, among other things, "the foreign country is taking satisfactory measures to grant the rights of the United States under a trade agreement." Sections 301(a)(2)(B)(i) and 307(1)(A). Pursuant to the recommendations of the Trade Policy Staff Committee and the Section 301 Committee, and taking account of the comments received in response to the May 2010 notice, the Trade Representative has determined: (1) That Canada's adoption of the July 2010 amendment to the Softwood Lumber Products Export Charge Act, 2006, and the August 2010 Order in Council constitute "satisfactory measures"; and (2) to modify the April 2009 action by removing the 10% import duty on entries of softwood lumber products from the provinces of Ontario, Quebec, Manitoba, and Saskatchewan with a shipment date of September 1, 2010 or later. In order to prevent any gap in collection of the charge, the 10% import duty will continue to apply to entries after September 1, 2010 with a shipment date of August 31, 2010 or earlier.

In accordance with the Trade Representative's determination to modify the April 2009 action, and effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after September 1, 2010, U.S. Note 13 to subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States (HTS) is modified by deleting subdivision (i) and inserting the following new subdivision in lieu thereof:

"(i) The additional duties provided for in subheading 9903.53.01 shall apply to articles entered, or withdrawn from warehouse for consumption, on or after September 1, 2010, if the Canadian export permits associated with the entries display a shipment date prior to September 1, 2010. The additional duties provided for in subheading 9903.53.01 shall not apply to articles entered, or withdrawn from warehouse for consumption, on or after September 1, 2010, if the Canadian export permits associated with the entries display a shipment date of September 1, 2010 or later."

E. Section 306 Monitoring

Pursuant to Section 306(a) of the Trade Act, the Trade Representative will continue to monitor the implementation of Canada's measures imposing a 10 percent export charge on exports of softwood lumber products subject to the SLA from the provinces of Ontario, Quebec, Manitoba, and Saskatchewan. Pursuant to Section 306(b), if the Trade Representative considers that Canada is not satisfactorily implementing these measures, the Trade Representative will determine what further action to take under Section 301.

William L. Busis,

Chair, Section 301 Committee.

[FR Doc. 2010-21486 Filed 8-27-10; 8:45 am]

BILLING CODE 3190-W0-P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart B (Formerly Subpart Q) During the Week Ending August 14, 2010

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart B (formerly Subpart Q) of the Department of Transportation's Procedural Regulations (*See* 14 CFR 301.201 *et seq.*). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: DOT-OST-2010-0202.

Date Filed: August 9, 2010.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: August 30, 2010.

Description: Application of Gama Aviation Limited requesting a foreign air carrier permit and exemption authority to engage in charter foreign air transportation of persons, property and mail to the full extent authorized by the Air Transport Agreement between the European Community and its Member States, and the United States: (i) From any point or points behind any Member State of the European Union via any point or points in any Member State and via intermediate points to any point or

points in the United States and beyond; (ii) between any point or points in the United States and any point or points in any member of the European Common Aviation Area; and (iii) other charter.

Docket Number: DOT-OST-2007-26980.

Date Filed: August 11, 2010.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: September 1, 2010.

Description: Application of Jade Cargo International Company Limited requesting an amendment of its pending application for a foreign air carrier permit and requests an exemption authorizing it to engage in: (1) Scheduled foreign air transportation of property and mail from any point or points in the People's Republic of China, via any intermediate points, to any point or points in the United States open to scheduled international operations, and beyond to any points outside the United States; (2) charter foreign air transportation of property and mail from any point or points in the People's Republic of China, on the one hand, and any point or points in the United States, on the other hand; and (3) other charters.

Renee V. Wright,

Program Manager, Docket Operations, Federal Register Liaison.

[FR Doc. 2010-21508 Filed 8-27-10; 8:45 am]

BILLING CODE 4910-9X-P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2010-0242]

Public Listening Session

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Announcement of public listening session; request for comment.

SUMMARY: FMCSA announces it will hold a public listening session to solicit input on key challenges facing the motor carrier industry, issues facing stakeholders, and concerns that should be considered by the Agency in developing its next 5-year Strategic Plan. FMCSA invites interested persons to participate in this important opportunity to help build FMCSA's next strategic plan. This notice also invites written comments, suggestions, and recommendations from all individuals and organizations on FMCSA's mission, vision, and strategic objectives (goals) for the plan.