SETTLEMENT AGREEMENT TO RESOLVE CANADIAN LUMBER DISPUTE

- On September 12, 2006, the United States and Canada signed an agreement to settle the dispute regarding Canadian softwood lumber imports. The governments brought the agreement into effect (in a slightly amended form) on October 12, 2006.

- From the perspective of the U.S. lumber industry, the agreement has significant limitations. It will not soon and may never yield the U.S. industry's goal of open and competitive timber sales across Canada. Still, the agreement is, on balance, in the best interests of U.S. sawmills and mill workers.

<u>Outline of the Agreement</u>

- Canada must impose export restrictions on shipments of softwood lumber to the United States as described below.

- The United States and Canada are to move towards negotiations to end subsidies to and dumping of Canadian lumber.

Scope of Agreement -- The product coverage of the agreement matches the product coverage of the countervailing and antidumping duties (softwood lumber).

Export Measures -- Each region[1] has selected one of two types of export measures, Option A or Option B. The BC Coast and Interior regions and Alberta have selected Option A. The other non-exempt provinces -- Manitoba, Ontario, Quebec and Saskatchewan -- have selected Option B.

As described by the table below, export tax rates and quota volumes will depend on the level of lumber prices. Export measures will be more restrictive during periods of low prices (when unfair imports are particularly injurious).

Random Lengths Framing Lumber Composite Price	Option A: Export Charge	Option B: Export Charge Plus Quota
Over US$355/mbf	0%	0% + no quota
US$336 to US$355/mbf	5%	2.5% + regional share of 34% of U.S. consumption
US$316 to US$335/mbf	10%	3.0% + regional share of 32% of U.S. consumption
US$315 or under	15%	5.0% + regional share of 30% of U.S. consumption

Each region that selected Option B will have its regional market share determined based on the region's average share of total Canadian exports during the period 2001 to 2005.

3rd Country Trigger -- If during any two consecutive quarters the following three conditions exist, Canada will refund any export charges paid in those quarters (up to the equivalent of a 5% charge):

[1] Each Canadian province is a "region," except the western part of British Columbia (the "Coast" region) and the eastern part of British Columbia (the "Interior" region) are to be treated as separate regions.

(1) the U.S. market share accounted for by third country imports (e.g., Germany) increases by 20%;
(2) U.S. producers' U.S. market share increases; and
(3) Canadian producers' U.S. market share declines.

Surge Mechanism -- If any region's exports to the U.S. exceed 111% of its allocated share in any period, then those exports face an export charge equal to 150% of the prevailing export charge during the period. Any region triggering this provision is ineligible for refunds under the 3rd Country Trigger provision.

Maximum Taxable Value -- The export tax is to be assessed on the first US$500/mbf of the price of lumber shipped to the United States.

"First Mill" Treatment of Certain Remanufactured Lumber -- Lumber that is remanufactured by Canadian companies that do not use government timber and are independent of those that do is accorded "first mill" tax treatment. Export taxes are applied to the price of the lumber that is acquired by the remanufacturer as a production input -- not to the price for which the remanufacturer sells the finished product.

Exclusions -- Lumber produced from logs harvested in the Maritime provinces, the Yukon, the Northwest Territories or Nunavut is excluded from the border measures, as is lumber produced by certain Canadian companies (primarily along the Quebec/U.S. border) that were excluded from the countervailing duty.

Anti-circumvention Provision -- The agreement forbids the parties to circumvent their obligations under the agreement. For example, the provinces are forbidden to change their timber-pricing systems in ways that expand the subsidy to lumber. In addition, the provinces are forbidden to provide new conventional subsidies for lumber production.

Possible Regional Exemptions -- The agreement calls for the two countries to negotiate an end to timber-pricing systems that result in the under-pricing of timber. Provinces that adopt new systems that end timber under-pricing will be exempted from the border measures.

Dispute Settlement -- Any disputes under the agreement are to be resolved through a binding dispute settlement process involving non-North American commercial arbitrators.

Duration -- The Agreement is to last 7 years, and may be renewed for 2 more years. At Canada's insistence, in general, neither the United States nor Canada can terminate the agreement for the first two years that it is in place. If the United States terminates the agreement early without cause or the agreement runs its full term (7 or 9 years), U.S. unfair trade cases may not be brought against Canadian lumber for the first year after the end of the agreement.