

## Media Backgrounder

- The 2006 Canada-U.S. Softwood Lumber Agreement (SLA) provides for a dispute resolution process involving arbitration by the London Court of International Arbitration.
- In August 2007 the U.S. requested arbitration on Canada's application of the "adjustment factor", a technical component in the methodology used by Canada to calculate export quota levels under the SLA.
- An arbitration tribunal (SLA Tribunal) ruled in March 2008 that Canada should have applied the "adjustment factor" to "Option B" regions as of January 1, 2007, instead of July 1, 2007, as Canada applied it. "Option B" regions are the four provinces with quota restrictions under the SLA – Saskatchewan, Manitoba, Ontario and Quebec.
- In the terminology of the SLA, Canada was found to have "breached" the agreement and the SLA Tribunal went on to determine a remedy that would "cure the breach".
- Because the "adjustment factor" was not applied in Canada's calculations from January – June 2007, the export quota levels calculated for each Option B province were higher than they should have been.
- However, during this period, Saskatchewan exporters shipped less softwood lumber than permitted under either the original or recalculated quota levels. Saskatchewan was the only one of the four provinces with no SLA overshipments during this period.
- The U.S. has acknowledged that Saskatchewan never exceeded its correctly calculated quota volumes.
- It is Saskatchewan's position that the province in no way contributed to the "breach" of the SLA found by the SLA Tribunal.
- The SLA Tribunal ruled on February 26, 2009, that a remedy for Canada's calculation effort is for Canada to collect an export charge of 10 per cent (in addition to the 5 per cent export charge currently assessed) on shipments from Option B provinces until C\$68.26 million has been collected.
- The SLA Tribunal instructed Canada to "cure" its breach of the SLA within 30 days.
- On March 31, 2009, Canada announced that it had acted to "cure" the breach of the SLA found by the SLA Tribunal by authorizing a payment of C\$46.7 million to the U.S.
- This lump sum payment to the U.S. would be in lieu of the additional 10 per cent export charge.
- Canada is also asking the SLA Tribunal to reconvene in order for Canada to make its case that the lump sum payment it has offered to the U.S. "cures the breach" under the SLA and that therefore the additional 10 per cent export charge does not need to be collected.