



# The American Companies

## "News Flash"

September 11, 2008

### The "Farm Bill" and how it could impact you!

**This is a must read for any importer.** The **Food, Conservation & Energy Act of 2008**, otherwise known as the 'Farm Bill', primarily a standard piece of agricultural and forestry legislation, contains several measures which have major implications for the **trade community**.

In the interest of supporting international trade and environmental agreements, The **Softwood Lumber Act** (SLA), contained in Section 3301 of the law, requires that importers of softwood (coniferous) lumber and various softwood products make electronic declarations on the line level of the customs entry regarding the export price and charges paid to the country of export. Definitions of "export charges" and "export prices" are included in the bill and accessible via the web-site links below.

According to the DOC (ITA) Import Administration web-site, the United States has softwood lumber trade agreements with only one country, **Canada**, although products from any country falling under the HTS numbers indicated in the act (**4407.1000, 4409.1010, 4409.1020, 4409.1090**) must provide the data and declaration. A list of exempted products is also provided. If no export charge or price is available because no agreement exists between the US and the country of export, the amount shown must be zero.

The SLA 2008 was to take effect 60 days after the enactment of the legislation, or August 18, 2008. However an additional 30 days for implementation has been added; required data collection will be effective for importations of subject softwood lumber and softwood lumber products **on or after September 18**.

We recommend the follow web-links for further information:

1. Softwood Lumber Act 2008 Frequently Asked Questions:

[http://www.cbp.gov/xp/cgov/trade/trade\\_programs/cargo\\_summary/misc\\_trade\\_tech\\_corrections\\_act/food\\_energy/softwood/softwood\\_faq.xml](http://www.cbp.gov/xp/cgov/trade/trade_programs/cargo_summary/misc_trade_tech_corrections_act/food_energy/softwood/softwood_faq.xml)

2. Softwood Lumber Act 2008 Overview:

[http://www.cbp.gov/xp/cgov/trade/trade\\_programs/cargo\\_summary/misc\\_trade\\_tech\\_corrections\\_act/food\\_energy/softwood/softwood\\_overview.xml](http://www.cbp.gov/xp/cgov/trade/trade_programs/cargo_summary/misc_trade_tech_corrections_act/food_energy/softwood/softwood_overview.xml)

3. Softwood Lumber Act 2008 Entire Text:

[http://www.cbp.gov/linkhandler/cgov/trade/trade\\_programs/cargo\\_summary/misc\\_trade\\_tech\\_corrections\\_act/food\\_energy/softwood/farm\\_bill.ctt/farm\\_bill.doc](http://www.cbp.gov/linkhandler/cgov/trade/trade_programs/cargo_summary/misc_trade_tech_corrections_act/food_energy/softwood/farm_bill.ctt/farm_bill.doc)

**In addition to the Softwood Lumber Act**, another set of sweeping trade-related proposals, called the **Lacy Act Amendments** ("Prevention of Illegal Logging Practices"), were put forward in Section 8204 of the same Farm Bill. The Amendments mandate a **hard-copy statement** regarding certain facts on the importation of a wide range of wood and **wood-derived products** as part of the customs entry. Unless the requirement is changed to an electronic statement, such as the one required in the Softwood Lumber Act, paperless entry releases would be eliminated. According to reports, CBP officials have warned that reprogramming of the

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ACS system to accommodate this change by the implementation date (now December 15, 2008) will be impossible.

Further, the law failed to indicate (limit) the scope of its application. **In theory, nearly all paper- or cellulose-based products are subject to the law. This includes paper, man-made staple fiber textiles and even wearing apparel, and a host of other everyday products that use wood cellulose-based materials as a base**; by some estimates up to one third of the entire Harmonized Tariff Schedule. It is also reported that government agencies empowered to enforce the rules, such as CBP and APHIS have considered asking Congress to restrict the range of subject products, and / or to establish *de minimis* standards to further limit the impact of the requirements. Trade Groups are beginning to organize and educate the import community on the far-reaching implications of this bill.

Finally, Section 15422 (a) of the same **Farm Bill makes it mandatory (effective date August 20) for importers to declare on their customs entry whether the declared transactional value is determined on the basis of a 'first sale'**, which means the first sale (in a series of sequential sales) in which the goods are sold with intent to be exported to the United States, or any sale earlier than the last sale prior to the introduction of the goods into the United States. Customs will report the frequency of the use of the 'first sale' option to the ITC, for the purposes of assigning volume and value to those types of transactions. Currently, there is no way of measuring either. See our News-Update of August 25 for further details.

This new requirement comes as a result of a Customs administrative (unilateral) proposal in January 2008 to amend, or abandon, the 'first sale' method of appraisalment that had been in effect since 1988. "First sale" allows an importer to use the transactional value of the first sale (in a series of sales) in which the goods are sold for export to the United States.

Should the products you import currently or prospective be of the nature described above, please do not hesitate to contact your American Companies representative or our Corporate Compliance Manager, Mr. James Carroll ([jamesc@shipamerican.com](mailto:jamesc@shipamerican.com)) to discuss how we can assist you in complying to the new requirements.



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