

U.S. seeks opt-out clause in softwood deal It could limit any pact to just over a year, critics say

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U.S. negotiators in round-the-clock softwood lumber talks are seeking an opt-out clause that could see the long-standing dispute back on the table in little more than a year, B.C. NDP forestry critic Bob Simpson said Thursday.

Negotiators in Washington have been attempting to reach a deal before Prime Minister Stephen Harper and U.S. President George W. Bush meet in the U.S. capital next week.

Harper told the House of Commons on April 27 that he had secured a "long-term solution" -- a seven-year deal with the option to extend for two more years -- to the decades-long trade dispute between Canada and the United States. The agreement in principle states that Canadian lumber companies will get back \$4 billion of the \$5 billion that has been paid to Washington in import duties to send lumber into lucrative U.S. markets.

But a controversial "termination clause" -- which was introduced by the Americans in negotiations during the last week -- is becoming a source of much consternation north of the border. The clause would allow either side to opt out of the agreement after one year so long as it gives 30-days notice, meaning a possible return to lawsuits, import duties and political wrangling.

"We are bowing to a political agenda that is short-changing the economics and the business aspects of this deal," said Simpson. "If the Americans find out we can still beat them at this lumber game -- which we probably will, because we are better at it than they are -- then they can walk away from it within a year.

"So what's it all been for? We have lost the head of steam we had on litigation for nothing. We are just playing into the American demands.

"If we are going to get managed trade and leave \$1 billion on the table, then we had better get something we can live with and still operate under."

Carl Grenier, head of the Free Trade Lumber Council, also opposes the termination clause.

"That would be an extremely expensive deal for Canada and for the industry, keeping in mind that we're leaving a billion dollars behind," Grenier said.

"We were told that the government used that part of our money to get peace and stability for seven or nine years. Now we're down to, in the U.S. version, 13 months, and in the Canadian version, 3-1/2 years, which is not satisfactory either."

Simpson said the B.C. industry has been told to expect a draft by this morning. CEOs will be given 24 hours to review it and make comment, he said.

"This isn't about softwood any more. It isn't about managed trade any more. It's about politics," Simpson said of the deadline.

The Interior lumber industry is divided on the issue, and has been silent throughout the crisis. Major lumber companies West Fraser Timber and Tolko Industries oppose the

settlement, while Canfor Corp., the largest lumber company, favours settling.

The coastal forest industry is more vocal in expressing its uncertainty.

"It's our view that the problem is the U.S. lumber lobby," said Rick Jeffery of the Coast Forest Products Association. "The coalition wants an unreasonable trade deal, and I expect the delay is because Canada is not going to accept one."

International Trade Minister David Emerson said in an interview on CKNW radio Thursday that some progress has been made on the biggest issue for B.C. -- acceptance of a new market-based timber pricing system that is going into effect July 1. The Americans are demanding a veto over new forest policies, and have been insisting that timber prices can go up but not down under the new system.

The Harper government reached the tentative softwood deal with the U.S. just weeks after Harper met Bush in Mexico at a North American summit. The two leaders spoke of the softwood dispute in bilateral meetings and vowed to ramp up efforts to resolve the problems by appointing special envoys to the file.

Following the political victory, Harper promised that the legal text of the agreement would "protect Canadian forestry practices and provide stable access to the American market, something the previous government was unable to do for the last five years."

Closing the deal has proven considerably more difficult and there are still no guarantees that the deal will be workable from a business perspective.

The Canadian negotiators were unable to meet a June 21 deadline to finalize the agreement before the House of Commons broke for the summer recess. The Tories wanted to introduce a ways and means motion in the House that would allow them to immediately implement the new rules.

"It's certainly a concern, but the political decision was taken on April 27," said Grenier. "The legal drafting is always a tough slog. Two months for me was certainly not sufficient, and now it's becoming clear that it's not sufficient."

New Democratic Party MP Peter Julian said there are more than a dozen areas where the Conservative government is "giving up" on the softwood deal.

"The concessions that they are making will decimate the industry," he said. "It's entered the realm where any of the political advantages of this deal have been lost."

He added that Harper seems "hell bent of having a photo-op" with the U.S. president next week.

Numerous industry and government representatives said Thursday that a deal this week is "within the realm of possibility," but that there are a number of outstanding issues "on which the deal could collapse."

"We may be heading into a phase next week where, even if there's no deal, the actual message is going to be about positioning the Harper government to ratify a deal that may not have 100 per cent consensus," said Chris Sands, an associate with the Centre for Strategic and International Studies, a Washington-based think-tank.

"If Harper sees that it's a few stubborn people and he thinks he can shame them, or at least steamroll them, he may try, and there's no better podium than standing next to George W. Bush and saying 'We're determined.'"

Indeed, a number of Canadian lumber producers expressed their concerns that Harper and Emerson may make a "political decision" to impose a consensus on the final draft of the softwood agreement in order to save face.

"He could do that, but ... there is no deal unless 95 per cent of the Canadian industry signs on," said the Ontario government source.

Jen Chiu, a spokeswoman for Emerson, would not comment on the U.S. push to be able to opt out of the deal after one year. She would only repeat that "Canada is working closely with the U.S. to finalize the final text" of the agreement.

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