

lumber or a product that undergoes the last remanufacturing before export by a manufacturer who—

- (aa) holds tenure rights provided by the country of export;
- (bb) acquired standing timber directly from the country of export; or
- (cc) is related to a person who holds tenure rights or acquired standing timber directly from the country of export.

(B) Related persons

For purposes of this paragraph, a person is related to another person if—

- (i) the person bears a relationship to such other person described in section 152(a) of title 26;
- (ii) the person bears a relationship to such other person described in section 267(b) of such title, except that “5 percent” shall be substituted for “50 percent” each place it appears;
- (iii) the person and such other person are part of a controlled group of corporations, as that term is defined in section 1563(a) of such title, except that “5 percent” shall be substituted for “80 percent” each place it appears;
- (iv) the person is an officer or director of such other person; or
- (v) the person is the employer of such other person.

(C) Tenure rights

For purposes of this paragraph, the term “tenure rights” means rights to harvest timber from public land granted by the country of export.

(D) Export price where F.O.B. value cannot be determined

(i) In general

In the case of softwood lumber or a softwood lumber product described in clause (i), (ii), or (iii) of subparagraph (A) for which an F.O.B. value cannot be determined, the export price shall be the market price for the identical lumber or product sold in an arm’s-length transaction in the country of export at approximately the same time as the exported lumber or product. The market price shall be determined in the following order of preference:

- (I) The market price for the lumber or a product sold at substantially the same level of trade as the exported lumber or product but in different quantities.
- (II) The market price for the lumber or a product sold at a different level of trade than the exported lumber or product but in similar quantities.
- (III) The market price for the lumber or a product sold at a different level of trade than the exported lumber or product and in different quantities.

(ii) Level of trade

For purposes of clause (i), “level of trade” shall be determined in the same manner as provided under section 351.412(c) of title 19, Code of Federal Regulations (as in effect on January 1, 2008).

(6) F.O.B.

The term “F.O.B.” means a value consisting of all charges payable by a purchaser, including those charges incurred in the placement of merchandise on board of a conveyance for shipment, but does not include the actual shipping charges or any applicable export charges.

(7) HTS

The term “HTS” means the Harmonized Tariff Schedule of the United States (19 U.S.C. 1202) (as in effect on January 1, 2008).

(8) Person

The term “person” includes any individual, partnership, corporation, association, organization, business trust, government entity, or other entity subject to the jurisdiction of the United States.

(9) United States

The term “United States” means the customs territory of the United States, as defined in General Note 2 of the HTS.

(June 17, 1930, ch. 497, title VIII, §802, as added Pub. L. 110–246, title III, §3301(a), June 18, 2008, 122 Stat. 1844.)

Editorial Notes

REFERENCES IN TEXT

The Harmonized Tariff Schedule of the United States, referred to in par. (7), is not set out in the Code. See Publication of Harmonized Tariff Schedule note set out under section 1202 of this title.

CODIFICATION

Another section 802 of act June 17, 1930, is classified to section 1681a of this title.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Pub. L. 110–246, title III, §3301(b), June 18, 2008, 122 Stat. 1853, provided that: “The amendments made by this section [enacting this subtitle] shall take effect on the date that is 60 days after the date of the enactment of this Act [June 18, 2008].”

§ 1683a. Establishment of softwood lumber importer declaration program

(a) Establishment of program

(1) In general

The President shall establish and maintain an importer declaration program with respect to the importation of softwood lumber and softwood lumber products described in section 1683b(a) of this title. The importer declaration program shall require importers of softwood lumber and softwood lumber products described in section 1683b(a) of this title to provide the information required under subsection (b) and declare the information required by subsection (c), and require that such information accompany the entry summary documentation.

(2) Electronic record

The President shall establish an electronic record that includes the importer information required under subsection (b) and the declarations required under subsection (c).

(b) Required information

The President shall require the following information to be submitted by any person seeking to import softwood lumber or softwood lumber products described in section 1683b(a) of this title:

- (1) The export price for each shipment of softwood lumber or softwood lumber products.
- (2) The estimated export charge, if any, applicable to each shipment of softwood lumber or softwood lumber products as calculated by applying the percentage determined and published by the Under Secretary for International Trade of the Department of Commerce pursuant to section 1683c of this title to the export price provided in subsection (b)(1).

(c) Importer declarations

Pursuant to procedures prescribed by the President, any person seeking to import softwood lumber or softwood lumber products described in section 1683b(a) of this title shall declare that—

- (1) the person has made appropriate inquiry, including seeking appropriate documentation from the exporter and consulting the determinations published by the Under Secretary for International Trade of the Department of Commerce pursuant to section 1683c(b) of this title; and
- (2) to the best of the person's knowledge and belief—
 - (A) the export price provided pursuant to subsection (b)(1) is determined in accordance with the definition provided in section 1683(5) of this title;
 - (B) the export price provided pursuant to subsection (b)(1) is consistent with the export price provided on the export permit, if any, granted by the country of export; and
 - (C) the exporter has paid, or committed to pay, all export charges due—
 - (i) in accordance with the volume, export price, and export charge rate or rates, if any, as calculated under an international agreement entered into by the country of export and the United States; and
 - (ii) consistent with the export charge determinations published by the Under Secretary for International Trade pursuant to section 1683c(b) of this title.

(June 17, 1930, ch. 497, title VIII, § 803, as added Pub. L. 110-246, title III, § 3301(a), June 18, 2008, 122 Stat. 1847.)

Editorial Notes**REFERENCES IN TEXT**

Section 1683 of this title, referred to in subsec. (c)(2)(A), was in the original section "802", and was translated as meaning the section 802 of act June 17, 1930, as added by section 3301(a) of Pub. L. 110-246, to reflect the probable intent of Congress.

CODIFICATION

Another section 803 of act June 17, 1930, is classified to section 1681b of this title.

Statutory Notes and Related Subsidiaries**EFFECTIVE DATE**

Section effective 60 days after June 18, 2008, see section 3301(b) of Pub. L. 110-246, set out as a note under section 1683 of this title.

§ 1683b. Scope of softwood lumber importer declaration program**(a) Products included in program**

The following products shall be subject to the importer declaration program established under section 1683a of this title:

(1) In general

All softwood lumber and softwood lumber products classified under subheading 4407.10.00, 4409.10.10, 4409.10.20, or 4409.10.90 of the HTS, including the following softwood lumber, flooring, and siding:

(A) Coniferous wood, sawn or chipped lengthwise, sliced or peeled, whether or not planed, sanded, or finger-jointed, of a thickness exceeding 6 millimeters.

(B) Coniferous wood siding (including strips and friezes for parquet flooring, not assembled) continuously shaped (tongued, grooved, rabbeted, chamfered, v-jointed, beaded, molded, rounded, or the like) along any of its edges or faces, whether or not planed, sanded, or finger-jointed.

(C) Other coniferous wood (including strips and friezes for parquet flooring, not assembled) continuously shaped (tongued, grooved, rabbeted, chamfered, v-jointed, beaded, molded, rounded, or the like) along any of its edges or faces (other than wood moldings and wood dowel rods) whether or not planed, sanded, or finger-jointed.

(D) Coniferous wood flooring (including strips and friezes for parquet flooring, not assembled) continuously shaped (tongued, grooved, rabbeted, chamfered, v-jointed, beaded, molded, rounded, or the like) along any of its edges or faces, whether or not planed, sanded, or finger-jointed.

(E) Coniferous drilled and notched lumber and angle cut lumber.

(2) Products continually shaped

Any product classified under subheading 4409.10.05 of the HTS that is continually shaped along its end or side edges.

(3) Other lumber products

Except as otherwise provided in subsection (b) or (c), softwood lumber products that are stringers, radius-cut box-spring frame components, fence pickets, truss components, pallet components, and door and window frame parts classified under subheading 4418.90.46.95, 4421.90.70.40, or 4421.90.97.40 of the HTS.

(b) Products excluded from program

The following products shall be excluded from the importer declaration program established under section 1683a of this title:

- (1) Trusses and truss kits, properly classified under subheading 4418.90 of the HTS.
- (2) I-joint beams.
- (3) Assembled box-spring frames.
- (4) Pallets and pallet kits, properly classified under subheading 4415.20 of HTS.
- (5) Garage doors.
- (6) Edge-glued wood, properly classified under subheading 4421.90.97.40 of the HTS.
- (7) Complete door frames.
- (8) Complete window frames.