



# Canada-United States Softwood Lumber Dispute

Presentation to Western Forest Economists

June 2015



Ministry of Forests, Lands and Natural Resource Operations

# *Presentation Outline*



- I. Importance of Forestry to BC
- II. Trade Dispute History
- III. 2006 Softwood Lumber Agreement
- IV. Post 2015

# Importance Of Forest Sector In BC



<b>GDP</b>	\$5.9B in 2011	12% of BC goods sector GDP
<b>Employment</b>	60,700 in 2014	2.7% of total BC employment
<b>Exports</b>	\$12.4B in 2014	35% of BC merchandise exports 34% of Canadian forest products exports
<b>Lumber Prod.</b>	12.5 BBF in 2014	51% of Canadian lumber production
<b>Govt Revenue</b>	\$719M in 2014	over \$1 billion in good years

# BC Coast vs Interior

Year 2014	Unit	Interior	Coast	Province
Timber Harvest	million m <sup>3</sup>	46.8	19.3	66.1
From private land	million m <sup>3</sup>	1.7	5.4	7.1
% from private land	%	4%	28%	11%
Lumber Production	million bf	11,128	1,363	12,492
Lumber Exports to US	million bf	5,636	566	6,202
Log Exports	million m <sup>3</sup>	0.6	6.0	6.6
As % of Timber Harvest	%	1%	31%	10%

Sources:

Ministry of Forests, Lands and Natural Resource Operations Harvest Billing System

Statistics Canada, CANSIM 303-0064

Department of Foreign Affairs, Trade and Development, Daily Export Reports

Ministry of Forests, Lands and Natural Resource Operations, Log Export Permit Report



# Trade Dispute History

# *The Main Argument*

## Different Forest Ownership:

- Canada's timber is ~90% from Crown land
- US timber is ~90% from private land

## The US claims:

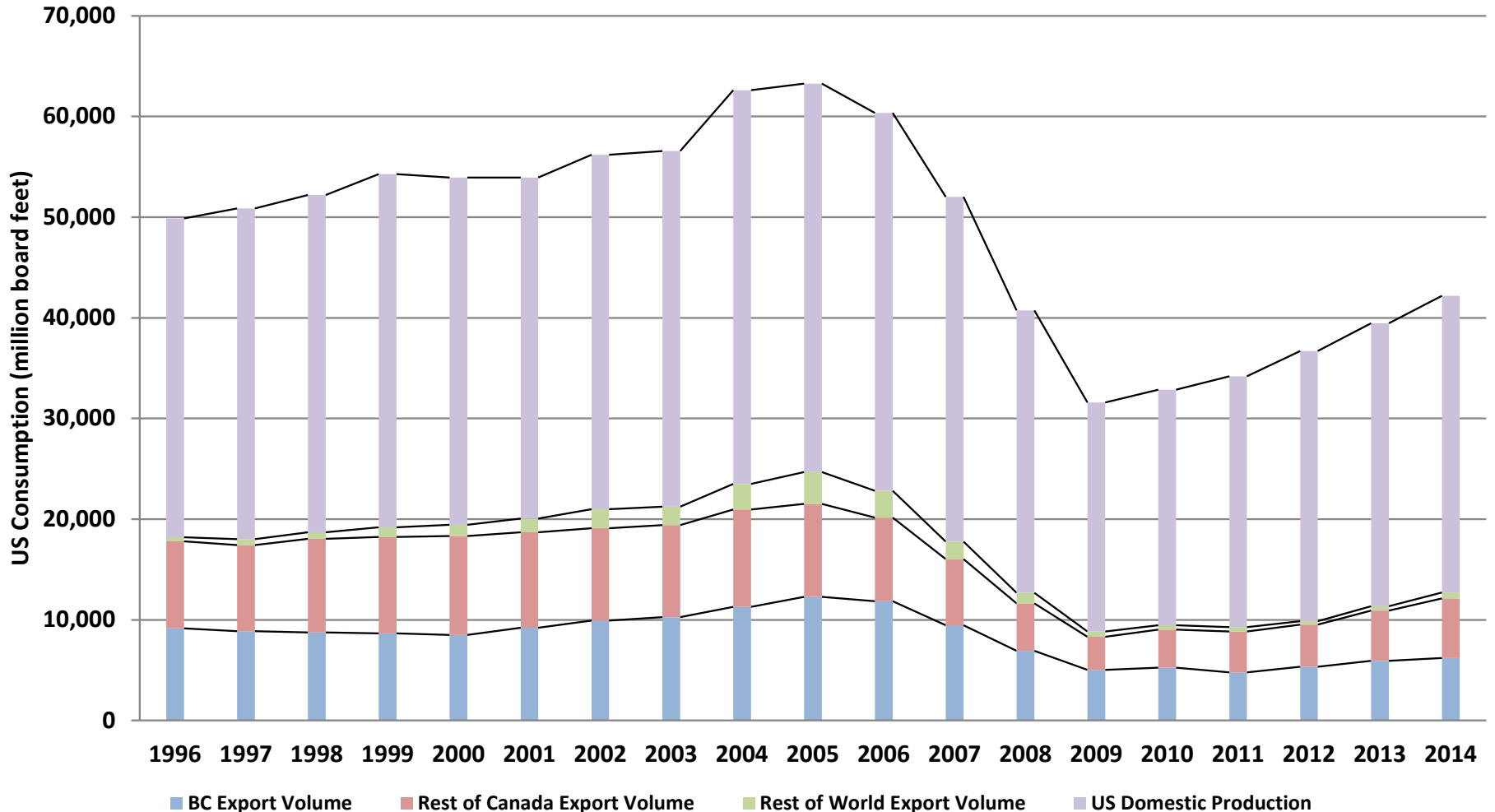
- Canadian lumber industry is subsidized
- Main allegation is that provincial stumpage rates charged to companies for trees logged on Crown land are set too low and do not follow markets
- As a result, lumber imported from Canada should be subject to countervailing duties

## Canada disputes this assertion:

- Stumpage rates are set in relation to markets
- Economic rent theory says even if stumpage were low, it wouldn't lead to higher production

# Share Of US Lumber Market

## Decomposition of US Softwood Lumber Consumption



Source: WWPA Lumber Track

# *Background: International Trade Rules*

- WTO and NAFTA aim to reduce trade barriers, but set rules for exceptions:
  - countervailing duties to offset government subsidies
  - anti-dumping duties to offset companies exporting products at prices lower than the prices normally charged in the home market
  - emergency trade restrictions designed to “safeguard” domestic industries
- Each country has its own rules to investigate whether duties are justified – in softwood lumber, the US is applying its rules to Canadian imports



# US Trade Rules

- US industry petitions govt – Coalition for Fair Lumber Imports
- US Department of Commerce investigates subsidy and dumping
- US International Trade Commission (ITC) investigates injury
- US Trade Representative (USTR) – negotiates/administers agreements
- Each year, Commerce recalculates duties – can result in partial refund of duties, or requirement to pay more
- Uncertainty - exporters don't know what level of tariff they will end up paying
- High duties – highest in Lumber IV was 27% CVD+AD, eventually determined to be *de minimis* after many NAFTA panel remands

# *NAFTA And WTO Appeals*

- Canada can appeal US CVD, AD and injury rulings to arbitration panels under NAFTA and WTO.
- NAFTA panels:
  - whether US determination accords with US law
  - can require the US to change its finding
- WTO panels rule on:
  - whether US is consistent with WTO rules
  - no authority to require the US to change its finding
  - may authorize retaliatory measures
- In Lumber IV, Canada appealed numerous US decisions to NAFTA and/or WTO

# *Key Panel Decisions In Lumber IV*

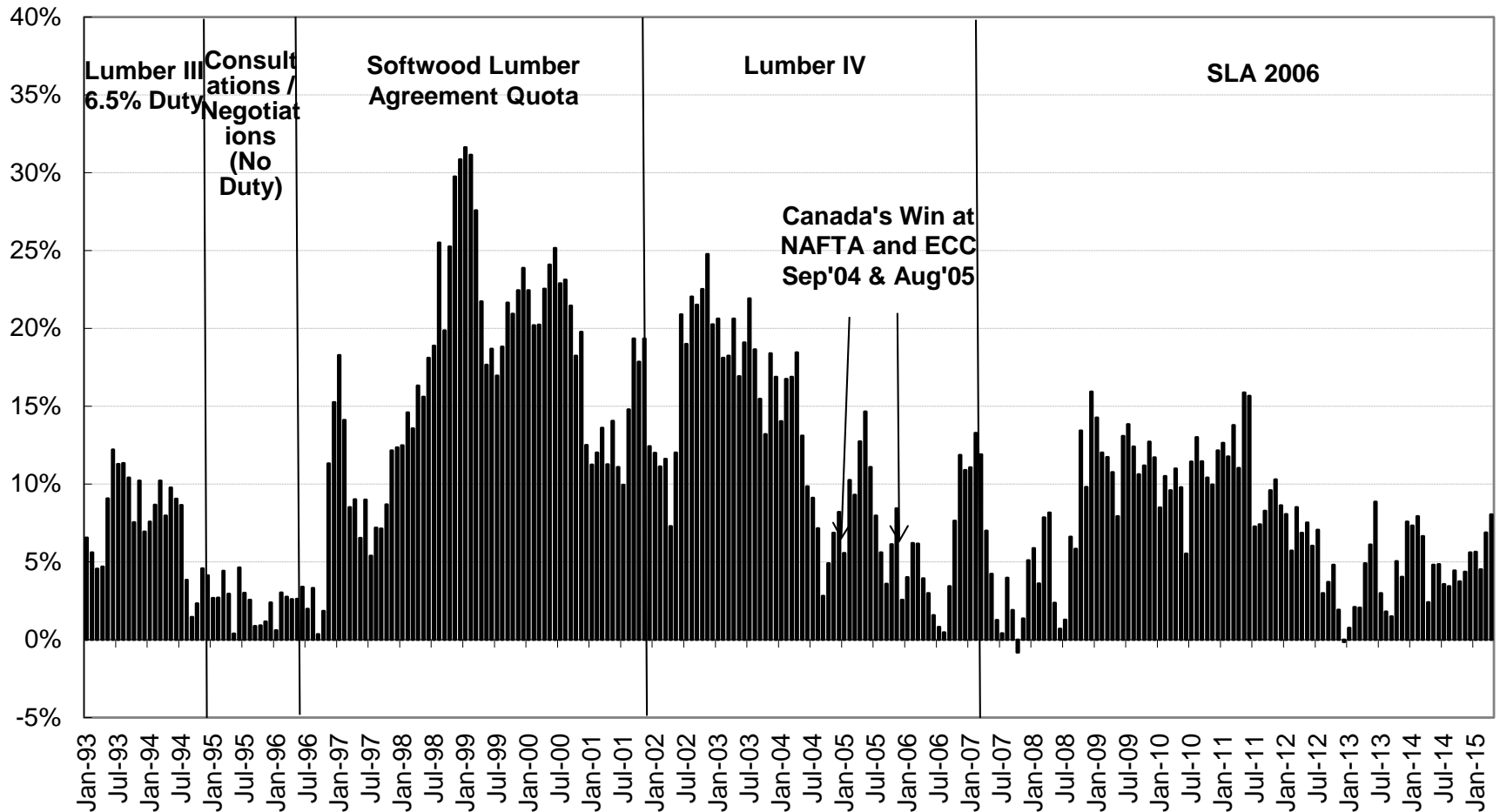
- Panel on injury – Panel required US to review threat of injury decision 3 times. On 3<sup>rd</sup> review, panel required US to find no threat of injury.
- Panel on CVD – Panel required US to recalculate CVD 5 times. On 5<sup>th</sup> Calculation, CVD rate below 1% '*de minimis*' .
- Panel on AD – Panel returned calculation to US 3 times. Panel discontinued before final ruling.

# *Canada-US Lumber Dispute*

- 82-83 Lumber I – Countervailing duty (CVD) case
- 83-86 No dispute
- 86 Lumber II – CVD
- 86-91 Memorandum of Understanding (MoU)
- 92-94 Lumber III – CVD
- 94-96 Agreement Negotiation
- 96-01 1996 Softwood Lumber Agreement (SLA)
- 01-06 Lumber IV – CVD and Anti-dumping (AD)
- 06-15 2006 SLA
- 2015 + ??

# Price Differentials Illustrate Level Of Protection

**Cross border lumber price difference:  
Toronto vs Boston 2x4 price difference as a percentage of Canadian price**





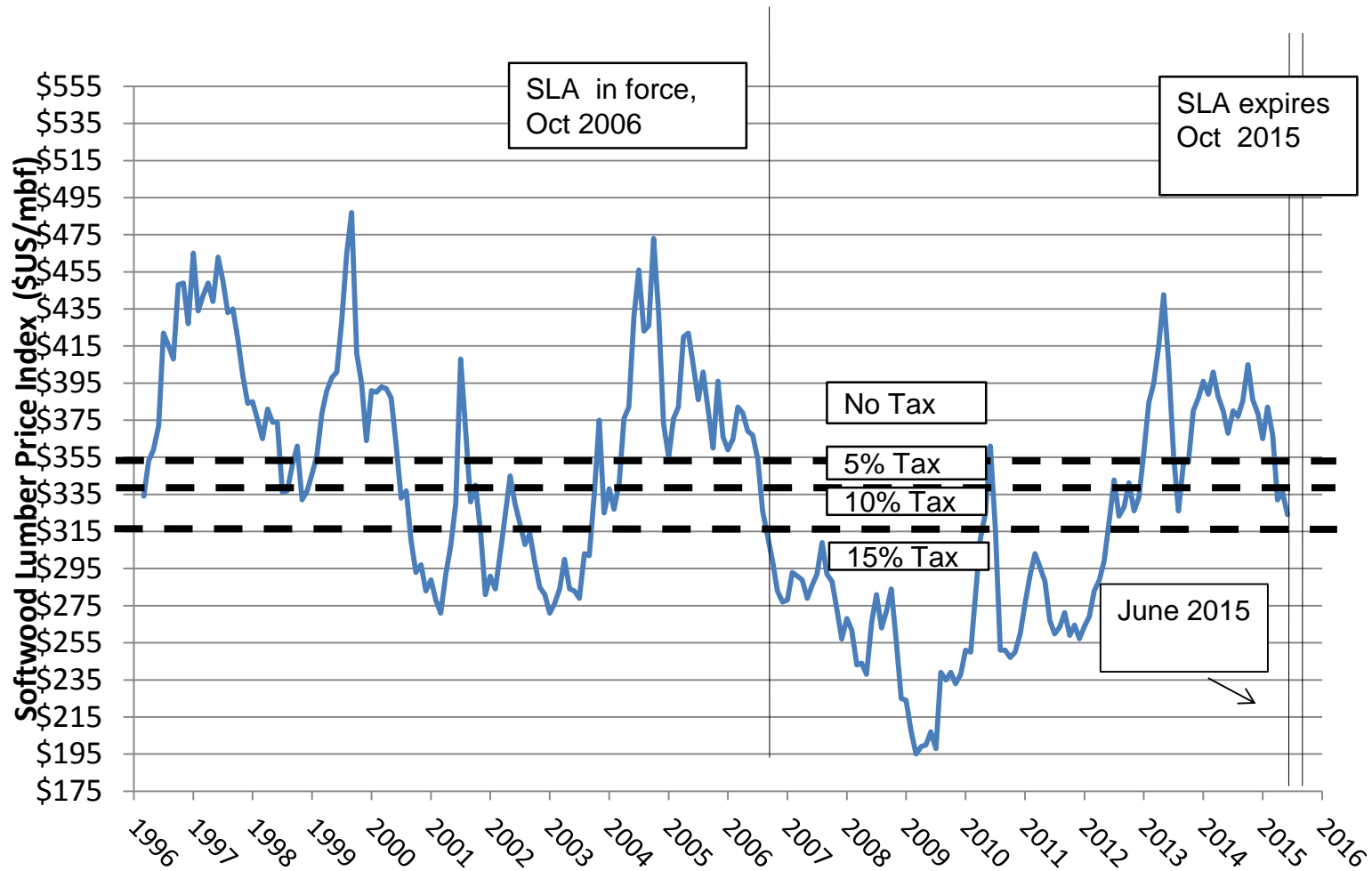
# 2006 Softwood Lumber Agreement

# *Key Features Of 2006 SLA*

- Came into force October 2006. Expires October 2015
- Returned 80% (US\$4.3 billion) of duties to Cdn companies
- Two options: (A) Export tax, or (B) Quota with lower tax
- Tax collected by federal govt, remitted to provinces
- Bottom loaded tax - rate declines as lumber prices rise
- Free trade under either Option when benchmark lumber price is over US\$355/MBF
- Canada must notify US of changes to forest policy, US can challenge, certain 'safe harbours' (eg environmental)
- Dispute Settlement by London Court of International Arbitration
- US agreed to one year standstill on expiry

# Lumber Prices And Incidence Of SLA Tax

## Softwood Lumber Agreement (SLA) Export Tax Trigger Points



Source: Random Lengths



# *What Happens Next?*

2006 SLA expires in October 2015

Possible scenarios post-2015:

- Extended or Renewed Agreement
- New CVD/AD against Canada (Lumber V)
  - One year standstill to Oct 2016
- New Agreement

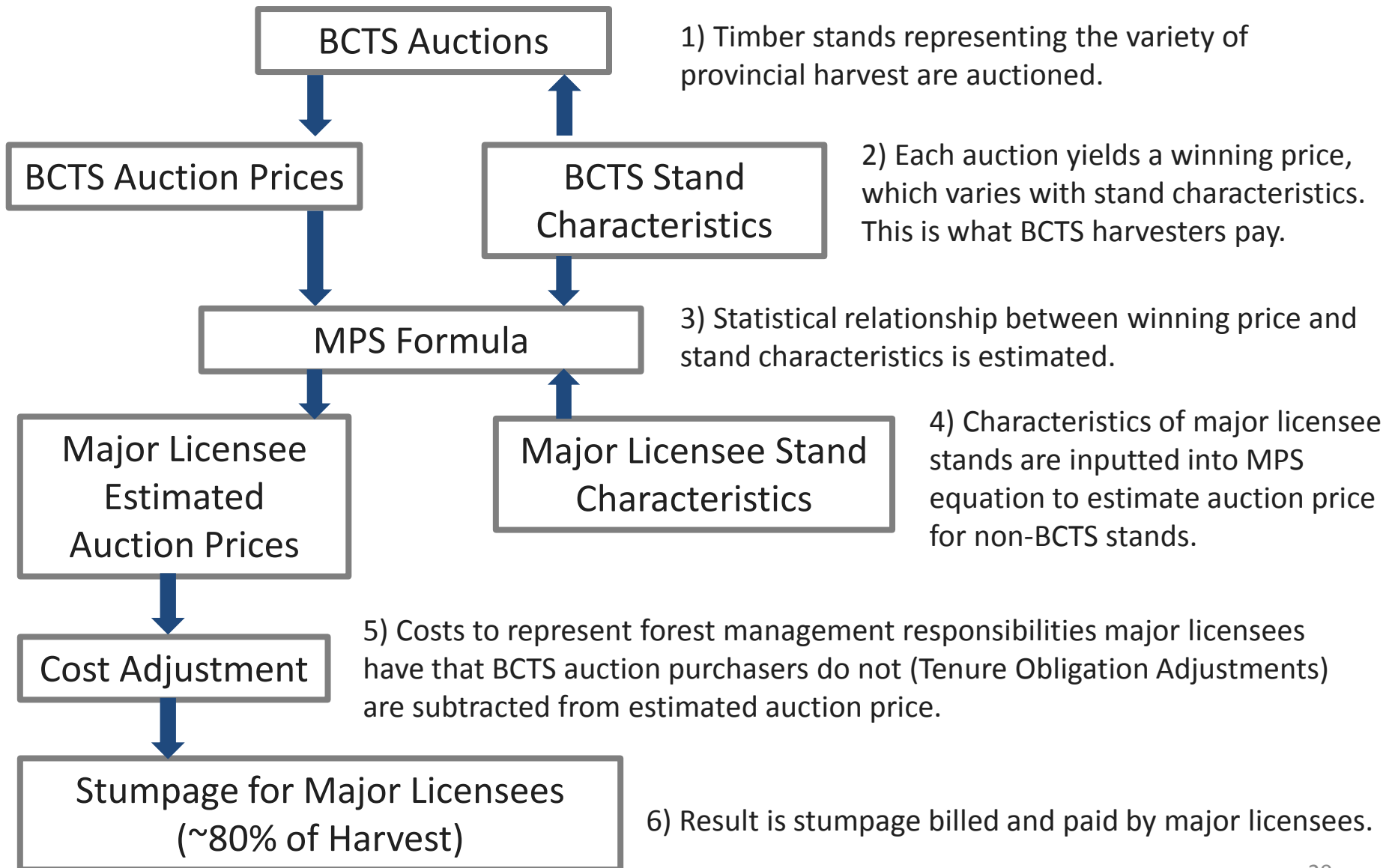
# *Key Factors For Future Of Dispute*

- **Market Pricing of Timber:**
  - 2003-2006: BC implements an auction based pricing system for timber
  - 2013: Quebec implements similar system
- **Reduced Timber Supply in Canada**
  - BC's harvest expected to fall
  - Ontario and Quebec harvest also lower
- **Diversified Exports**
  - BC and Canada now export a significant share of their lumber to Asia
- **Cross Border Mill Ownership**
  - BC companies now own about 14% of US production

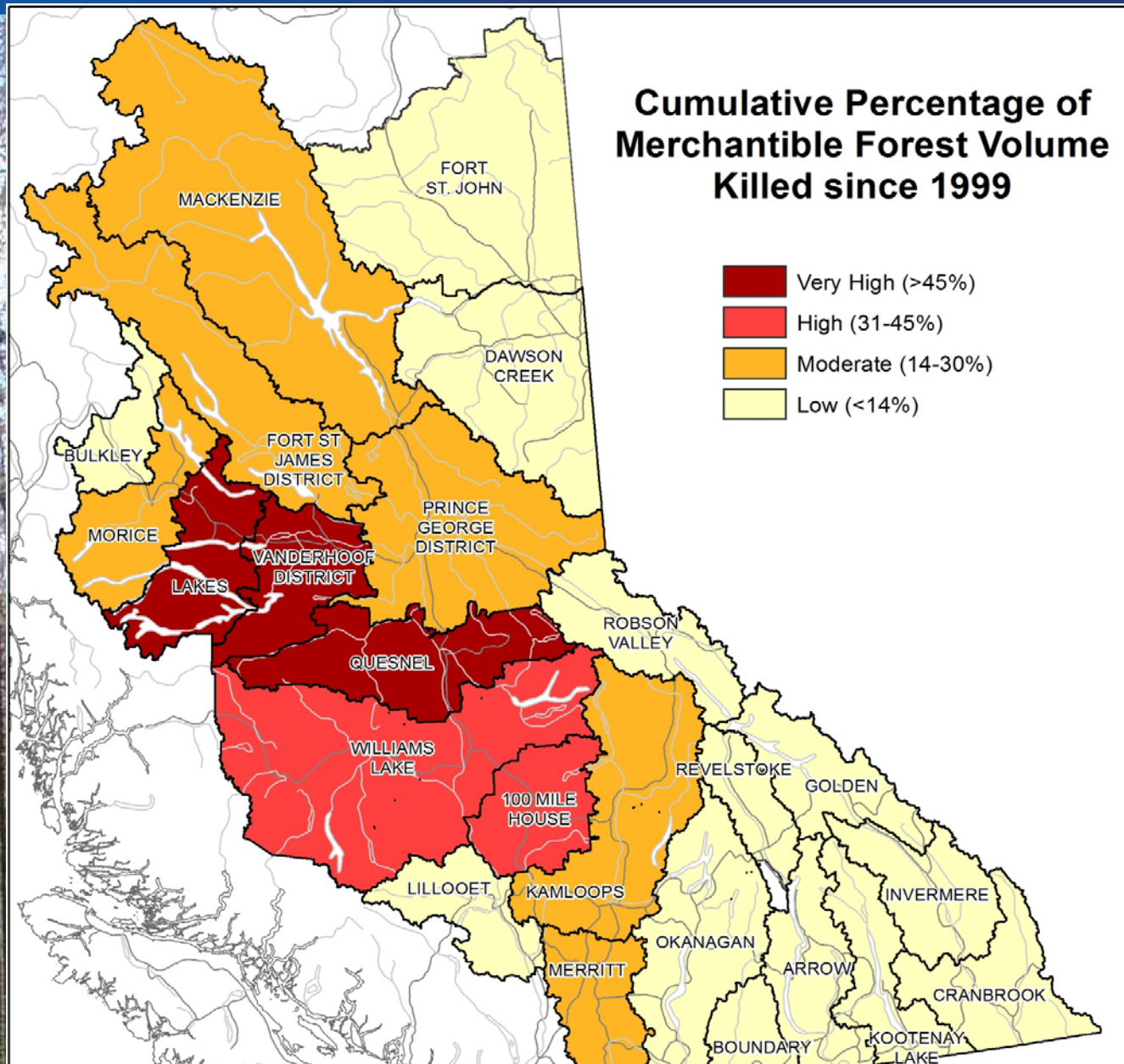
# BC Timber Sales

- Established in 2003
- Core business goal: *To provide credible representative price and cost benchmark data for the market pricing system (MPS) through auctions of public timber*
- BCTS auctions timber tracts to highest bidder:
  - Approximately 20% of AAC; representative sample
  - Auction characteristics (e.g. sealed bid, upset rate method, etc) designed and periodically reviewed with advice from MDI auction consultants.
  - Minimal eligibility requirements: bidding pool of about 1,000 registrants

# Market Pricing System Uses Auction Results

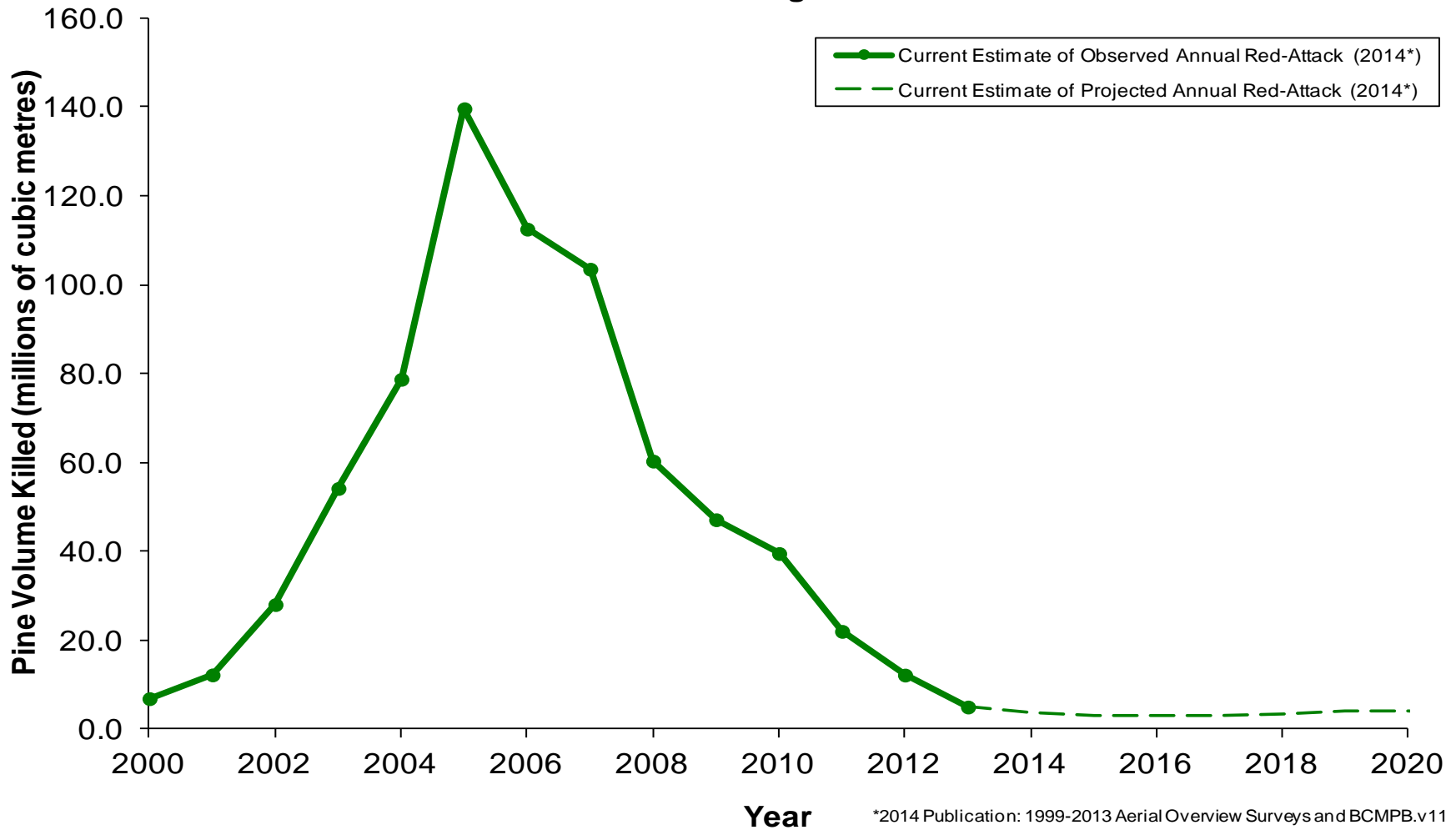


# Mountain Pine Beetle Epidemic Is A Disaster



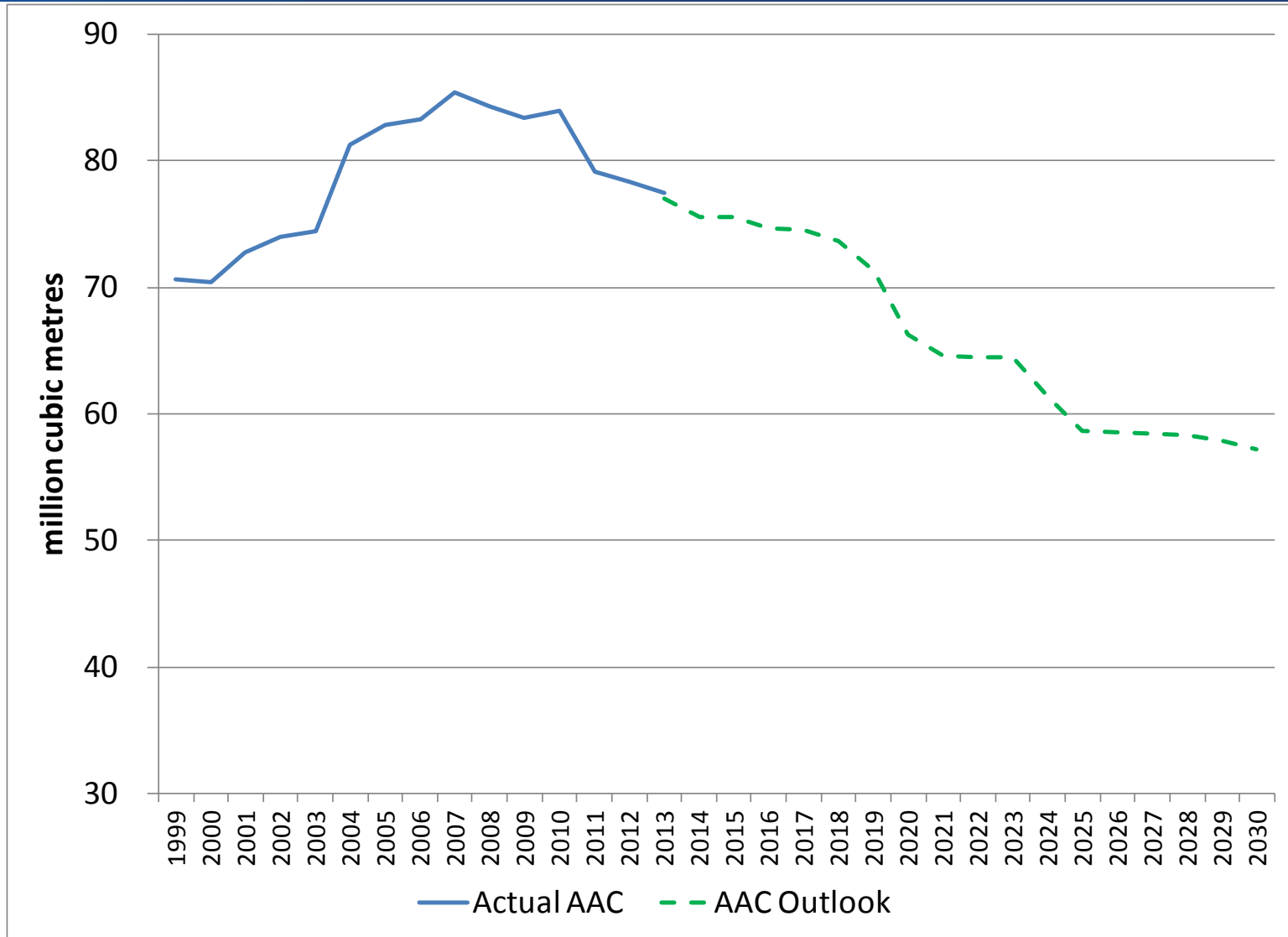
# 730 Million Cubic Metres Killed To Date

## Entire Province Timber Harvesting Land Base



\*2014 Publication: 1999-2013 Aerial Overview Surveys and BCMPB.v11

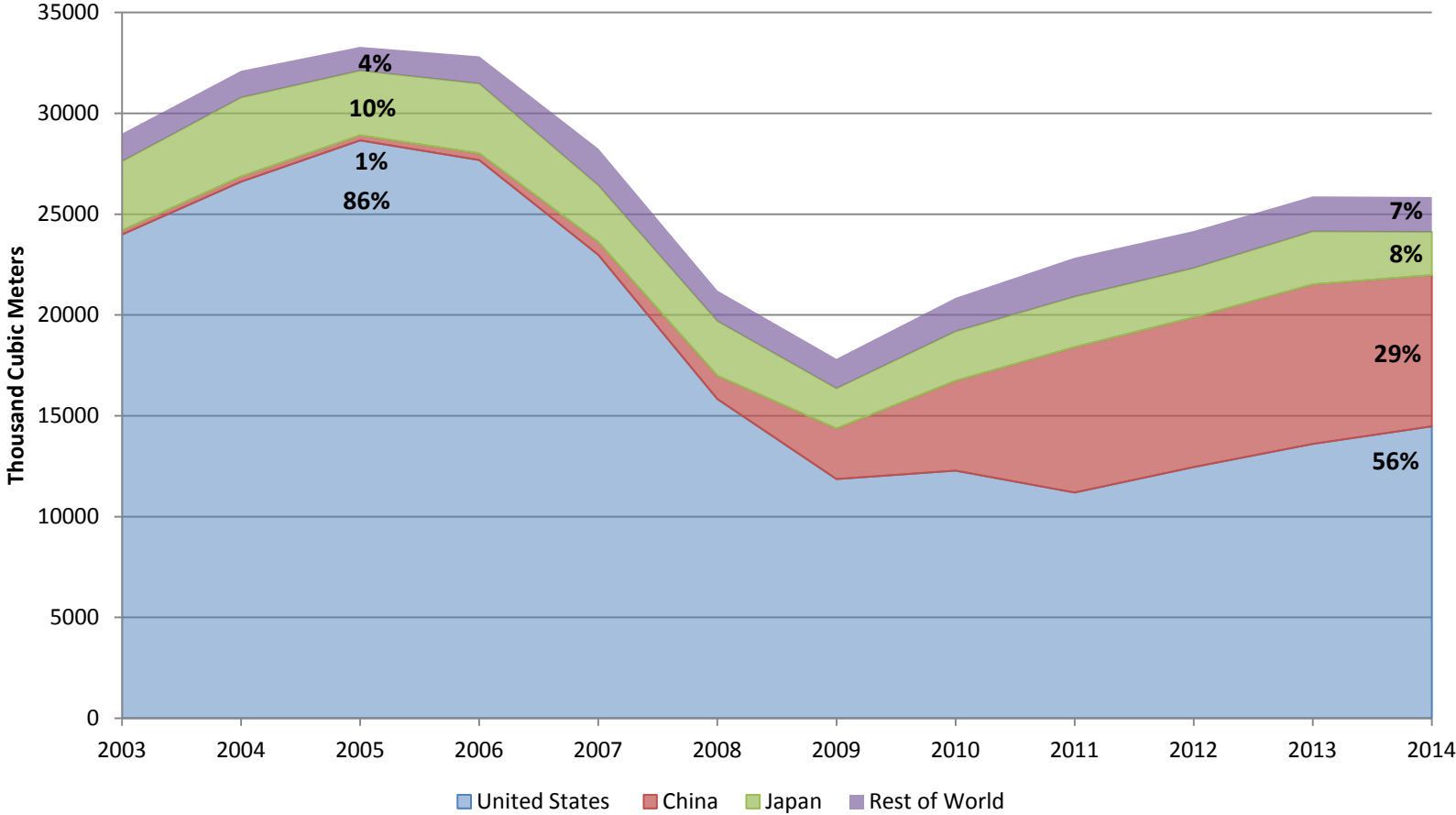
# Falling BC Timber Supply



Source: FLNRO AAC: Allowable Annual Cut

# BC Lumber Exports Have Shifted To Asia

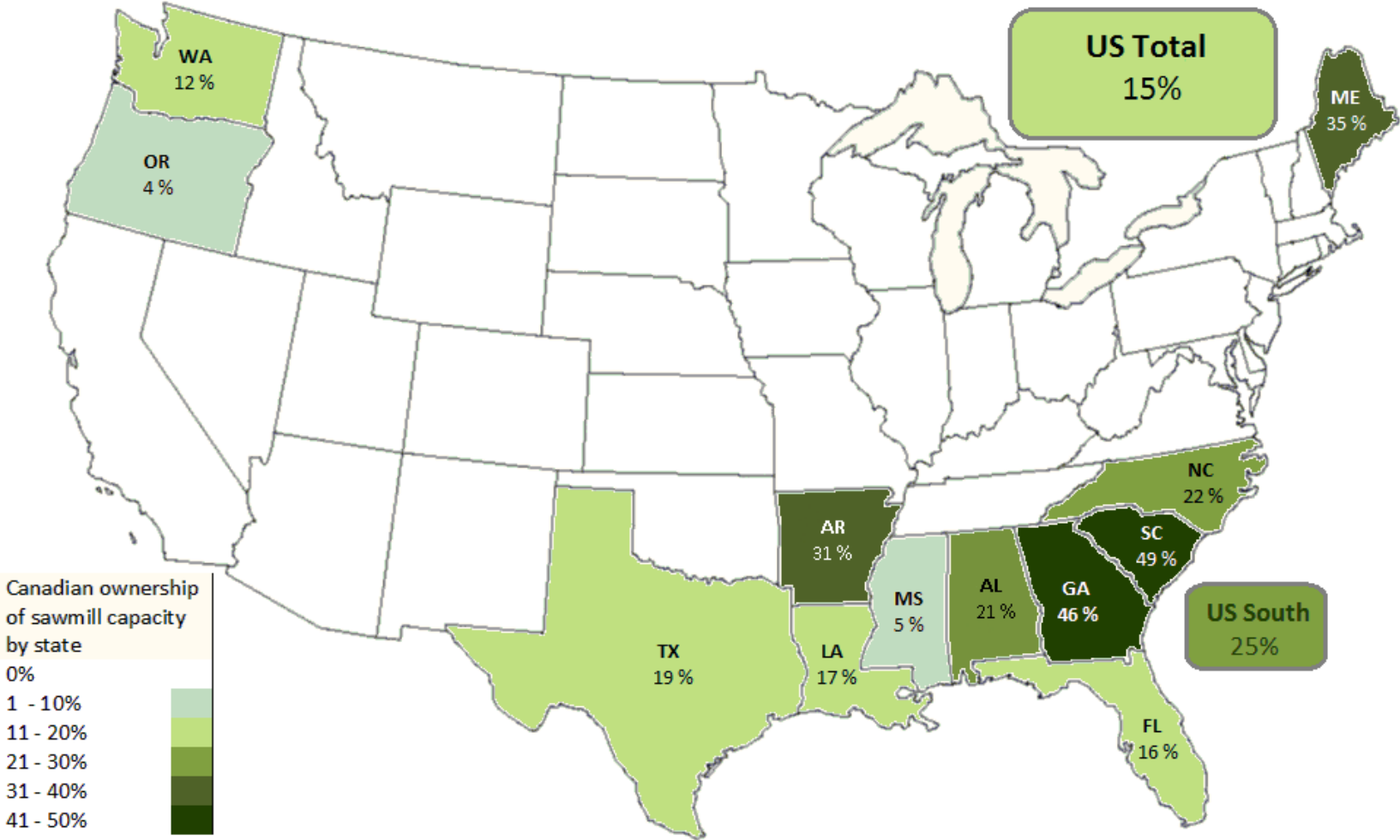
## BC Lumber Exports By Destination



Source: StatsCan



# Cross Border Ownership



# Conclusions

- Forestry sector is key to BC's economy, and lumber exports to US are key to BC forestry
- Declining BC timber supply and diversification of exports to Asia mean BC lumber exports to US not likely to rise
- BC's forest policy and timber pricing system is market oriented, robust and defensible:
  - Pricing based on auctions makes sense
  - MPS is regularly updated and reviewed to ensure validity
- Thus, increased US protection against BC and Canadian lumber imports is not warranted.