

UNITED STATES COURT OF INTERNATIONAL TRADE

UNITED STATES,

Plaintiff,

v.

CANEX INTERNATIONAL LUMBER
SALES LTD., a Canadian Corporation, and
XL SPECIALTY INSURANCE COMPANY, a
Delaware Corporation,

Defendants.

Before: Jane A. Restani, Judge

Court No. 06-00141

XL SPECIALTY INSURANCE COMPANY,

Cross-Claimant,

v.

CANEX INTERNATIONAL LUMBER
SALES, LTD.,

Cross-Defendant.

OPINION

[Cross-Claimant's motion for summary judgment on its cross-claim for indemnification and reimbursement granted.]

Dated: August 20, 2013

Aimee Lee, Attorney, International Trade Field Office, U.S. Department of Justice, of New York, NY, for Plaintiff. With her on the brief were Tony West, Assistant Attorney General, and Barbara S. Williams, Attorney in Charge. Of counsel on the brief was Christopher Shaw, Office of Assistant Chief Counsel, U.S. Customs and Border Protection.

Joel R. Junker, Joel R. Junker & Associates, of Seattle, WA, for Defendant and Cross-Defendant Canex International Lumber Sales Ltd.

Thomas R. Ferguson and Arthur K. Purcell, Sandler, Travis & Rosenberg, PA, of New York, NY, and San Francisco, CA, for Defendant and Cross-Claimant XL Specialty Insurance Company.

Restani, Judge: Remaining to be decided in this action is Cross-Claimant XL Specialty Insurance Company's ("XL") claim against Cross-Defendant Canex International Lumber Sales, Ltd. ("Canex"). XL is a surety on a customs bond covering Canex's tariff obligations, which the court previously found owing. See Canex Int'l Lumber Sales Ltd. v. United States, Slip Op. 10-74, 2010 Ct. Intl. Trade LEXIS 74 (June 29, 2010), aff'd, 432 F. App'x 977 (Fed. Cir. 2011); see also United States v. Canex Int'l Lumber Sales Ltd., Slip Op. 11-98, 2011 Ct. Intl. Trade LEXIS 98, at *13-14 (Aug. 5, 2011) (granting summary judgment for the government for the face amount of the bond plus prejudgment interest). XL seeks summary judgment. See XL's Br. in Supp. of Mot. for Summ. J. on Its Cross-Cl. for Indemnification & Reimbursement ("XL's Br."). It is clear that the court has jurisdiction over the cross-claim pursuant to 28 U.S.C. § 1583 (2006).

Pursuant to its bond obligation, XL paid U.S. Customs and Border Protection ("Customs") \$650,835.46. XL's Br. at 3. This amount is clearly owed by Canex to XL. XL also seeks further prejudgment interest and attorney's fees. Id. at 6. XL has made no effort to support the additional claims in substance or amount. Thus, even though Canex does not oppose XL's claims on the merits, see Resp. of Canex Int'l Lumber Sales, Ltd. to Cross Claimant XL Specialty Ins. Co.'s Mot. for Summ. J. ("Canex Resp.") at 1, the additional claims are denied, without prejudice. If it is in XL's interest to pursue these matters given the asserted "minimal commercial activity" of Canex, see Canex Resp. at 1, it may file appropriate papers supporting

such claims including the legal basis therefore within 30 days hereof. Judgment will enter forthwith on the principal amount due.

/s/ Jane A. Restani

Jane A. Restani

Judge

Dated: August 20, 2013
New York, New York