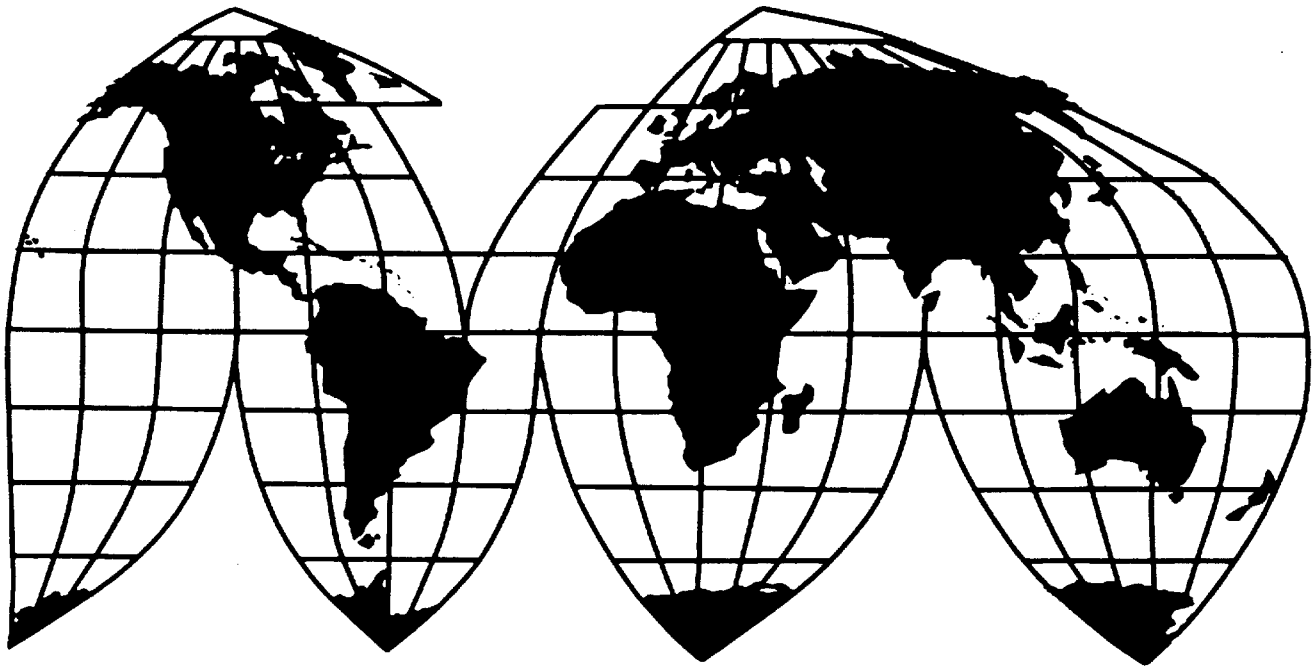
Softwood Lumber From Canada

Investigation Nos. 701-TA-414 and 731-TA-928
(Section 129 Consistency Determination)

Publication 3740 **November 2004**

U.S. International Trade Commission



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VIEWS OF THE COMMISSION[1]

On July 27, 2004, the Commission received a written request from the United States Trade Representative ("USTR") to issue a determination under section 129(a)(4) of the Uruguay Round Agreements Act (URAA)[2] that would render the Commission's action in connection with Softwood Lumber from Canada[3] not inconsistent with the findings of the World Trade Organization ("WTO") panel in its report in *United States-Softwood Lumber*.[4] In response to USTR's request, we hereby issue our determination and views.

On the basis of the record in the Commission's original Softwood Lumber investigations, the report of the WTO Panel in *United States-Softwood Lumber*, additional information gathered in this Section 129 proceeding,[5] and comments received in response to the Commission's notice published in

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[1]Commissioner Pearson dissenting. See Additional and Dissenting Views of Commissioner Daniel R. Pearson.

[2]19 U.S.C. § 3538(a)(4).

[3]This proceeding involves the Commission's original affirmative threat of material injury determination in Softwood Lumber from Canada, Inv. Nos. 701-TA-414 and 731-TA-928 (Final), USITC Pub. 3509 (May 2002).

[4]*United States - Investigation of the International Trade Commission in Softwood Lumber from Canada*, WT/DS277/R (26 April 2004). On October 1, 2004, the United States and Canada informed the Dispute Settlement Body (DSB) that they had agreed to a reasonable period of time of nine months from the April 26 date of adoption of the report by the DSB to January 26, 2005 to bring its measure into conformity with the panel report. See DSU Article 21.3.

[5]See Statement of Administrative Action to the Uruguay Round Agreements Act of 1994, H.R. Rep. No. 103-316, Vol. 1 ("SAA") at 1024. The SAA is the authoritative interpretation of the Uruguay Round Agreements Act. See 19 U.S.C. § 3511(a)(2).

the *Federal Register* on August 26, 2004,[6] we determine that an industry in the United States is threatened with material injury by reason of imports of softwood lumber from Canada found to be subsidized and sold in the United States at less than fair value ("LTFV").

I. Background

Original Investigation. In April 2001, the Coalition for Fair Lumber Imports Executive Committee, the United Brotherhood of Carpenters and Joiners, and the Paper, Allied-Industrial, Chemical and Energy Workers International Union filed a petition alleging that an industry in the United States was materially injured and threatened with material injury by reason of imports of subsidized and less-than-fair-value ("LTFV") imports of softwood lumber from Canada under Title VII of the Tariff Act of 1930.[7] On May 16, 2002, the Commission determined that an industry in the United States was threatened with material injury by reason of imports from Canada of softwood lumber found to be subsidized and sold in the United States at LTFV.[8]

Request for WTO Panel Review. In April 2003, the Government of Canada requested panel review of the determination under the WTO *Understanding on Rules and Procedures Governing the Settlement of Disputes* ("DSU"). A WTO dispute settlement panel was thereafter established by the DSB. The WTO Panel issued its final report, and found, *inter alia,* that action by the Commission in connection with its Softwood Lumber investigation under Title VII of the Tariff Act

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[6]69 Fed. Reg. 52525 (Aug. 26, 2004); see also 69 Fed. Reg. 47461 (Aug. 5, 2004).

[7]19 U.S.C. §§ 1671 and 1673 *et seq.*

[8]Softwood Lumber from Canada, Inv. Nos. 701-TA-414 and 731-TA-928, USITC Pub. 3509 (May 2002).

of 1930, ITC Investigation Nos. 701-TA-414 and 731-TA-928, is not in conformity with the obligations of the United States under the WTO *Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994* and the WTO *Agreement on Subsidies and Countervailing Measures*. The panel report was adopted by the WTO Dispute Settlement Body on April 26, 2004.

Section 129 Request and Procedures. Section 129 of the URAA (19 U.S.C. § 3538) addresses WTO panel or Appellate Body reports that find an ITC determination is not in conformity with obligations of the United States under the WTO Agreements. Section 129 provides that "if a majority of the Commissioners issues an affirmative report under paragraph (1) [an advisory report on whether the statute permits the Commission to take steps], the Commission, upon written request of the Trade Representative, shall issue a determination in connection with the particular proceeding that would render the Commission's action . . . not inconsistent with the findings of the panel. . . ."[9] On July 27, 2004, the USTR transmitted his request for this determination under section 129(a)(4) of the URAA.[10] The Commission must issue its Section 129 consistency determination not later than 120 days after the request from the USTR, in this case by November 24, 2004.[11]

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[9]19 U.S.C. § 3538(a)(4). The SAA recognizes that "[m]any of the ITC's proceedings are time-limited by statute, and the ITC cannot revisit its actions in those proceedings in the absence of the authority provided by subsection (a)(4) or a remand. A written request by the Trade Representative under subsection (a)(4) will provide authority for the ITC to take action with respect to such matters." SAA at 1024.

[10]On July 14, 2004, the Commission issued an advisory report under section 129(a)(1) stating that Title VII of the Tariff Act of 1930 permits it to take steps in connection with its action in Softwood Lumber from Canada, Investigation Nos. 701-TA-414 and 731-TA-928.

[11]19 U.S.C. § 3538(a)(4).

The Commission is tasked in a Section 129 proceeding with making a determination that would render its original action not inconsistent with the findings of the WTO panel. Thus, we address in this determination only the issues related to the WTO Panel's findings as set forth by USTR's request.[12] This determination does not address issues that were not in dispute in the WTO proceeding or as to which the WTO dispute settlement panel found the United States in conformity with its obligations under the WTO.[13]

After receiving the Section 129(a)(4) request from USTR, the Commission issued a notice of institution in the *Federal Register* on August 5, 2004 and a notice of scheduling in the *Federal Register* on August 26, 2004. In these notices, the Commission established procedures for conducting this Section 129 proceeding, including reopening the record to gather additional information (from public data sources and from questionnaires sent to domestic producers and Canadian producers) to be used to supplement the information gathered in the original investigations.[14] In addition, the Commission held a public hearing and provided parties to the proceeding three opportunities to submit written comments in the form of prehearing briefs, posthearing briefs, and final comments.

The Basis of This Proceeding – The WTO Panel Report. The WTO Panel's unfavorable

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[12]Letter from Ambassador Robert B. Zoellick to the Honorable Stephen Koplan, dated July 27, 2004 ("The panel's findings in this regard are set out in paragraphs 7.87 to 7.96 and 7.122 of the panel report. Its conclusions based on these findings are set out in paragraphs 8.1 and 8.2 of the report.").

[13]Thus, this determination does not address issues relating to the Commission's definitions of the domestic like product and domestic industry (including related parties), and the Commission's findings regarding the Maritime Provinces, effects of the subsidies or dumping, consideration of the nature of the subsidy and its likely trade effects, and cross-cumulation.

[14]See 19 U.S.C. §§ 3538(a)(4) and (d); SAA at 1024 and 1026.

findings specific to the threat and causal relationship analyses in the Commission's original determination are set out in paragraphs 7.87 to 7.96, 7.122, and 7.137 of the WTO Panel report. The Panel's conclusions based on these findings are set out in paragraphs 8.1 and 8.2 of the panel report.

The Panel found that "the USITC did not violate Articles 3.7 and 15.7 of the AD and SCM Agreements by failing to properly consider the factors listed therein,"[15] but found that "in light of the totality of the factors considered and the reasoning in the USITC's determination, we cannot conclude that the finding of a likely imminent substantial increase in imports is one which could have been reached by an objective and unbiased investigating authority."[16] The WTO Panel makes clear that its findings are based on what it sees as "no rational explanation in the USITC determination, based on the evidence cited, for the conclusion that there would be a substantial increase in imports imminently."[17] The Panel repeats this concern regarding insufficient explanation for several of the factors considered by the Commission in its original threat of material injury determination.[18]

Given these repeated statements, the Commission understands that the WTO Panel wants the

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[15]Para. 7.87 of the WTO panel report.

[16]Para. 7.96 of the WTO panel report.

[17]Para. 7.89 of the WTO panel report. The WTO Panel adds, "[i]n reaching this decision we have kept in mind that we may not substitute our judgment for that of the USITC, but must nonetheless carry out a detailed and searching analysis of the evidence relied upon and the reasoning and explanations given." Id. The WTO Panel indicates that its conclusions "rest on our examination of the USITC's published determination . . . . No additional materials have been cited to us with respect to the determination for consideration in determining whether or not the USITC's determination are consistent with the relevant provisions of the Agreements." Id. at para. 7.41.

[18]See, e.g., para. 7.92 (export-orientation); para. 7.93 (the effects of the expiration of the SLA); para. 7.94 (import trends during periods when the SLA was not in effect); para. 7.95 (forecasts for demand in the U.S. market); and para. 7.137 (non-attribution analysis) of the WTO panel report.

Commission to provide more explanation and reasoning for its decision. The WTO Panel recognized that while the consistency of a determination is based on the entirety of that determination, "that does not excuse the investigating authority from the necessity of, at the time of its determination, providing an adequate explanation of its analysis such that a Panel can, with confidence, understand the reasoning underlying the decision that was actually made in order to be able to assess its consistency with the relevant provisions of the Agreements."[19] [20]

On the basis of the record in the Commission's original Softwood Lumber investigations, the report of the WTO Panel in *United States-Softwood Lumber*, additional information gathered in this Section 129 proceeding, and comments received in response to the Commission's notice published in the *Federal Register* on August 26, 2004, we determine that an industry in the United States is threatened with material injury by reason of imports of softwood lumber from Canada found to be subsidized and sold in the United States at less than fair value ("LTFV").

We adopt from the original Commission report our prior views and findings in their entirety regarding domestic like product, domestic industry and related parties, use of publicly available information, conditions of competition, cross-cumulation, Maritime Provinces, effects of subsidies or dumping, and

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[19]Para. 7.136 of the WTO panel report.

[20]Canada contends that a "negative threat determination in this proceeding is the only determination that is consistent with the record and the WTO Panel Report." Govt. of Canada's Posthearing Brief at 2. Canada further contends that "the WTO Panel Report must be treated as what it is: a conclusion that neither the Commission's determination nor its analysis of the facts is consistent with the Antidumping Agreement or the SCM Agreement." Id. at 4. The Commission does not read the Panel Report to require a particular outcome, but rather, as discussed above, to require further explanation and reasoning for its decisions.

consideration of the nature of the subsidy and its likely trade effects.[21]

In these Views of the Commission, we articulate reasoned and detailed explanations for issues material to our determination so that our decisional path "may reasonably be discerned" by the Panel.[22] [23]

II. Data Issues

In establishing the procedures for conducting this section 129 proceeding, we determined it appropriate to reopen the record to gather additional information to supplement the information gathered in the original investigation. Such additional information was sought primarily to provide us with a more complete data series for the period closest to the Commission's original determination, and thereby to assist us in considering and addressing issues raised by the WTO Panel regarding the imminent future. The Commission gathered additional information from public data sources and from questionnaires sent to domestic producers and Canadian producers requesting specific additional

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[21]See USITC Pub. 3509 at 3-13, 16-27, 27-29, 30-31, and 39.

[22]SAA at 892 ("Existing law . . . requires that issues material to the agency's determination be discussed so that the "'path of the agency may reasonably be discerned'" by a reviewing court. See, e.g., Ceramica Regiomontana, S.A. v. United States, 810 F.2d 1137, 1139 (Fed. Cir. 1987)(quoting Bowman Transportation v. Arkansas-Best Freight Sys., 419 U.S. 281, 286 (1974))." See also Wheatland Tube Co. v. United States, 161 F.3d 1365, 1369-70 (Fed. Cir. 1998); Nippon Steel Corp. v. United States, 19 CIT 450, 469 (1995).

[23]Accord *Mexico - Anti-Dumping Investigation of High Fructose Corn Syrup (HFCS) from the United States*, Panel Report, WT/DS132/R, adopted February 24, 2000, n. 592 ("Mexico-*HFCS*") (The underlying rationale for requiring an investigating authority to set forth its explanations in a published notice and/or report is to provide transparency and thus the reasoning that led to its conclusions.); *EC-Bed Linen*, Panel Report, para. 6.163 (The availability of explanations makes it possible for those involved to understand the results and makes it possible for a Panel to review an authority's findings and determine whether it complied with specific requirements.).

data.[24] [25] All of the data collected for consideration in this Section 129 proceeding covers a period prior to the Commission's original determination; no data for periods subsequent to the original determination has been used.[26]

Canadian parties have alleged that the Commission did not have the authority to reopen the record in this proceeding, or in the alternative should not have done so.[27] However, U.S. law clearly provides the Commission the discretion to reopen the record to collect additional data in this

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[24]In the original investigation, we collected data from questionnaires for the period of January 1999-December 2001 and considered information from public data sources for the period of 1995 to 2001. Public sources provide the most comprehensive data series in all areas, except financial performance, both in this proceeding and in the original investigation. Since we relied on data from both public sources and questionnaires in the original investigation, we also sought limited additional data from questionnaire respondents for this proceeding.

[25]In the original determination, data for Jan.-March 2002 was not requested in our questionnaires, as it would have been impractical for the parties to respond. Accord Chr. Bjelland Seafoods A/S v. United States, 19 CIT 35, 43-44 n.22 (1995) (A determination of present material injury does not require the ITC to collect and examine data up until vote day . . . without considering whether the reliability of such data is suspect. . . .Nor is the ITC required to base its determination of present material injury upon inferences about a period most nearly contemporaneous with vote day, during which time data cannot, as a practical matter, be collected."). However, the Commission also generally did not include in the original investigation record data available from public sources for any part of 2002, although January and February data were available at the time. In the original investigation, parties submitted some 2002 data, including a partial pricing series submitted by CLTA, which it relied on in arguments before the WTO Panel.

[26]In the original investigation, the Commission closed its record on April 25, 2002, voted on May 2, 2002, and issued its determination on May 16, 2002.

[27]Govt. of Canada's Prehearing Brief at 2, and 5-6; Govt. of Canada's Posthearing Brief at 5-6; Tembec's Prehearing Brief at 7 and 13 ("ITC's section 129 must address the same record evidence that the [WTO] Panel analyzed" and that "ITC's ability to gather additional information. . . . cannot mean that the ITC may generate a new administrative record. . . ."); Tembec's Posthearing Brief at 1-2.

proceeding, even if the WTO Panel did not find the record deficient.[28] The SAA states that the "120-day limit [for Section 129 proceedings] will provide the ITC sufficient time to gather additional information if necessary for it to decide on appropriate implementing action."[29] Considered in context it is evident that the SAA grants the discretion to the ITC to gather additional information i.e., reopen the record, during a section 129 proceeding.[30]

Canadian parties have also objected to using certain data that may not have been available at the time of the Commission's original determination.[31] Limiting our analysis to data available at the time of the original determination would preclude the use of public data for March 2002 (which is included in

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[28]See SAA at 1024; Nippon Steel Corp. v. United States, 345 F.3d 1379, 1382 (Fed. Cir. 2003).

[29]SAA at 1024.

[30]Well-settled U.S. case law explicitly grants the authority solely to the Commission to decide whether to reopen the record in order to respond to a remand from a U.S. court. Most recently, in vacating a Court of International Trade (CIT) decision on the basis that the CIT had exceeded its authority in directing a negative Commission determination, the Court of Appeals for the Federal Circuit in Nippon Steel stated: "[w]hether on remand the Commission reopens the evidentiary record, while clearly within its authority, is of course solely for the Commission itself to determine." Nippon Steel, 345 F.3d at 1382 (Fed. Cir. 2003). The WTO Agreements do not speak to the issue. Thus, in order to make its determination consistent with the WTO Panel's findings, it is solely for the Commission to decide whether additional information is necessary.

[31]Canada argued that "[i]f the Commission nonetheless chooses to rely on new information obtained in this proceeding, it must limit its consideration to information that *would have been available* at the time of the Commission's vote" and specifically not consider revised public Canadian production data. Govt. of Canada's Posthearing Brief, Response to Questions at 2-3. We note that Canada made the opposite argument in the NAFTA proceedings before the Commerce Department regarding the same revised Statistics Canada production data, insisting in that proceeding that Commerce make its subsidy calculations based on the revised post-decision day data that it contends the ITC should not consider here. Coalition's Posthearing Brief at 10 and Appendix B-15 and Exhibit 4 (Letter from Weil, Gotshal & Manges LLP to Department of Commerce, No. C-122-839 (Remand) at 4 (Dec. 23, 2003)).

data totals for the first quarter of 2002), data for first quarter 2002 submitted in questionnaire responses in this section 129 proceeding,[32] public data from Statistics Canada for the years 2000 and 2001 that was revised in 2004,[33] and public data on U.S. production for 2001 that was revised in 2002.[34]

The data at issue therefore cover the years during the period of investigation and first quarter of 2002. While some of the data may not have been available at the time of the original determination, all of the data at issue covers a period prior to that original determination. Neither U.S. law or WTO

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[32]Canadian parties have alleged that responses to qualitative questions, compiled in pages 63-82 of the Staff Report, may involve knowledge of later events. See, e.g., CLTA's Prehearing Brief at 8. We note, however, that all arguments and analysis provided by parties in submissions to the Commission in this proceeding, even those provided by Canadian parties, benefit from and have been fine tuned by subsequent events even if limited to a critique of the original period. In addition, the Coalition pointed out that the financial data requested for the first quarter of 2002 in this proceeding would not have been compiled in the form requested, or for March, may not have been available, by "vote day" in the original investigation. Coalition's Posthearing Brief at 9.

[33]Statistics Canada appears to have changed its methodology in 2000, specifically changing the "sample universe and questionnaires used for the Annual Survey of Manufactures." Govt. of Canada' Prehearing Brief at Exhibit 2, paras. 6 and 9 (Affidavit of Joe St. Lawrence). In an effort to avoid any comparability concerns, we consider separately the revised data for 2000 and 2001, the revised data for 1995-1999, as well as the original data for the 1995-2001 period. While the Canadian parties did not provide any reasoning for this change in methodology, the Coalition indicated that the revised data is more accurate than the original because it was done to correct systematic errors that resulted in under reporting of production for small sawmills. According to the Coalition, the reporting methodology previously used by Statistics Canada erroneously omitted the output of smaller sawmills, representing about 7 percent of Canadian softwood lumber production, because they did not fully complete the long-form questionnaires used by Statistics Canada. They add that "[b]eginning in 2002, all sawmills now receive the 'long form' of the annual survey. Undoubtedly, this expanded data collection is the basis for the upward revisions in the more recent Statistics Canada production data." Coalition's Posthearing Brief at Appendix B-14 and 15.

[34]Coalition's Posthearing Brief at 11-12 and Exhibit I-5; Coalition's Prehearing Brief at Chart 2.

Agreements preclude us from considering this information.[35] Therefore, we base our determination on the record in its entirety.

III. Material Injury and Threat of Material Injury by Reason of Subject Imports

In this Section 129 proceeding, the Commission is to determine whether an industry in the United States is materially injured or threatened with material injury by reason of subject imports of softwood lumber from Canada.[36] The U.S. statute and the Antidumping and SCM Agreements allow appropriate measures to be taken when either present material injury or a threat of material injury has been found. The inclusion of the threat provision in the statute and the WTO Agreements is a recognition that material injury to a domestic industry may not yet have occurred, or not yet be "material," but rather there can be a progression or accretion of adverse effects by reason of subject imports that in the imminent future would rise from a threat of material injury to actual present material injury if an order is not issued.[37] Threat of material injury is material injury that has not yet occurred,

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[35]A basic tenet of U.S. administrative law is that agencies should be free to fashion their own rules of procedure. See Vermont Yankee Nuclear Power Corp. v. NRDC, 435 U.S. 519, 543 (1978) ("[A]dministrative agencies 'should be free to fashion their own rules of procedure and to pursue methods of inquiry capable of permitting them to discharge their multitudinous duties.'"), quoting FCC v. Schreiber, 381 U.S. at 290, quoting from FCC v. Pottsville Broadcasting Co., 309 U.S. at 143, quoted in Avesta AB v. United States, 689 F. Supp. 1173, 1188 (CIT 1988) (The Commission has "broad discretion to fashion its own rules of administrative procedure. . . .").

[36]19 U.S.C. §§ 1671d(b) and 1673d(b). Accord Articles 3.2, 3.4, 3.5, and 3.7 of the WTO Antidumping Agreement and Articles 15.2, 15.4, 15.5, and 15.7 of the WTO SCM Agreement.

[37]The GATT Committee on Anti-dumping Practices adopted "Recommendation concerning Determination of Threat of Material Injury" on 21 October 1985, which provided the following further clarification on the progression from threat to injury:

> 5. It is important to domestic producers that anti-dumping procedures and anti-dumping relief be available in cases where dumping and threat of material injury are present but before injury

but remains a future event whose actual materialization cannot, in fact, be assured with certainty, although the determination must be based on evidence that is real and not mere conjecture or supposition.[38] [39] Thus, the threat of material injury and present material injury analyses necessarily are intertwined,[40] and many of the same factors weigh into our analysis for both.

> has actually materialized, as Article VI of the General Agreement recognizes. However, as the Anti-Dumping Code provides, anti-dumping relief based on the threat of injury must be confined to those cases where the conditions of trade clearly indicate that material injury will occur imminently if demonstrable trends in trade adverse to domestic industry continue, or if clearly foreseeable adverse events occur.

GATT Doc. No. ADP/25, BISD 32/182-183.

[38]See 19 U.S.C. § 1677(7)(F)(ii) and SAA at 854. Congress, as well as the reviewing courts, have recognized that "[b]ecause of the predictive nature of a threat determination, and to avoid speculation and conjecture, the Commission will continue using special care in making such [threat] determinations." SAA at 855. See also Suramerica de Aleaciones Laminadas, C.A. v. United States, 818 F. Supp. 348, 353 (CIT 1993). The reviewing courts, however, have acknowledged that "[a]s it deals with the projection of future events . . . [the Commission's threat] analysis is inherently less amenable to quantification . . . ." NEC Corp. v. United States, 36 F. Supp.2d 380, 391(CIT 1998); see also Hannibal Indus., Inc. v. United States, 710 F. Supp. 332, 338 (CIT 1989); Rhone Poulenc, S.A. v. United States, 592 F. Supp. 1318, 1329 (CIT 1984). According to the Federal Circuit, predictive determinations by the Commission are by nature not "verifiable," but rather are "based on currently available evidence and on logical assumptions and extrapolations flowing from that evidence." Matsushita Elec. Industrial Co. v. United States, 750 F.2d 927, 933 (Fed. Cir. 1984). Projections involve extrapolations from existing data.

[39]Accord Article 3.7 of the Antidumping Agreement and Article 15.7 of the SCM Agreement; *US-Softwood Lumber*, Panel Report, paras. 7.53-7.60. See *United States - Safeguard Measures on Imports of Fresh, Chilled or Frozen Lamb Meat from New Zealand and Australia*, AB Report, WT/DS177/AB/R, para. 125 ("*US-Lamb Meat*") (". . . '*threat* of serious injury' . . . is concerned with 'serious injury' which has *not* yet occurred, but remains a future event whose actual materialization cannot, in fact, be assured with certainty."). While we find that the WTO threat analysis involving the Safeguards Agreement provides some guidance regarding the distinctions between threat and present injury, we recognize that the WTO Agreements have different purposes and requirements.

[40]The WTO Appellate Body has recognized generally that there is a continuum of an injurious condition of a domestic industry that ascends from a threat of injury up to injury. See, e.g., *United*

Our analysis must include consideration of all the facts in the record, particularly regarding the volume of subject imports, their effect on prices of the domestic like product, and their consequent impact on the domestic industry.[41] Consideration of these facts establishes the background against which we evaluate the threat factors and whether subsidized and dumped imports will imminently affect the industry's condition in such a manner that material injury would occur in the absence of protective action.[42]

States –Definitive Safeguard Measures on Imports of Circular Welded Carbon Quality Line Pipe from Korea, Appellate Body Report, WT/DS202/AB/R, para. 170 ("*US-Line Pipe*") ("In terms of the rising continuum of an injurious condition of a domestic industry that ascends from a "threat of serious injury" up to "serious injury", we see "serious injury" – because it is something *beyond* a "threat" – as necessarily *including* the concept of a "threat" and *exceeding*" the presence of a "threat" . . . .").

[41]Thus, in this analysis, we consider the present and past evidence regarding the factors listed in 19 U.S.C. § 1677(7)(C). See also Articles 3.2 and 3.4 of the Antidumping Agreement and Articles 15.2 and 15.4 of the SCM Agreement. Accord *Mexico-HFCS*, Panel Report, para. 7.132 The U.S. statute defines "material injury" as "harm which is not inconsequential, immaterial, or unimportant." 19 U.S.C. § 1677(7)(A). In assessing whether the domestic industry is materially injured by reason of subject imports, we consider all relevant economic factors that bear on the state of the industry in the United States. No single factor is dispositive, and all relevant factors are considered "within the context of the business cycle and conditions of competition that are distinctive to the affected industry." 19 U.S.C. § 1677(7)(C)(iii).

[42]19 U.S.C. § 1677(7)(F). The Commission may not make such a determination "on the basis of mere conjecture or supposition," and considers the threat factors "as a whole" in making its determination whether dumped or subsidized imports are imminent and whether material injury by reason of imports would occur unless an order is issued. 19 U.S.C. § 1677(7)(F)(ii). In making our determination we considered all statutory factors that are relevant to these proceedings. 19 U.S.C. § 1677(7)(F)(ii). See also Article 3.7 of the Antidumping Agreement and Article 15.7 of the SCM Agreement. Article 3.7 of the Antidumping Agreement provides as follows:

> A determination of a threat of material injury shall be based on facts and not merely on allegation, conjecture or remote possibility. The change in circumstances which would create a situation in which the dumping would cause injury must be clearly foreseen and imminent. In making a determination regarding the existence of a threat of material injury, the authorities

In our initial determination, we concluded that the volume of subject imports during the period of investigation – which accounted for between 33.2 percent and 34.3 percent of the U.S. market – was already significant, and increased during the period of investigation, even with the restraining effect of the Softwood Lumber Agreement (SLA).[43] However, mindful of our obligations under U.S. law and

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should consider, *inter alia*, such factors as:

(i) a significant rate of increase of dumped imports into the domestic market indicating the likelihood of substantially increased importation;

(ii) sufficient freely disposable, or an imminent, substantial increase in, capacity of the exporter indicating the likelihood of substantially increased dumped exports to the importing Member's market, taking into account the availability of other export markets to absorb any additional exports;

(iii) whether imports are entering at prices that will have a significant depressing or suppressing effect on domestic prices, and would likely increase demand for further imports; and

(iv) inventories of the product being investigated.

No one of these factors by itself can necessarily give decisive guidance but the totality of the factors considered must lead to the conclusion that further dumped exports are imminent and that, unless protective action is taken, material injury would occur.

Article 15.7 of the SCM Agreement mirrors this wording, with the exception of the addition of a fifth listed factor for authorities to consider, involving "the nature of the subsidy or subsidies in question and the trade effects likely to arise therefrom." Article 15.7(i) of the SCM Agreement. We adopt our discussion of this factor (nature of the subsidy) in the original report since the Commission's consideration of this factor in the original investigation was found by the WTO Panel to be consistent with the WTO Agreements and we again do not rely on it for our determination here.

[43]On May 29, 1996, the United States and Canada formally entered into the U.S./Canada Softwood Lumber Agreement ("SLA"), which remained in effect for five years, from April 1, 1996 until March 31, 2001. Under the SLA, in exchange for commitments from the United States not to initiate or otherwise take action under several U.S. trade statutes with respect to imports of softwood lumber from Canada, Canada agreed to place softwood lumber on its export control list and to collect a fee on issuance of a permit for export to the United States of softwood lumber first manufactured in the

the WTO Agreements, we found that, while the record presented clear evidence that the significant volume of subject imports had *some* price effects, we could not conclude that price effects were yet *significant* within the meaning of the law, given the excess supply in the market from both subject imports and domestic production. Similarly, there was evidence that the condition of the domestic industry had deteriorated, primarily as a result of substantial declines in prices, and thus was in a vulnerable state; while subject imports had *some* impact on the domestic industry, we could not conclude that the impact was yet *significant*. A key element to our analysis was the restraining effect of the SLA on the volume of subject imports and thus their impact on prices and the condition of the domestic industry. The pendency of the investigation and preliminary duties also had a restraining effect on subject imports and their impact. In short, the domestic industry was about to experience material injury, which would have occurred without the restraining effects of the SLA and the pendency of these investigations.

We therefore found a threat of material injury in our original investigations due to the imminently foreseeable progression of market factors that had already occurred – a large and increasing volume of subject imports, the existence of some price effects from those subject imports, and a deteriorating, vulnerable domestic industry already feeling some impact from subject imports. Similarly, Canadian industry projections in both the original and expanded record provide positive evidence supporting our

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provinces of Ontario, Quebec, British Columbia, or Alberta ("the covered provinces"), for quantities above a negotiated baseline. Under the SLA, up to 14.7 billion board feet of softwood lumber could be exported to the United States from the covered provinces duty-free, a fee of US$50 per thousand board feet applied to annual exports between 14.7 and 15.35 billion board feet, and a fee of US$100 per thousand board feet applied to annual exports that exceeded 15.35 billion board feet.

determination that the domestic industry was threatened with material injury by reason of the dumped and subsidized softwood lumber imports from Canada.

Our analysis of material injury and threat of material injury in this Section 129 determination takes into account and addresses the concerns expressed by the WTO Panel. The Panel found that the evidence relied upon by the Commission, and its reasoning, could at most support a conclusion that imports of softwood lumber would continue at the historical levels and might increase somewhat in keeping with increased demand. In reaching this conclusion, the WTO Panel made a number of findings which we address fully in our determination.

The Panel found that the Commission did not rely on a significant rate of increase during the period of investigation as support for its conclusion that subject imports would increase substantially in the future. The Panel also found that the Commission did not address why the expiration of the SLA would result in a further substantial increase in imports, rather than a reallocation of imports from non-covered to previously covered provinces or merely a shift in timing of imports to avoid duties. We have provided further analysis of the significance of the import levels and increases in imports during the period of investigation, taking into account the significant restraining effect of the SLA. We have also further considered the impact that the expiration of that agreement would have on the market for softwood lumber, analyzing import trends before and during the period of investigation under prevailing market conditions. The record evidence indicates that there was a significant rate of increase of imports during the period examined, especially considering that the baseline volume was significant, and that there was an even greater increase during periods with no import restraints in place. The record also indicates that imports increased after bonding requirements associated with preliminary CVD

duties were imposed, thereby dispelling the theory that a shift in timing accounted for the higher level of imports immediately following the expiration of the SLA. Similarly, when the expiration of the SLA left no restraint on imports from any of the Canadian provinces, imports from the formerly covered provinces increased, but imports continued at near SLA levels from the non-covered provinces as well, resulting in an overall increase in subject imports. Based on this analysis, we find the likelihood of substantially increased imports.

The Panel also found that the Commission did not make any findings that imports from Canada would increase more than demand, thereby accounting for an increased share of the U.S. market, and that the Commission did not discuss market share at all in the context of its threat of material injury determination. We have considered and provided analysis of this issue. The record evidence shows that there is no basis to conclude that likely substantial increases in subject imports will only be to meet increased demand. Demand was high by historical standards, but relatively stable during the period. Forecasts expected it to be relatively unchanged until the second half of 2002, and then would begin to increase in 2003 as the U.S. economy rebounded from a recession. Record evidence shows that increases in subject imports significantly outstripped the small increases in demand during the period of investigation. Similarly, record evidence shows that subject imports after expiration of the SLA have increased at a significantly higher rate than any forecasts for increases in demand for softwood lumber for 2002 and 2003. Based on this analysis, we find that subject imports would increase their market share in the imminent future.

The Panel found that available excess Canadian capacity, and the Commission's findings on the Canadian industry's export orientation, did not support the conclusion that excess capacity would be

exported to the United States beyond the "historical" level. We have analyzed capacity and found that Canadian producers had sufficient excess capacity, and projected increases in capacity and production in 2002 and 2003, to substantially increase exports to the United States beyond the historical level. The record indicates that Canadian production is tied to the U.S. market, which continues to be the most important market for Canadian producers. The U.S. market accounts for about two-thirds of Canadian production and shipments, whereas in 2001 other export markets accounted for only 8 percent of Canadian production and the Canadian home market accounted for only about 24 percent of production. Therefore, there are limited other markets to absorb the projected increase in production of Canadian softwood lumber. The record in this Section 129 proceeding provides further support for this finding: in first quarter 2002, as apparent Canadian consumption declined, Canadian producers shifted sales from the home market to the U.S. market. Given the positive record evidence to the contrary, we discounted Canadian producers' projections that less than the historical levels of additional Canadian production would be exported to the United States. Significantly, the record is devoid of evidence, such as new supplier contracts or evidence of increased demand in or sales to another country, that would indicate that increased production was likely to deviate substantially from past shipment patterns. Indeed, the record suggests that imports will increase beyond historical levels.

The evidence on the record, particularly with regard to current subject import trends, the restraining effect of the SLA, excess Canadian capacity and projected increases in capacity, capacity utilization and production, and demand projections support our conclusion that imports will increase at a substantial rate in the imminent future beyond historical levels.

Finally, the Panel stated that the Commission failed to discuss other factors potentially causing

injury in the future. We have analyzed and discussed these factors below.

A. Likelihood of Substantially Increased Imports

Two of the factors considered in a threat of material injury analysis focus on the likelihood of substantially increased subject imports.[44] These two factors (i.e., significant rate of increase in imports and whether there is sufficient freely disposable unused production capacity) must be considered in the context of the already substantial and increasing volume of imports.[45]

As discussed below, our analysis of likely substantial increases in subject imports first takes into account the fact that subject import volumes already were at significant levels during the investigative period. The evidence shows volume increases from Canada even with the restraining effect of the SLA in place and significant increases in subject import volume at the end of the period of investigation when such imports were no longer subject to the SLA, including when they were not yet subject to

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[44]These factors are as follows:

> (II) any existing unused production capacity or imminent, substantial increase in production capacity in the exporting country indicating the likelihood of substantially increased imports of the subject merchandise into the United States, taking into account the availability of other export markets to absorb any additional exports,
>
> (III) a significant rate of increase of the volume or market penetration of imports of the subject merchandise indicating the likelihood of substantially increased imports.

19 U.S.C. § 1677(7)(F)(i)(II) and (III). See also Article 3.7(i) and (ii) of the Antidumping Agreement and Article 15.7(ii) and (iii) of the SCM Agreement.

[45]Accord NEC Corp., 83 F. Supp.2d at 1346 (CIT 1999) ("here, for example, that unused capacity and volume increases 'indicat[e] the likelihood of substantially increased imports.'"); Mitsubishi Materials Corp. v. United States, 820 F. Supp. 608, 627 (CIT 1993) ("the court determines that the record viewed *in toto* [specifically capacity utilization and increases in imports during the period of investigation] demonstrates that substantial evidence supports Commissioner Rohr's findings that the regional industry was threatened with material injury.").

preliminary antidumping or countervailing duties. Moreover, Canadian producers had increasing excess capacity during the period of investigation. Central to a threat analysis is the assessment of whether subject imports, which in this case already were at significant levels, are likely to be injurious in the imminent future. The evidence demonstrates that subject imports will not only continue to enter the U.S. market at their already significant and increasing volume level, but are projected to increase substantially beyond this level.

1. Volume of Imports is Already Significant and is Likely to Increase Substantially in the Imminent Future

Subject imports of softwood lumber from Canada were already at a significant level during the investigation period, increasing during 1999 to 2001 from 17,983 to 18,483 million board feet (mmbf) out of a total U.S. market of about 54,000 mmbf.[46] Subject imports held a consistently large and increasing share of the U.S. market, accounting for 33.2 percent to 34.3 percent of the U.S. market for softwood lumber in the 1999-2001 period of investigation.[47] Simply stated, one-third of the U.S. market, or one out of every three boards of softwood lumber purchased in the United States, is an import from Canada.

Even under the restrictive impact of the SLA, the volume of subject imports from Canada

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[46]Section 129 Report at Tables IV-2 and C-1; USITC Pub. 3509 at Table IV-2 and C-1. The data collected in this Section 129 proceeding show further increases from 4,141 mmbf in the first quarter of 2001 to 4,745 mmbf in the first quarter of 2002. Section 129 Report at Table C-1B.

[47]Section 129 Report at Tables IV-2 and C-1; USITC Pub. 3509 at Table IV-2 and C-1. Based on the revised U.S. production data for 2001, subject imports market share was 34.6 percent in 2001. Calculated from Table IV-2 in INV-BB-138 (Oct. 29, 2004). The data collected in this Section 129 proceeding show an increasing trend between first quarters, with subject imports accounting for a 31.9 percent market share in the first quarter of 2000, increasing to 33.2 percent and 34.7 percent in the first quarters of 2001 and 2002, respectively. Section 129 Report at Table C-1B.

increased by 500 mmbf, or 2.8 percent, from 1999 to 2001 while apparent U.S. consumption declined slightly by 201 mmbf, or 0.4 percent.[48] While 2.8 percent is a significant rate of increase when the baseline volume is already so significant,[49] the even more telling evidence is the significant rate of increase in the volume of subject imports following the expiration of the SLA on March 31, 2001. For example, from 1999 to 2000, during the SLA, subject imports increased from 17,983 to 18,052 mmbf, or by 0.4 percent.[50] In 2001, when subject imports were subject to the restraining effects of the SLA only in the first quarter, they increased to 18,483 mmbf, or by 2.4 percent, from the 2000 level of 18,052 mmbf; in contrast, apparent U.S. consumption increased by only 117 mmbf, or by 0.2 percent.[51] The rate of increase for the April-December 2001 period, after expiration of the SLA, was even more significant, – 692 mmbf, or 4.9 percent, compared with the same period in 2000.[52] The additional evidence gathered in this Section 129 proceeding shows subject imports continuing to

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[48]Section 129 Report at Tables IV-1, IV-2, and C-1; USITC Pub. 3509 at Tables IV-1, IV-2, and C-1.

[49]We note that even substantial increases in absolute volume from a significant baseline will not result in large percentage increases. This, however, does not mean that such absolute volume increases are not significant. Increases of the same absolute volume over a small baseline will result in substantially higher percentage rates of increase than those same volume increases over a large baseline.

[50]Section 129 Report at Table C-1; USITC Pub. 3509 at Table C-1. Apparent U.S. consumption declined by 0.6 percent from 1999 to 2000. Id.

[51]Section 129 Report at Table C-1; USITC Pub. 3509 at Table C-1.

[52]Section 129 Report at Table C-1 and Official import statistics. We note that during part of this period (August-December) imports were subject to the August CVD preliminary finding. As discussed below, during the April-August 2001 period, when subject to the pending investigation but free of any preliminary measures associated with the investigation, subject imports increased by 11.3 percent compared with the same period in 2000. Official import statistics.

increase rapidly, by 604 mmbf or 14.6 percent, during the first quarter of 2002 compared with the first quarter of 2001.[53]

We therefore find that the consistently large volume and market share of imports from Canada were significant,[54] [55] and that the increases in the volume and market share of subject imports were

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[53]Section 129 Report at Table C-1B (129). While apparent U.S. consumption also increased, it did so at a substantially lower rate, 9.7 percent for first quarter 2002 compared with first quarter 2001, leading subject import market share to be higher at 34.7 percent in first quarter 2002 compared with 33.2 percent in first quarter 2001. Moreover, subject imports were 6.2 percent higher in the first quarter of 2002 compared with the first quarter of 2000, while apparent U.S. consumption declined by 2.3 percent for the first quarter 2002 compared with first quarter 2000. Id.

[54]19 U.S.C. § 1677(7)(C)(i) ("In evaluating the volume of imports of merchandise, the Commission shall consider whether the volume of imports of the merchandise, or any increase in that volume, either in absolute terms or relative to production or consumption in the United States, is significant."). Article 3.2 of the Antidumping Agreement states in relevant part regarding consideration of the volume of imports in the investigating authority's present injury analysis that:

> With regard to the volume of the dumped [subsidized] imports, the investigating authorities shall consider whether there has been a significant increase in dumped [subsidized] imports, either in absolute terms or relative to production or consumption in the importing Member. . . . No one or several of these factors can necessarily give decisive guidance.

The same provision in Article 15.2 of the SCM Agreement applies to subsidized imports.

[55]While the additional factors the Commission takes into account in making a threat of material injury determination include examining the rate of increase of the volume or market penetration of imports, nothing in the statute or the WTO Agreements suggests that the Commission must (or indeed can) ignore the already existing volume of imports or that in applying these provisions, the Commission should not consider what the total volume of imports would likely be, examining both the current level of imports and any projections for further increased imports in the future that are supported by substantial evidence. See Mitsubishi Materials, 820 F. Supp. at 627 (CIT 1993) ("Plaintiffs did not undermine Commissioner Rohr's conclusion that even in the absence of any further increases, present levels were likely to be injurious in the future."). The Commission's reviewing courts have repeatedly recognized that Congress intended that the Commission "be given broad discretion to analyze import volume in the context of the industry concerned." USX Corp. v. United States, 698 F. Supp. 234, 238 (CIT 1988), quoting, Copperweld Corp. v. United States, 682 F. Supp. 552, 570 (CIT 1988). See also H.R. Rep. No. 96-317, at 46 (1979); S. Rep. No. 96-249, at 88 (1979) ("For one industry, an

significant.[56] The evidence demonstrates, and no party disputes, that subject imports will continue to enter the U.S. market at a large and significant level, and that they are projected to increase from that already large and significant level. In particular, the significant rate of increase in the subject imports in the most recent periods, after expiration of the SLA, is a clear indicator of likely substantial increases in imports in the imminent future and serves as a basis for our determination that subject imports threaten material injury to the domestic industry. Other evidence in the record regarding the restraining effect of the SLA and the import trends during periods of no import restraints further indicate the likelihood of substantial increases in imports of softwood lumber from Canada in the imminent future.

The SLA had a Restraining Effect on Subject Imports.[57] The volume of subject imports increased even with the restraining effect of the SLA in place, and substantial increases occurred during periods when such imports were not subject to import restraints. Despite the restraining effect of the SLA, which imposed $50-100 fees per thousand board feet on imports over specified levels,[58] the

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apparently small volume of imports may have a significant impact on the market; for another, the same volume might not be significant.").

[56]We note that we would find these significant increases and consistently large level of subject imports to be injurious for purposes of a present material injury determination if combined with sufficient evidence of significant price effects and an adverse impact on the domestic industry.

[57]These investigations, in contrast to most original antidumping or countervailing duty investigations, involved imports that during the period of investigation were subject to a trade restraining agreement, and immediately thereafter, were subject to these investigations (the SLA expired on March 31, 2002; the petition was filed on April 2, 2002, the following business day). Thus, to place subject imports in the appropriate context, we consider the restraining effects of the SLA on imports and trends in subject imports during periods when such imports were not subject to some type of restraint, in making our findings.

[58]The SLA set a limit for imports on a fee-free basis and two levels of quotas for imports above the fee-free level. Each year during the pendency of the SLA, Canadian producers used their fee-free

volume of subject imports from Canada increased above the already significant level by 500 mmbf, or 2.8 percent, from 1999 to 2001, while U.S. apparent consumption remained essentially flat.[59] While imports of softwood lumber from Canada held a consistently large and increasing share of the domestic market, at 34 percent during the period of investigation,[60] it had been higher (35.7 percent) prior to the imposition of the SLA.[61]

Evidence in the original record demonstrates the impact of the SLA on the domestic market,[62]

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quota, substantially all of their $50 fee quota in every year except 2000-2001 (ranging from 207.3 mmbf to 617.3 mmbf in subject imports), and in each year, including 2000-2001, exported significant quantities of softwood lumber with $100 fees (ranging from 68.3 mmbf to 476.9 mmbf of subject imports). Canadian producers also shipped significant quantities of bonus exports each year, e.g., 297.5 mmbf in 2001. (Bonus exports are Canadian exports of softwood lumber that enter the U.S. market without fees and are not subject to the quota limitations pursuant to Article III of the SLA.) See, e.g., USITC Pub. 3509 at Table IV-3 and Petitioners' Original Prehearing Brief at Exh. 62.

[59]The volume of imports of softwood lumber from Canada increased from 17,983 mmbf in 1999 to 18,483 mmbf in 2001. Section 129 Report at Tables IV-1 and C-1; USITC Pub. 3509 at Tables IV-1 and C-1.

[60]As a share of apparent domestic consumption, subject imports from Canada increased from 33.2 percent in 1999 to 34.3 percent in 2001. Section 129 Report at Tables IV-2 and C-1; USITC Pub. 3509 at Table IV-2 and C-1. Based on the revised U.S. production data for 2001, subject imports held a U.S. market share of 34.6 percent in 2001. Calculated from Table IV-2 in INV-BB-138 (Oct. 29, 2004).

[61]Subject imports held a U.S. market share of 35.7 percent in 1995, the year prior to the SLA, and 35.9 percent in 1996, the year the SLA was imposed (on May 29, 1996). During the first full year under the SLA (1997), subject imports declined to a U.S. market share of 34.3 percent, the same market share held in 2001, and market share ranged between 33.2 percent to 34.6 percent during the SLA period. USITC Pub. 3509 at Table IV-2.

[62]We note that studies (conducted outside the context of these proceedings) in the original record, that appraise or quantify the magnitude or impact of the SLA, are consistent with our findings that the SLA had constrained subject imports. See, e.g., Zhang, Daowei, "Welfare Impacts of the 1996 United States - Canada Softwood Lumber (trade) Agreement," *Canadian Journal of Forest Research*, Vol. 31 at 1958-1967 (2001), in Petitioners' Original Prehearing Brief, Vol. II at Exh. 16;

including evidence that the constraints on the volume of imports resulted in higher prices for such imports and higher costs for construction than in the absence of the SLA. For example, respondents estimated that increases in prices caused by the SLA added about $50/mbf to the average price of framing lumber which translated into increasing the cost of a typical new home by $1,000.[63] Moreover, prior to the SLA, the price for Eastern SPF lumber in Toronto was about $20 less (in U.S. dollars) than the price for delivery in the Great Lakes area of the United States. The average difference in 1999, with the SLA in effect, was $91.[64] Quite simply, the SLA restrained Canada's exports to the United States, increasing supply in Canada and resulting in a widening gap between U.S. and Canadian prices.

R&S Rogers Consulting, "West Central B.C. Mountain Pine Beetle Strategic Business Recommendations Report," prepared for the Province of British Columbia Ministry of Forests, at 18 (September 2001) in Petitioners' Original Prehearing Brief, Vol. II at Exh. 72. Moreover, additional studies provided in the context of the Section 129 proceeding provide additional support for our finding that the SLA constrained subject imports and affected the prices of subject imports. EC-BB-037 (Oct. 29, 2004); Coalition's Prehearing Report at Appendix B ("Economic Impact of the Expiration of the SLA"). We note that Canadian parties provided limited or no comments in this proceeding, or the original investigation, on the studies already in the original record or added in this proceeding, despite a specific request for such comments by the Commission.

[63]Letter of National Association of Home Builders ("NAHB") to the U.S. Trade Representative ("USTR") at 2-3 and 6 (April 14, 2000) ("The Softwood Lumber Agreement adversely affects the U.S. trade balance. . . . Even though imports from Canada are somewhat lower in terms of physical volume than they would be without trade barriers, the higher prices paid for those imports increases the total cost paid for imported lumber.") in Petitioners' Original Posthearing Brief, Vol. II, Exh. 54 at 2-3 and 6; National Lumber and Building Materials Dealers Association ("NLBMDA")/NAHB's Original Posthearing Brief at 5 ("'. . . simple common sense suffices to show that when the supply of something is restricted, its price will be higher than if no restriction existed. The supply of lumber from Canada is presently restricted under the SLA; consequently, the price of lumber, and therefore of housing is higher than it otherwise would be.'").

[64]Letter of NAHB to USTR at 6 and Figure 1 (comparison is based on Random Lengths pricing data) in Petitioners' Original Posthearing Brief, Vol. II, Exh. 54 at 6.

Additional evidence in the original record further demonstrates the restraining effect of the SLA. Increases in subject imports while the SLA was in effect did not keep pace with increases in demand from 1995 to 2001; subject imports increased by 8.8 percent while apparent U.S. consumption increased by 13.1 percent.[65] Moreover, the anecdotal information reported to the Commission by importers of subject merchandise and Canadian producers regarding the effects of the SLA also supports a conclusion that it had a restraining effect on the volume of subject imports and their effect on prices in the U.S. market.[66] [67]

The record does not show that the SLA merely led to a redistribution of exports from Canadian provinces not covered by the SLA, particularly the Maritime Provinces, and that upon its expiration, pre-SLA provincial trade patterns returned.[68] During the pendency of the SLA, Canadian shipments

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[65]USITC Pub. 3509 at Table IV-2.

[66]We considered the responses by 75 U.S. producers of softwood lumber, 8 U.S. importers (5 of which were also Canadian producers) and 29 Canadian producers of softwood lumber to a question in the Commission questionnaires regarding the effects of the expiration of the SLA. The majority of U.S. producers indicated that the SLA had a restraining effect on the volume of imports, and that expiration of the SLA had affected their operations and domestic prices. USITC Pub. 3509 at Appendix E.

[67]See also CLTA's Original Posthearing Brief, Vol. 1 at 14, n.10 ("The circumstances facing the Canadian industry during and after the SLA were very different: the SLA established a stable, predictable regime for a fixed 5-year period; but after it expired, uncertainty and change have reigned, with changing bonding requirements and expectations about how the case would proceed and end. Given how different the SLA world was from the post-SLA world, it would be a remarkable coincidence if the SLA had the same net effect on the volume and price of Canadian imports as the hodgepodge of post-SLA factors.").

[68]See CLTA's Original Prehearing Brief, Vol. 1 at 36-37.

from non-covered provinces to the United States more than doubled.[69] However, when the expiration of the SLA left no restraint on imports from any of the provinces, imports from the provinces formerly under the SLA increased, but imports continued to the non-covered provinces at levels much higher than those prior to the SLA.[70] For example, while subject imports from the Maritime Provinces, which had not been covered by the SLA, declined by 289 mmbf from 2000 to 2001, subject imports from the rest of Canada increased by 720 mmbf for the same period.[71] Moreover, subject imports from the Maritime Provinces, even with the decline in 2001, were almost three times the level prior to the SLA in 1995.[72] Canadian exporters' theory about redistribution also fails to take into account the vast difference in volume of production and consequent exports to the U.S. market between former SLA-covered provinces and non-covered provinces; for example, the Maritime Provinces accounted for only between 7.1 and 8.5 percent of Canadian softwood lumber production for the 1999-2001 period, whereas three of the four formerly covered provinces (British Columbia, Quebec, and Ontario) accounted for more than 80 percent.[73]

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[69]See, e.g., USITC Pub. 3509 at Table IV-3. For example, imports from the Maritime Provinces increased from 931 mmbf in 1996 to 2,130 mmbf in 2000, and were 1,841 mmbf in 2001. Thus, the subject imports from the Maritime Provinces increased by nearly 129 percent from 1996 to 2000, and by nearly 98 percent from 1996 to 2001. Id. See also USITC Pub. 3509 at Table VII-5 and Petition at Exh. I-B-62 (regarding production increases in Manitoba and Saskatchewan).

[70]USITC Pub. 3509 at Table IV-3.

[71]USITC Pub. 3509 at Table IV-3.

[72]USITC Pub. 3509 at Table IV-3.

[73]USITC Pub. 3509 at Tables VII-5 and VII-7. Based on revised Canadian production data, the Maritime Provinces accounted for only between 6.4 and 6.9 percent of Canadian production for the 1999-2001 period, whereas three of the four formerly covered provinces (British Columbia,

We therefore find that the SLA had significantly constrained the volume and market share of subject imports, and substantial evidence supports this finding.

During Periods with No Import Restraints, There Were Substantial Increases in Subject Imports. Subject imports increased substantially after the SLA expired and between 1994 and 1996 prior to its adoption; this behavior is highly probative of how subject imports have entered the U.S. market, and would enter the U.S. market in the imminent future, when not subject to trade restraints.

During the period between expiration of the SLA (April 2001)[74] and before suspension of liquidation resulting from the investigation (August 2001), subject import volume was substantially higher, by a range of 738 mmbf to 959 mmbf, or by 9.2 percent to 12.3 percent, than the comparable April-August period in each of the preceding three years (1998-2000).[75] While the rate of increase in imports slowed when bonding requirements associated with the preliminary countervailing duties were imposed in August 2001, subject imports entered the U.S. market in the April-December 2001 period

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Quebec, and Ontario) accounted for between 81.8 and 83.1 percent for the 1999-2001 period. Calculated from Section 129 Report at Tables VII-5. and VII-7. The fourth province covered by the SLA was Alberta; production data for Alberta is included with the data for the other non-covered Prairie Provinces (Manitoba and Saskatchewan), which accounted for about 11 percent of Canadian production based on both the original and revised Canadian production data. Id.

[74]The SLA expired on March 31, 2001; thus, over the period of investigation, the SLA was in effect for 1999, 2000, and the first quarter of 2001.

[75]Official monthly import statistics. Total subject imports of softwood lumber by volume for the period of April to August 2001 were 11.3 percent higher than the comparable April-August period in 2000, 9.2 percent higher than April-August 1999, and 12.3 percent higher than April-August 1998. Monthly subject import volumes were higher in each month between April and August 2001 than the comparable month in 2000, with the exception of June, by a range of 7.5 percent to 25.6 percent. Id.

at a rate 4.9 percent higher than the comparable 2000 period.[76] The evidence in this proceeding demonstrates an even more significant increase of 14.6 percent for the first quarter of 2002 compared with the first quarter of 2001, and a significant increase of 6.2 percent compared with the first quarter of 2000.[77] During these periods, market conditions other than the expiration of the SLA, such as increases in consumption, do not lessen the impact of these significant increases in subject imports. For example, while apparent U.S. consumption for first quarter 2002 increased compared with first quarter 2001, it was at a substantially lower rate, 9.7 percent, than the 14.6 percent increase in subject imports.[78] Moreover, subject imports were 6.2 percent higher in the first quarter of 2002 compared with the first quarter of 2000, while apparent U.S. consumption declined by 2.3 percent for first quarter 2002 compared with first quarter 2000.[79]

Claims that the substantial increase in imports during the April-August 2001 period only reflects "a shift in the timing of imports" fail to address the simple fact that subject imports increased *both* during this period *and* afterward. Imports increased after expiration of the SLA and have continued to substantially increase, even after bonding requirements associated with the preliminary CVD findings were imposed. Thus, the evidence does not support a theory that a shift in timing accounted for the higher level of imports immediately after the SLA expired; rather, it indicates a change in import

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[76]Subject imports increased by 429 mmbf, or 2.4 percent, from 2000 to 2001, and by only 69 mmbf, or 0.4 percent, from 1999 to 2000. USITC Pub. 3509 at Table C-1 and Official import statistics.

[77]Section 129 Report at Table C-1B.

[78]Section 129 Report at Table C-1B (129).

[79]Section 129 Report at Table C-1B (129).

behavior.

We find these import trends during the most recent period in which there were no trade restraints to be highly indicative of whether imports are likely to substantially increase in the imminent future. The fact that subject imports increased substantially after expiration of the SLA and have continued to increase affirms our conclusion that subject imports threaten material injury to the domestic industry.

We also consider the similar pattern of increases in subject imports during 1994-1996, immediately prior to the adoption of the SLA, increases which stopped when the SLA was imposed. During the seven quarters between August 1994 and April 1996, with no restraints in effect, subject import market share increased from 32.6 percent in the third quarter 1994 to 37.4 percent in first quarter 1996.[80] During the first full year under the SLA (1997), subject imports declined to a U.S. market share of 34.3 percent, and remained within a range from 33.2 percent to 34.6 percent during the SLA period.[81]

We also consider subject import trends for the pre-SLA period in the context of concurrent market conditions. The evidence in the original record for 1995 to1996 shows that subject import volume rose at a rate higher than increases in U.S. apparent consumption.[82] The additional evidence in this Section 129 proceeding demonstrates that while subject imports increased substantially by 1,700

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[80]Petitioners' Original Prehearing Brief at Exh. 65.

[81]USITC Pub. 3509 at Table IV-2.

[82]Subject imports increased by 4.8 percent from 1995 to 1996, exceeding the U.S. apparent consumption increase of 4.0 percent and the U.S. production increase of 3.2 percent. USITC Pub. 3509 at Table IV-2.

mmbf, or 10.6 percent, from 1994 to 1996, and increased their market share from 32.6 percent in third quarter 1994 to 37.4 percent in first quarter 1996, apparent U.S. consumption increased by only 1,241 mmbf, or 2.5 percent.[83] Moreover, from 1994 to 1995, when apparent U.S. consumption declined by 707 mmbf, or 1.5 percent, and U.S. production declined by 1,875 mmbf, or 5.6 percent, subject imports which at the time were free of import restraints, increased by 890 mmbf, or 5.5 percent.[84] Therefore, the data on market conditions during 1994-1996 provide further support to our finding that the lack of import restraints after expiration of the SLA led to increases in subject imports and thus threaten material injury to the U.S. industry.

In sum, without restraints in place, subject imports increased from an already high level; increases stopped when the SLA was imposed; substantial increases in imports occurred when the SLA expired; and increases in imports slowed again when preliminary countervailing duties were imposed. Substantial evidence clearly shows that there is a distinction in the level of subject imports depending on whether the SLA was in place, and that the import volumes are substantially higher during periods when they are not subject to the restraining effects of the SLA. This evidence supports our finding that subject imports are likely to increase substantially in the imminent future, exacerbating the adverse impact of already significant subject import volumes.

2. The Canadian Producers Had Sufficient Freely Disposable Excess Capacity, and Projected Increases in Capacity and Production in 2002 and 2003.

The evidence in the original investigation regarding Canada's capacity, capacity utilization and

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[83]Section 129 Report at Table 3 and Petitioners' Original Prehearing Brief at Exh. 65.

[84]Section 129 Report at Table 3.

production levels is extensive, and includes both questionnaire data from Canadian producers as well as public data from the Canadian government and the U.S. Department of Commerce. The record indicates clearly that Canada has substantial capacity to produce softwood lumber, equal to about 60 percent of U.S. consumption.[85] Canadian producers projected increases in capacity, capacity utilization and production in 2002 and 2003, despite having sufficient freely disposable excess production capacity (i.e., excess capacity) in 2001, as capacity utilization declined to 84 percent from 90 percent in 1999.[86] This contrasted with the relatively stable level for Canadian capacity utilization in the three years prior to the period of investigation, when the SLA was in place.[87] Excess Canadian capacity in 2001 had increased to 5,343 mmbf, which was equivalent to 10 percent of U.S. apparent consumption.[88] Moreover, the Canadian producers expected to further increase their ability to supply

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[85]USITC Pub. 3509 at Tables IV-2, VII-1 and VII-7. Public data showed that there had been a steady increase in Canadian producers' capacity from 1995 to 1999 (29,700 mmbf to 32,100 mmbf), with a more gradual increase from 1999 to 2001 (32,800 mmbf), with Canadian production capacity 10.4 percent higher in 2001 than in 1995. USITC Pub. 3509 at Tables VII-1. Canadian producers' questionnaire responses (covering nearly 80 percent of production in Canada) followed similar trends from 1999 to 2001. Id. at Table VII-2. Canadian production in 2001 was 1,364 mmbf, or 5.2 percent, higher than it had been in 1995, although it declined from 1999 to 2001. Id. at Tables VII-1 and VII-2.

[86]USITC Pub. 3509 at Tables VII-1 (publicly available data series) and VII-2 (questionnaire response data series). Data from Canadian producers' questionnaire responses and from publicly available sources were very similar. Questionnaire responses reported capacity utilization as 90.3 percent in 1999, 88.8 percent in 2000, and 84.4 percent in 2001. Id. at Table VII-2. Data from publicly available sources reported capacity utilization as 90.5 percent in 1999, 88.9 percent in 2000, and 83.7 percent in 2001. Id. at Table VII-1.

[87]In the three years prior to the period of investigation, Canadian capacity utilization had been at a relatively stable level ranging from 87.3 percent to 87.7 percent. USITC Pub. 3509 at Table VII-1.

[88]USITC Pub. 3509 at Tables VII-1 and C-1. The evidence in the original record showed that this increase in excess capacity could not be attributed to declines in home market shipments from 1999

the U.S. softwood lumber market, projecting increases in production of 8.9 percent from 2001 to 2003 and increases in their capacity utilization to 90 percent in 2003 (from 84 percent in 2001).[89] The projected increase in production was significant enough to result in substantial projected increases in capacity utilization, resulting in additional lumber available for export to the U.S. market. These increases were projected at the same time that demand in the U.S. market was forecast to remain relatively unchanged or increase only slightly.[90]

We have considered the data regarding Canadian production, capacity and capacity utilization collected in this Section 129 proceeding from public sources and questionnaire responses. Data from public sources for Canadian production have been revised from our original record and questionnaire

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to 2001, since increases in imports to the U.S. market for that period were nearly equal to the declines in home market shipments. Id. at Table VII-2. Based on questionnaire responses, home market shipments declined by 663 mmbf from 1999 to 2001 while shipments to the U.S. market increased by 525 mmbf from 1999 to 2001. Id.

[89]USITC Pub. 3509 at Tables VII-1 and VII-2. Canadian producers projected production increases from 21,770 mmbf in 2001 to 23,698 mmbf in 2003, capacity utilization increases from 84.4 percent in 2001 to 90.4 percent in 2003, and capacity increases from 25,804 mmbf in 2001 to 26,206 mmbf in 2003. Id. at Table VII-2 (Canadian producers' questionnaire responses covering nearly 80 percent of production in Canada). We recognize that, in contrast to our questionnaire data, RISI forecasts predicted slight declines in capacity from 2001 to 2003, with further increases in 2004, 2005, and 2006. CLTA's Original Posthearing Brief, Vol. 2, Tab C, Attachment 4 at 2 (RISI North American Lumber Forecast, January 2002 at 61-62). We note that these RISI forecasts were based on forecasts of substantial declines in both U.S. and Canadian demand from 2001 to 2002, which is contrary to other evidence, including other RISI forecasts, that U.S. demand is predicted to remain unchanged or increase slightly from 2001 to 2002 and is contrary to arguments by Canadian parties about substantial growth in demand and resultant effects. The RISI forecasts do not undermine the evidence that Canadian producers already had substantially increased capacity, had substantial excess production capacity, and planned to substantially increase production and improve capacity utilization from 2001 to 2003.

[90]USITC Pub. 3509 at II-3 - II-4; CLTA's Original Posthearing Brief, Vol. 2, Tab R at 1 and 3; Petitioners' Original Posthearing Brief, Vol. II, Appendix H, Exhibit 28 at 5 (Table 3).

responses are limited because the majority of Canadian producers either refused to answer, or simply did not respond to, requests in this proceeding for additional data.[91] Data from public sources and questionnaire responses in this proceeding, therefore, are not necessarily comparable with data from the original investigation.

While revisions to the public data series resulted in substantial increases in reported Canadian production (with increases to original reported levels of 1,850 mmbf (6.4 percent) in 1999, 2,820 mmbf (9.7 percent) in 2000, and 3,070 mmbf (11.2 percent) in 2001), the Canadian production capacity data were not revised.[92] As noted above, the Canadian parties did not provide a full explanation for the revisions in response to questions from the Commission, stating only that it was a change in methodology.[93] Other evidence indicates that the revisions were made to correct systematic

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[91]In the original investigation, 27 Canadian producers, accounting for 79 percent of production in 2001, provided requested information; only six of those Canadian producers responded to the Commission's supplemental questionnaire, accounting for 20 percent of production for the January-March 2002 period. Section 129 Report at 6 and 41. Counsel for at least two Canadian parties informed the Commission by letters that they would not respond to the supplemental questionnaires, and counsel for four other Canadian parties as well as four Canadian producers informed Commission staff directly that they would not respond to supplemental questionnaires; other Canadian parties simply did not respond. See, e.g., Letter to Marilyn Abbott from Elliot J. Feldman of Baker & Hostetler, counsel for Tembec, dated Sept. 17, 2004. In accord with Article 6.1.1 of the Antidumping Agreement and Article 12.1.1 of the SCM Agreement, Canadian producers were provided more than 37 days to respond to these limited three-page supplemental questionnaires. See also Article 6.8 and Annex II, paragraph 1, of the WTO Antidumping Agreement; Article 12.7 of the WTO Agreement on Subsidies and Countervailing Measures.

[92]Calculated from Section 129 Report at Tables VII-1 (Original) and VII-1 (129). RISI is the source of the public Canadian production capacity data; the production capacity data generally is calculated by RISI from Statistics Canada production data. The record contains original and revised Canadian production data, but only the original RISI production capacity data.

[93]Govt. of Canada's Prehearing Brief at 7 and Exhibit 2; Tr. at 180-181, 197-201, and 206-209; Govt. of Canada's Posthearing Brief, and Response to Questions at 2-6.

errors that omitted the production data of smaller sawmills representing at least 5-7 percent of Canadian softwood lumber production.[94] If the basis for the revisions was to include producer data for previously omitted small sawmills, one would expect that a corresponding change would also have been made to total industry capacity, but this appears not to be the case. Canadian parties have not addressed this issue and have only indicated that the Commission should not consider any of the revised Canadian production data in this proceeding, despite arguing for its use in a related Commerce proceeding.[95] In light of these issues, we give reduced weight to the capacity and capacity utilization data derived from the revised Canadian production data[96]

In sum, Canadian producers already possess excess capacity, equivalent to 10 percent of apparent U.S. consumption in 2001, and increases in capacity and production were projected for 2002

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[94]Coalition's Posthearing Brief at Appendix B-14 and 15.

[95]In the Commerce NAFTA proceedings, the Government of Canada insisted that Commerce use the revised production data in its subsidy calculations. Coalition's Posthearing Brief at 10 and Appendix B-15 and Exhibit 4 (Letter from Weil, Gotshal & Manges LLP to Department of Commerce, No. C-122-839 (Remand) at 4 (Dec. 23, 2003)).

[96]We note that the revised data still show a significant decline in capacity utilization (and therefore a significant increase in excess capacity) during the period of investigation; capacity utilization initially rose from 96.2 percent in 1999 to 97.5 percent in 2000, but then declined to 93.0 percent in 2001. Section 129 Report at Table VII-1 (129). Moreover, the revised quarterly data shows a lower capacity utilization rate in first quarter 2002 (90 percent) compared with first quarter 2001 (93.1 percent) and first quarter 2000 (97.9 percent). Id. at Table VII-1B (129). Moreover, while Canadian production in the first quarter of 2002 was 2.6 percent lower compared with the first quarter of 2001, subject imports were 14.6 percent higher. Id. at Tables VII-1B and C-1B. While only accounting for 20 percent of Canadian production, we note that questionnaire responses also show capacity utilization lower at 86.6 percent in first quarter 2002 compared with about 96 percent in both first quarter 2001 and 2000. Id. at Table VII-2B. The first quarter data provide further confirmation that, even without adjustments to the capacity levels, Canadian producers had increasing excess capacity to use to increase exports to the U.S. market.

and 2003. As discussed below, there is both substantial evidence on the record of Canada's likelihood of substantial and increasing exports to the United States, and a lack of any substantial evidence to demonstrate that a shift to other markets could absorb the very significant volume of Canada's exports to the United States.

Canadian Production Is Tied to the U.S. Market. The statute, and WTO Agreements, contemplate that the Commission will consider the importance of the export industry's markets in determining threat of material injury.[97] In this case, the U.S. market has been, and is expected to continue to be, the most important market for Canadian producers. Canadian producers rely on the U.S. market for about two-thirds of their production and shipments; exports to the United States ranged from 63.1 percent to 68.1 percent of Canadian production from 1995 to 2001.[98] Other export markets accounted for only 8 percent of Canadian production and the Canadian home market accounted for about 24 percent in 2001.[99] Therefore, the availability of markets other than the U.S.

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[97]19 U.S.C. § 1677(7)(F)(i)(II); see also Article 3.7(ii) fo the Antidumping Agreement and Article 15.7(iii) of the SCM Agreement.

[98]USITC Pub. 3509 at Table VII-7. Revisions to the public data for Canadian production resulted in slightly lower levels for exports to the United States as a share of revised Canadian production, ranging from 57.5 percent to 61.3 percent for the 1999-2001 period compared with the range reported in the original investigation (63.1 percent to 68.1 percent). Id. and Section 129 Report at Table VII-7. The absolute volume of subject imports did not change and Canadian producers still rely on United States as their primary market, even with the revisions to Canadian production. We also note the revised percentages are consistent with those reported by Canadian producers in questionnaire responses in the original investigation. USITC Pub. 3509 at Table VII-2.

[99]Calculated from USITC Pub. 3509 at Table VII-7. Based on the revised Canadian production data, the share of Canadian production directed to the home market is slightly higher, ranging from 32 percent to 35 percent, for the 1999-2001 period compared with 24 percent to 29 percent for the same period as reported in the original investigation. Id. and Section 129 Report at Table VII-7. Canadian producers' questionnaire responses in the original investigation reported that

market (whether other export or home) to absorb additional Canadian production of softwood lumber is limited. As discussed earlier, Canadian softwood lumber production is projected to increase,[100] and the U.S. market would be the most likely target of those additional goods, given the historical role that the U.S. market has played as the principal market for Canadian softwood lumber production.

The U.S. export-orientation of the Canadian producers clearly ties the excess capacity and projected increases in capacity and production to a likely substantial increase in subject imports in the imminent future. Moreover, the evidence in this Section 129 proceeding provides further support that an increasing share of Canadian production would enter the U.S. market. In the first quarter of 2002, as apparent Canadian consumption declined by 23 percent compared with first quarter 2001, Canadian producers shifted sales from the home market to the U.S. market.[101] In the first quarter of 2002, Canadian exports to the U.S. market accounted for 63.8 percent of Canadian production compared with 54.2 percent for the first quarter of 2001 and 55.8 percent for the first quarter of 2000.[102]

Questionnaire responses in the Section 129 proceeding, while accounting for only 20 percent of Canadian production, show exports to the United States as a share of total Canadian shipments at 62.8 percent in the first quarter of 2002, compared to 55.5 percent in the first quarter of 2001 and 53.0

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home market shipments as a share of total Canadian shipments ranged from 31.3 percent in 1999 to 28.9 percent in 2001. USITC Pub. 3509 at Table VII-2.

[100]Canadian producers themselves projected their production would increase from 2001 to 2003 by 8.9 percent, or 1,928 mmbf between 2001 and 2003. USITC Pub. 3509 at Table VII-2.

[101]Section 129 Report at Table VII-7B.

[102]Section 129 Report at Table VII-7B.

percent in the first quarter of 2000.[103] Moreover, home market shipments as a share of total Canadian shipments dropped to 26.7 percent in the first quarter of 2002 compared with 33.4 percent in the first quarter of 2001 and 34.4 percent in first quarter of 2000.[104]

Furthermore, the evidence demonstrates that Canadian producers have incentives to produce more softwood lumber and export it to the U.S. market. Many Canadian provinces subject tenure holders (lumber producers) to requirements to harvest at or near their annual allowable cut ("AAC") or be subject to penalties/reductions in future AACs.[105] These mandatory cut requirements stimulate increased production even when Canadian demand is low and thus increase the incentive to export more softwood lumber to the U.S. market. Subject imports were at significant levels during the period of investigation with the AAC requirements in place.[106] Finally, while only certain provinces have AAC requirements, we note that one that does is British Columbia, which accounts for almost 50 percent of Canada softwood lumber production and 50 percent of Canadian exports to the U.S. market.[107]

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[103]Section 129 Report at Table VII-2B.

[104]Section 129 Report at Table VII-2B.

[105]See, e.g., Canadian Forest Act §§ 64 and 66-67 (British Columbia) (tenure holders are required to harvest within 10 percent of their AAC over five years and within 50 percent in any year, or face penalties for undercutting including loss of tenure in later years). Petition at Exh. IV B-3. The evidence also demonstrated that certain provincial governments also may require major forest tenure holders to operate specific timber processing facilities and prohibit or restrict closures and reductions in capacity. Petitioners' Original Prehearing Brief at 89-92; Petitioners' Original Posthearing Brief at Appendix B-23.

[106]For most of the period of investigation imports were subject to the SLA or preliminary antidumping duty and countervailing duty measures.

[107]USITC Pub. 3509 at Tables VII-5 and VII-7.

Canadian Producers' Export Projections Are Inconsistent with Other Record Evidence. Canadian producers' export projections implausibly posited that the U.S. market would suddenly no longer account for at least 60 percent of additional Canadian production, consistent with historical levels, but rather that only 20 percent of additional Canadian production would be exported to the United States.[108] The Canadian producers projected that export shipments to the U.S. market would increase, but only by 3 percent, while exports to non-U.S. markets would increase by 21 percent, and shipments to the home market would increase by 13 percent from 2001 to 2003.[109] Thus, the Canadian home market and non-U.S. markets were predicted to receive substantially higher shares of projected production increases, shares wholly inconsistent with historic trends.

Given the inconsistencies with other record evidence, it is reasonable to discount the Canadian producers' unsupported expectations regarding export projections and we therefore conclude that projected increases in production would likely be distributed among the U.S. market, Canadian home market, and non-U.S. export markets in shares similar to those prevailing during the prior seven years.[110] Parties offer no positive evidence to refute our conclusion; that is, no positive evidence, such

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[108]USITC Pub. 3509 at Table VII-7. Over the period of investigation, exports to the U.S. market accounted for 63 - 68 percent of Canadian production, the Canadian home market accounted for about 24 - 29 percent of Canadian production, and non-U.S. export markets accounted for about 8 percent of Canadian production. Id.

[109]USITC Pub. 3509 at Table VII-2.

[110]From 1995 to 2001, exports to the U.S. market as a share of Canadian production ranged from 63.1 percent to 68.1 percent, for an average of 65.5 percent. USITC Pub. 3509 at Table VII-7. Revisions to the public data for Canadian production resulted in slightly lower levels for exports to the United States as a share of revised Canadian production, ranging from 57.5 percent to 61.3 percent for the 1999-2001 period compared with the range reported in the original investigation (63.1 percent to 68.1 percent). Id. and Section 129 Report at Table VII-7.

as a new supplier contract, or evidence of increased demand in or sales to another specific country, that would indicate that a large share of the increased production was likely to shift disproportionately to markets other than the U.S. market. Even though Canadian demand had declined by almost 20 percent from 2000 to 2001 and was not forecast to return imminently to 2000 levels, the Canadian producers projected that home market shipments would somehow increase beyond 2000 levels.[111] The evidence in the first quarter of 2002 demonstrated that when Canadian consumption declined by 23 percent, shipments shifted to the U.S. market and not to other markets.[112] Given the evidence from all sources pointing to significant and increasing exports to the U.S. market, and the lack of substantial evidence of a marked shift in shipment patterns, the Commission's conclusions are supported by substantial evidence.

Conclusion. In conclusion, we find a likelihood of substantially increased imports based on consideration of several factors, including: the significant volume of subject imports and their likely substantial increase in the imminent future; the increase in subject imports over the period of investigation and particularly the significant rate of increase after expiration of the SLA; the restraining effects of the SLA; subject import trends during periods when there were no import restraints; Canadian producers' excess capacity and projected increases in capacity, capacity utilization, and production; and the export orientation of Canadian producers to the U.S. market.

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[111]USITC Pub. 3509 at Tables VII-2 and VII-7.

[112]Section 129 Report at Tables VII-7B and C-1B. When Canadian apparent consumption declined by 23.2 percent from first quarter 2001 to first quarter 2002, exports to the U.S. market increased by 14.6 percent and exports to other markets declined by 21.6 percent; the share of Canadian production to the home market also declined by 23.3 percent from the first quarter of 2001 to the first quarter of 2002. Id.

B. Likely Adverse Price Effects

In analyzing likely adverse price effects, we first evaluate price trends for softwood lumber during the period of investigation[113] and then consider whether imports are entering at prices that will be likely to have a significant depressing or suppressing effect on domestic prices.[114]

Prices Declined During the Period of Investigation. During the period of investigation,

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[113]19 U.S.C. § 1677(7)(C)(ii). In evaluating the price effects of the subject imports, the Commission shall consider whether –

> (I) there has been significant price underselling by the imported merchandise as compared with the price of domestic like products of the United States, and
>
> (II) the effect of imports of such merchandise otherwise depresses prices to a significant degree or prevents price increases, which otherwise would have occurred, to a significant degree.

Article 3.2 of the Antidumping Agreement states in relevant part regarding consideration of the price effects in the present injury analysis that:

> . . . .With regard to the effect of the dumped [subsidized] imports on prices, the investigating authorities shall consider whether there has been a significant price undercutting by the dumped [subsidized] imports as compared with the price of a like product of the importing Member, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree. No one or several of these factors can necessarily give decisive guidance.

The same provision in Article 15.2 of the SCM Agreement applies to subsidized imports.

[114]In making a determination regarding the existence of a threat of material injury, "the Commission shall consider, among other relevant economic factors –

> (IV) whether imports of the subject merchandise are entering at prices that are likely to have a significant depressing or suppressing effect on domestic prices and are likely to increase demand for further imports.

19 U.S.C. § 1677(7)(F)(i)(IV). See also Article 3.7(iii) of the Antidumping Agreement and Article 15.7(iv) of the SCM Agreement.

prices for softwood lumber declined substantially, particularly in 2000.[115] Notably, prices of both the domestically-produced and imported Canadian softwood lumber products increased through April-June or July-Sept. 1999 (depending on the specific product), before falling substantially through July-Sept. and Oct.-Dec. 2000, despite near record consumption,[116] to their lowest point for the period.[117] Both Commission and public data show[118] that the price declines in 2000 were the result of excess supply in the price sensitive U.S. market.[119] [120] As discussed below, the evidence indicates that during

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[115]USITC Pub. 3509 at Tables IV-2, V-1, and V-2, and Figures V-3 - V-5.

[116]USITC Pub. 3509 at Tables C-1.

[117]For example, the price of SYP fell 32.9 percent, from a peak of $434/mbf in the third quarter 1999 to a low of $291/mbf in the fourth quarter 2000. The price of WSPF (a product mostly imported from Canada) fell 39.3 percent, from a peak of $336/mbf in the second quarter 1999 to $204/mbf in the fourth quarter 2000. USITC Pub. 3509 at Tables V-1 and V-2.

[118]See, e.g., Random Lengths, at 2 (Mar. 31, 2000) ("The lumber bulls see the decline {in the Random Lengths Framing Lumber Composite Price to $375} as a buying opportunity. But the bears, while acknowledging that demand remains high, contend that there is just too much lumber chasing the available volume of orders. . . . recently released production data showing that mills in the Western U.S. made 12.5% more lumber through the first two months of 2000 than during a similar period of 1999. . . . And while no 2000 production figures are yet available from Canada, there is no indication that production there is slackening." (emphasis in original)); RISI Lumber Commentary, at 1 and 10 (June 2000) ("In the area of domestic supply. . . U.S. lumber production over the first four months of the year was up 6% and Canadian production in January-February (the only available data) was up 4% over year-earlier levels."); Forest Products Monthly (December 2000) ("The lumber market's current malaise came from the supply side – too much production, both in the U.S. and in Canada."). CLTA's Original Posthearing Brief, Vol. 2, Tab A at 7-10.

[119]While quarterly price fluctuations for domestically produced and subject imports of softwood lumber products also reflect in part cyclical and seasonal factors in U.S. demand and supply for softwood lumber, these factors could not alone account for the magnitude of the price decline. USITC Pub. 3509 at V-11.

[120]Petitioners' Original Posthearing Brief, at 1-2, 11-13, and Appendix B-1 - B-11; Petitioners' Original Final Comments at 3-6; CLTA's Original Prehearing Brief, Vol. 1 at 26-30, and Vol. 3, Exh. 28 at 16-22; CLTA's Original Posthearing Brief, Vol. 1 at 4-6, and Vol. 2 at Tab A;

this period both subject imports and the domestic producers contributed to the excess supply,[121] and thus the declining prices.

While prices for softwood lumber increased in mid-2001, at a time of considerable uncertainty

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Original Hearing Transcript at 125, 168, 258, and 328.

[121]Such evidence includes:

CLTA's Original Prehearing Brief, Vol. 3, Exh. 28 at 19 and 20 –

- "However, despite strong demand, lumber prices declined due to an excess supply. Lumber production in both the Southern and Western United States during the first quarter of 2000 increased by over 5% compared to the same period in 1999." *Plum Creek Timber Company, Inc. 2nd Quarter 2000 Quarterly Report*;
- "Lumber prices deteriorated further during the third quarter due to a demand-supply imbalance. . . . North American lumber production during the first half of 2000 was 3% above production for the same period in the prior period and was at a ten-year record high. At the same time lumber demand was weakening, with housing starts 3% lower than the prior year." *Plum Creek Timber Company, Inc. 3rd Quarter 2000 Quarterly Report*;

CLTA's Original Posthearing Brief, Vol. 2, Tab A at 11 –

- "To supply growing new housing and record remodeling markets over the past several years, the industry ramped up production only to see both markets fall as a result of several interest rate increases by the Federal Reserve. The resulting oversupply has led to near-record low pricing for most lumber and panel products." *Louisiana Pacific 2000 Annual Report*;

Original Hearing Transcript at 126 (Mr. Wood) –

- "We had so much lumber because we were geared up, and 200[0] came. . . .";

Petitioners' Original Posthearing Brief at 2 and Appendix H, Exh. 2 at 11

- "The U.S. industry was widely criticized in years passed for lumber overproduction . . . . This behavior has been curbed considerably here, but remains a problem in Canada, where Provincial forestry officials must also protect pulp mill employment, which is the lifeblood of many small towns. However, as the Canadian softwood lumber industry ships 65% of its output to the U.S., its general failure to manage production to new order volumes and its capacity growth in its eastern provinces have both undermined prices in recent years." *Bank of America, "Wood & Building Products Quarterly,"* at 11 (Nov. 2001).

in the market due to the expiration of the SLA and the commencement of these investigations,[122] prices began to decline in July-Sept. 2001 and fell substantially in Oct.-Dec. 2001 to levels as low as those in 2000.[123] Even with an improvement in Jan.-March 2002, prices were still near the lowest levels reported during the period of investigation. The price increase in the first quarter of 2002 was largely due to an increase in consumption,[124] but this improvement was not likely to be sustained, in light of the sharp decline in housing starts in March 2002 from the record high reported for February 2002.[125] Further, record U.S. housing starts throughout the period clearly did not guarantee higher prices in the U.S. market, given price competition and excess supply.

Furthermore, quarterly composite pricing data (as set forth in Exhibit 1, attached to this opinion) show that the price for Jan.-March 2002 – $318 – was lower than the price for the July-

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[122]There is considerable evidence regarding the effects this uncertainty was having on prices for softwood lumber. For example, Random Lengths reported that "Uncertainty surrounding Monday's likely announcement that the U.S. will conduct [antidumping and countervailing] duty investigations prompted Canadian mills to limit offerings and price aggressively as a way of protecting themselves against potential duties. This funneled more business to U.S. producers, who could price their wood and quote without having to worry about duties." Random Lengths at 4, Apr. 20, 2001; see also Random Lengths at 4, June 1, 2001 ("Canadian mills reiterated that they would continue to restrict shipments due to the anti-dumping case and the potential for retroactive duties. However, in this week's nervous climate, this stance backfired as many buyers figured that restricted shipments translated into growing inventories at Canadian mills.") in Petitioners' Original Posthearing Brief at Appendix B-18 - B-19, and Appendix H, Exh. 7.

[123]USITC Pub. 3509 at V-11, Tables V-1 and V-2, and Figures V-3 - V-5. These price declines occurred while demand, considered on a seasonal basis, remained relatively stable at historically very high levels.

[124]While apparent U.S. consumption was 9.7 percent higher in the first quarter of 2002 compared with the first quarter of 2001, it was 2.3 percent lower compared with the first quarter of 2000. Section 129 Report at Table C-1B.

[125]Section 129 Report at Tables 1 and 2.

Sept. 2001 – $322 – and substantially lower than in April-June 2001 – $364.[126] Moreover, we recognize that seasonality generally affects quarterly price comparisons,[127] i.e., prices for Oct.-Dec. in 1999, 2000, and 2001 were lower than those for Jan.-March in 2000, 2001, and 2002, respectively.[128] While the price for Jan.-March 2002 at $318 was higher than in the same quarter of 2001 at $284, it was substantially lower than the price of $384 in Jan.-March of both 1999 and 2000. Prices for Jan.-March 2001 had not yet recovered from the low levels of July-Sept. and Oct.-Dec. of 2000 ($294 and $277, respectively) and were subject to considerable uncertainty in the market due to the pending expiration of the SLA.[129]

Thus, the fact that the price for Jan.-March 2002 was higher than Oct.-Dec. 2001 does not undermine our conclusion that imports at the end of the period are entering at prices that are likely to have a significant depressing or suppressing effect on domestic prices, and are likely to increase

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[126]Section 129 Report at Tables V-1 and V-2.

[127]See, e.g., USX Corp. v. United States, 682 F. Supp. 60, 75-76 (CIT 1988) ("reliance on customary annual data is especially warranted in this case given seasonal fluctuations in production levels which likely skew the reliability of quarterly figures.").

[128]The composite prices for the fourth quarter in 1999 ($375), 2000 ($277), and 2001 ($279) were lower than those for the first quarter in 2000 ($384), 2001 ($284), and 2002 ($318), respectively. Section 129 Report at Tables V-1 and V-2.

[129]Other evidence such as average unit values for imports and domestic shipments confirms these declining price trends. For example, the average unit value of imports of softwood lumber from Canada, based on official Commerce statistics, decreased from $395.72 in 1999 to $347.89 in 2000 and $323.57 in 2001; the average unit value essentially remained at the 2001 level in the first quarter of 2002, $324.94. USITC Pub. 3509 at Table C-1 and Section 129 Report at Table IV-2B. Similarly, the average unit value of U.S. shipments of softwood lumber decreased from $416.13 in 1999 to $361.07 in 2000, and $347.86 in 2001 according to questionnaire responses. Id. The average unit value of softwood lumber was lower at $338.45 in first quarter 2002 according to questionnaire responses in the Section 129 proceeding. Section 129 Report at Table C-1B.

demand for further imports.

Imports are Entering at Prices Likely to Have a Significant Depressing or Suppressing Effect on Domestic Prices. We find that the substantial and increasing volume of subject imports at significantly declining prices during the period of investigation adversely affected the prices for the domestic product. We recognize that the substantial price declines in 2000, and resulting deterioration of the condition of the domestic industry, were due to excess supply from both subject imports and domestic production. Thus, while the evidence supports a finding that subject imports had *some* adverse price effect, we do not conclude that during the period of investigation, they had yet had a *significant* price effect so as to be a substantial cause of material injury to the domestic industry. However, we also find that the prices at the end of the period of investigation (e.g., July-Sept. and Oct.-Dec. 2001 and Jan.-March 2002) were at levels as low as those in 2000, and that subject import prices, combined with the imminent significant increase in subject import volume, are likely to have a significant depressing or suppressing effect on domestic prices in the imminent future. Moreover, as discussed above, the record indicates that the SLA had a significant restraining effect on the volume of subject imports and therefore limited the effect of subject imports on prices in the U.S. market.[130]

While Direct Price Comparisons Between Species Are Inappropriate, Evidence Indicates Price Effects. While the statute and the Agreements require consideration of both price underselling[131] and price depression or suppression in a present material injury analysis,[132] price

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[130]See Section III.A.1, "The SLA had a Restraining Effect on Subject Imports," supra.

[131]In conducting a price underselling analysis, the Commission makes direct comparisons of prices for a comparable product, i.e., same model, same size and grade of a species of lumber, etc., and calculates a margin of underselling or overselling for the import prices relative to the domestic

depression or suppression may occur whether or not there is price underselling.[133] Consideration of price underselling is not set forth as a listed factor for a threat of material injury analysis.[134] All parties to the investigations agreed that making direct cross-species price comparisons in order to assess underselling was inappropriate.[135]

Although the differences in species of softwood lumber limit the meaningfulness of any direct price comparisons,[136] they do not preclude a price trends analysis to consider whether significant price

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prices.

[132]19 U.S.C. § 1677(7)(C)(ii).

[133]19 U.S.C. § 1677(7)(E). Accord Cemex, 790 F. Supp. at 298-299 (CIT 1992) ("a finding of underselling is not crucial to an affirmative determination. A finding of suppressive price effects may be sufficient."). Moreover, the Commission's reviewing courts have not precluded findings of likely price effects in a threat analysis because present price effects were not found, particularly when, as here, prices declined at the end of the period of investigation. See Dastech Int'l, 963 F. Supp. at 1228-1229 (CIT 1997); NEC Corp., 36 F. Supp.2d at 393-394 (CIT 1998).

[134]19 U.S.C. § 1677(7)(F)(i)(IV) ("shall consider, among other factors . . . whether imports are entering at prices that will have a significant depressing or suppressing effect on domestic prices, and would likely increase demand for further imports."). See also Article 3.7(iii) of the Antidumping Agreement and Article 15.7(iv) of the SCM Agreement.

[135]The parties agreed that, in this industry, accurate price comparisons are difficult to compile. See, e.g., Original Hearing Transcript at 93, 269-273; Dealers/Builders' Original Posthearing Brief at 12-14. The Commission encountered similar problems obtaining useful pricing data for assessing underselling in prior Softwood Lumber cases.

[136]We find that because of the nature of this market, direct price comparisons between domestic products and subject imports are problematic whether based on questionnaire or public data. While the Commission collected pricing data for six specific softwood lumber products from purchasers, we place little weight on this information because the reported quantities of softwood lumber involved in the delivered price comparisons are very limited. We conclude that we can not draw any conclusions regarding underselling from the questionnaire data in these investigations.

While there are a number of different sources of public pricing information regarding softwood lumber products (including Random Lengths, Crow's, Madison's, and the Southern Pine Bulletin), these data series do not yield improved comparisons, despite their much broader coverage. As

suppression or depression by subject imports is likely.[137] First, despite differences in many of the imported and domestic species of softwood lumber, the evidence indicates competition across species, such that prices of a particular species will affect the prices of other species, particularly those that are used in the same or similar applications.[138] Such pricing effects between species were repeatedly

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discussed below, the record indicates that prices of one species affect those of others; however, absolute price levels differ, making direct cross-species comparisons inappropriate for purposes of an underselling analysis. Thus, we conclude that we can not determine, based on this record, whether there has been significant underselling by subject imports. USITC Pub. 3509 at V-3 - V-5.

[137]A price suppression or depression analysis considers trends for import and domestic prices to determine certain correlations between them. The pricing trend data are not necessarily limited to a size/grade or model. Using this trends analysis and other evidence, the Commission determines whether imports have prevented increases in prices for domestic products that otherwise would have occurred (suppression) or whether imports have exerted downward pressure on domestic prices (depression).

[138]See USITC Pub. 3509 at 26-27. See, e.g., Random Lengths:

- "Competition from Canadian S-P-F prevented ES-LP narrows from rallying from $5 drops early in the week." at 9, Oct. 26, 2001;
- "Warmer weather, a drop in interest rates, and an abrupt rise in S-P-F prices all got credit for boosting buyer interest in Southern Pine." at 4, Apr. 20, 2001;
- "As SPF prices climbed and supplies tightened in Canada, more buyers turned to U.S. produced Hem-Fir and ES-LP." at 4, Apr. 13, 2001;
- "Western and Eastern S-P-F were the leaders, pulling other dry species along." at 4, Feb. 2, 2001).

See, e.g., Wickes:

- "Species switching by many long-term purchasers of S-P-F forced most North of the border to finally return prices to a more realistic level as the need to move wood into the inventory pipeline became evident." Sept. 5, 2001;
- "Producers in the U.S. secured most of the available business from buyers who had no qualms in switching species to take advantage of the pricing discrepancies. Truss manufacturers started the charge as they switched from S-P-F MSR to alternative #2 grade SYP helping mills in the South post increases across the board." Aug. 21, 2001.

Petitioners' Original Prehearing Brief at 13 and Appendix C.

evident in industry reports. Moreover, both the questionnaire and public data on the record permit an analysis of price trends. In particular, we consider pricing information for softwood lumber published in Random Lengths, which is the source that both the domestic and Canadian industries cited most frequently throughout this investigation as a pricing guide.[139] As discussed above, we find, based on the price trends evidence, that subject imports are likely to have a significant depressing effect on domestic prices.

Imported and Domestic Softwood Lumber are Interchangeable and Substitutable. The evidence demonstrates that imported and domestic softwood lumber, notwithstanding differences in species, are interchangeable and compete with each other. Canadian spruce-pine-fir (SPF) accounted for more than 85 percent of Canadian product imported into the United States, and U.S. Southern Yellow Pine (SYP) accounted for about 45 percent of U.S. production.[140] Evidence provided by purchasers and home builders confirms that subject imports and domestic species of softwood lumber are used in the same applications.

While regional preferences exist – species often are used in close proximity to where they are

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[139]USITC Pub. 3509 at V-4-5. Random Lengths, Inc. collects weekly price data from suppliers and purchasers and calculates weighted-average prices based on such factors as the size of the transaction and the quality of the lumber. Random Lengths publishes these data in its weekly and annual publications. Id.

[140]Canada also exports Douglas fir, hem-fir, western red cedar, and a few other products; all of these species also are produced in the United States, and thus there is direct competition between subject imports and domestic product. In the United States, the leading species, or species groups, of softwood lumber produced are SYP (45.2 percent in 2000), Douglas fir (22.7 percent) and hem-fir (12.5 percent) lumber, as well as a variety of other lumber species, including ponderosa pine, SPF, WRC and redwood. In Canada, SPF is the predominant species of softwood lumber (84.6 percent in 2001), followed next by hem-fir (6.6 percent) and Douglas fir (3.7 percent) lumber, and then by a variety of other lumber species. USITC Pub. 3509 at Tables III-11 and VII-6.

milled – these preferences simply reflect the availability of species in certain areas, which is affected by transportation costs.[141] [142] These regional preferences do not reflect a lack of substitutability but simply a predisposition toward locally-milled species.[143]

In response to a direct question from a Commissioner regarding which lumber species – SPF or SYP – is used for four major applications in their region, four lumber purchasers testifying on behalf of the respondents at the Commission's original hearing stated that SPF and SYP are both used in each

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[141]See USITC Pub. 3509 at 25-27, incorporated by reference here. Id. at II-8-9, V-2, V-3, and V-5. For example, in his affirmative testimony, Mr. Jarvis of Home Depot stated:

> There is a strong regional component to species preferences. The overwhelming majority of our customers around the country will not buy Southern Yellow Pine studs even if they are less expensive than Spruce because they do not provide the desired result in that application. The exception is in the southern regions where Southern Yellow Pine grows.
>
> Our customers buy many more SPF studs than SYP studs there even though the SYP is cheaper almost day in and day out. We do not sell a single Southern Yellow Pine stud anywhere else in the U.S. What this tells you is that in the South some builders prefer Southern Yellow Pine studs and will not switch. But even in the South, most builders prefer SPF and will not switch to a cheaper species like SYP.
>
> In the West and pockets of the Northeast builders prefer Green Doug Fir. In other regions some builders prefer SPF, some prefer Hem Fir, but most do not switch.

Original Hearing Transcript at 199.

[142]Original Hearing Transcript at 185-190 and 204-209; USITC Pub. 3509 at II-8 and II-9, INV-Z-049 (4/19/02) at II-11 and II-12, and NLBMDA/NAHB's Original Prehearing Brief at Exhs. 2, 3, 4, 6, 8, 9, 11, 13, 14 15, 16, 17, 21, and 23; Petitioners' Original Posthearing Brief at 5-6.

[143]We note that the evidence presented to the Commission, even by representatives of some of the so-called "Big Boxes" retailers, show that regional preferences reflect the local availability of species. See INV-Z-049 (4/19/02) at II-11 and II-12; see also NLBMDA/NAHB's Original Prehearing Brief at Exhs. 2, 3, 4, 6, 8, 9, 11, 13, 14 15, 16, 17, 21, and 23; Petitioners' Original Posthearing Brief at 5-6.

of the four major applications – floor joists, wall/framing, headers, and trusses.[144] Specifically, as shown in Exhibit 2 to this opinion, these home builders and purchasers provided the following break-out by region of the products used for floor joists, wall/framing, headers, and trusses: Florida (Rutenberg): floor joists - SYP, wall/framing - SPF, headers - SYP, trusses - SYP[145]; Texas (Jarvis): floor joists - SYP, wall/framing - SYP, headers - SYP, trusses - SYP;[146] Indiana and Northwest (Hussey): floor joists - SPF, wall/framing - SPF, headers - SPF, trusses - SPF[147]; Massachusetts

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[144]See Original Hearing Transcript at 185-190 and 204-209.

[145]Original Hearing Transcript at 185-190 ("we have a Southern Yellow Pine sill plate . . . . This is a Southern Yellow Pine floor joist . . . this model will show Spruce and SBF [sic] going vertically on the walls. . . .We now have over the window, this will be called a header. We use Southern Yellow Pine for those in short and medium length. We will also use Southern Yellow Pine in forming the concrete foundation, and that wood can be taken from here, the form board, and used up here as a header over the windows. . . . the Southern Yellow Pine trusts [sic] in my market and in the Southeast and many other markets across the country, Southern Yellow Pine is the preferred product. We do not see our producers switching between Fir, Spruce, and Southern Yellow Pine. In other parts of the country there is a preference for other species, but in my market it's Southern Yellow Pine.") and 204 ("MR. RUTENBERG: This was actually done in D.C., an [sic] it was done without my direction. It just happens to be the same as what I would do in Florida with the exception of the header which would make you think that my practice is more widespread. It was done in D.C. without any direction from me. VICE CHAIRMAN OKUN: But other than the header it would be typical, the Southern Yellow Pine truss, the Spruce Pine Framing, the things you described would be typical of – MR. RUTENBERG: Yes, ma'am.").

[146]Original Hearing Transcript at 205 ("MR. JARVIS: Yes, ma'am. Ron Jarvis with the Home Depot. We do have certain pockets in the South where we do sell Southern Yellow Pine studs, but even if you look at Texas and Louisiana area we'll sell non-Southern Yellow pine studs four to one to Southern Yellow Pine even though Southern Yellow Pine is cheaper. VICE CHAIRMAN OKUN: But in Florida you could see this house with, I'm looking now at the wall framing with that says Spruce Pine Fir, that would be Southern Yellow Pine studs in some places? MR. JARVIS: Just in pockets of Texas. In Florida it's almost for us 99 percent of what we sell down there is SPF or another type of U.S. inland studs.").

[147]Original Hearing Transcript at 205-207 ("VICE CHAIRMAN OKUN: Okay. If I could have Mr. Hussey, Indiana, is that right? Liberty Homes are in Indiana? MR. HUSSEY: That's correct.

(Fritz): floor joists - SPF, wall/framing - SPF, headers - SYP, trusses - SYP.[148]

The record contains further evidence of substitutability and interchangeability. For example, a majority of purchasers (36 of 51) responding to the Commission questionnaire reported that U.S. and Canadian softwood lumber can be used in the same general applications, recognizing that performance characteristics and customer preferences place some limitations on interchangeability among species.[149] In addition, the confidential results in the Annual Builders Survey by the National Association of Home Builders Research Center (NAHBRC) provides positive evidence that SPF, SYP, and Douglas fir/hem fir are all used in such same construction applications as lumber joists, light frame exterior walls, roof

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Ed Hussey. VICE CHAIRMAN OKUN: If you were building this home in your region, how would it look different in terms of, give me the main structurals. The trusses would be – MR. HUSSEY: The trusses would be Spruce Pine Fir rather than Southern Yellow Pine and the headers generally also would be Spruce Pine Fir.". . . VICE CHAIRMAN OKUN: Representatives here, is there anyone who builds in the West? MR. HUSSEY: We build in the Northwest, in Oregon. . . .VICE CHAIRMAN OKUN: So in the West what would this structure look like, trusses, floor joist and frames? MR. HUSSEY: Again, our floor trusses, our roof trusses and our framing lumber would all be SPF.")

[148]Original Hearing Transcript at 206 ("MR. FRITZ: That's correct. Mr. Fritz from Greenfield, Massachusetts. Ours would be relatively the same except there would be no Southern Pine joists used in the floor framing for the home. That would be SPF, or as you see there, the manufactured product. The roof trusses in my case are all Southern Yellow Pine. We specify that product. And I do know the largest manufacturer of roof trusses in New England, I sure in Maine and probably in New England is Wood Structures from Bedeford, Maine, and they use exclusive Southern Yellow Pine for trusses.").

[149]USITC Pub. 3509 at II-6, II-8, and Table II-5. In Commission questionnaire responses, 32 of 57 purchasers indicated that they have switched between different species of softwood lumber for use in the same application, citing availability and price as factors in their substitution decisions and citing most frequently substitution between Douglas fir, hem-fir, and SPF. Id. at II-8. Purchasers' questionnaire responses indicated that all eight major species groups are used in residential and commercial construction and in construction of prefabricated components, such as joists and trusses. Id. at Table II-5; Petitioners' Original Prehearing Brief, Vol. II at Exhibit 85.

trusses, and roof rafters.[150]

When all the evidence provided by purchasers and home builders is considered, there is substantial evidence that subject imports and domestic species of softwood lumber are used in the same applications and that regional preferences merely reflect availability of species.[151] The evidence clearly demonstrates that virtually all Canadian lumber in the United States is employed for the same end uses for which domestic products compete and that prices of different species have an effect on other species' prices.[152] Canadian SPF and U.S. SYP are used for many of the same applications, and therefore these products compete. We therefore find, based on the information in the record, including the evidence provided by purchasers and home builders, that Canadian softwood lumber and the domestic like product generally are interchangeable.

Conclusion. In sum, during the period of investigation, the substantial and increasing volume of subject imports had *some* adverse effects on prices for the domestic product. Moreover, as discussed above, there is evidence that the SLA had an effect on prices in the U.S. market.[153] As discussed below, the condition of the domestic industry, and in particular its financial performance, deteriorated

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[150]NLBMDA/NAHB's Original Posthearing Brief at Exhibit 3 at 5, 10, and 15.

[151]In prior investigations, the Commission also has recognized that Canadian softwood lumber and the domestic like product generally are interchangeable, notwithstanding differences in species and regional preferences. See, e.g., Softwood Lumber III, USITC Pub. 2530 at 28-29, and 34, aff'd in part, In the Matter of Softwood Lumber from Canada, USA-92-1904-02, Decision of the Panel Reviewing the Final Determination of the U.S. International Trade Commission, at 25-28 (July 26, 1993)

[152]See USITC Pub. 3509 at 27 and n.166.

[153]See Section III.A.1, "The SLA had a Restraining Effect on Subject Imports," supra.

over the period of investigation, largely a result of the substantial decline in prices. The declines in the industry's performance, particularly its financial performance, made it vulnerable to future injury. Thus, the price trend evidence, particularly the fact that prices reached their lowest levels as imports increased significantly after expiration of the SLA, supports our conclusion that subject imports are entering at prices that are likely to have a significant depressing or suppressing effect on domestic prices.

C. Inventories of Product Being Investigated

The statute and Agreements indicate that in making a determination regarding the existence of a threat of material injury the Commission shall consider inventories of the product being investigated.[154] There is no other guidance provided regarding the inventory factor. In fact, unlike other threat factors (such as capacity), the consideration of this factor is not placed in any context, e.g., relative to likely increases in imports. Further, while the Commission is required to consider all relevant statutory factors "as a whole in making a determination"[155] it is not required to make findings on each factor considered.[156]

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[154]19 U.S.C. § 1677(7)(F)(i)(V) ("the Commission shall consider, among other relevant economic factors – . . . .(V) inventories of subject merchandise."). See also Article 3.7(iv) of the Antidumping Agreement and Article 15.7(v) of the SCM Agreement.

[155]19 U.S.C. § 1677(7)(F)(ii). Nippon Steel Corp., 19 CIT at 468-469 (1995) ("Joint respondents mistakenly construe the statute to require the Commission to delineate its reasoning under each factor in § 1677(7)(C)(iii). The statute requires only that the Commission explain its analysis with respect to elements in § 1677(7)(B). '[T]he Commission may not need or be able to consider each listed factor[,]' and only need provide an adequate explanation of the 'core factors directed by the statute.' *See Trent Tube Div. v. Avesta Sandvik Tube AB*, 975 F.2d 807, 814 (Fed.Cir.1992).").

[156]Specifically, Congress has stated that:

> [n]either the presence nor the absence of any [particular] factor listed . . . can necessarily give decisive guidance with respect to whether an industry is materially injured, and the significance

Inventories of softwood lumber generally are not substantial in the softwood lumber industry, and thus we have not relied on the level of inventories in determining the existence of a threat of material injury to the domestic industry.[157] We note, however, that Canadian producers' inventories as a share of production increased, albeit slightly, and were consistently higher than that reported by U.S. producers during the period of investigation.[158] Canadian producers' inventories consistently were about 10 percent of their production compared to 6.4-7.0 percent for their U.S. counterparts.

D. Impact of the Subject Imports on the Domestic Industry and

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to be assigned to a particular factor is for the ITC to decide.

S. Rep. No. 96-249, at 87-88 (1979); U.S. Steel Group v. United States, 96 F.3d 1352,1362 (Fed. Cir. 1996); Iwatsu Elec. v. United States, 758 F. Supp. 1506,1510-1511 (CIT 1991); Ranchers-Cattemen Action Legal Foundation v. United States, 74 F. Supp.2d 1353,1375-76 (CIT 1999). The Commission's reviewing courts have repeatedly affirmed that "[t]he Commission has the discretion to make reasonable interpretations of the evidence and to determine the overall significance of any particular factor in its analysis." Association de Productores de Salmon Y Trucha de Chile AG v. USITC, 180 F. Supp. 2d 1360, 1370 (CIT 2002) "Chilean Salmon"), quoting Goss Graphics System v. United States, 33 F. Supp. 2d 1082, 1100 (CIT 1998), aff'd, 216 F.3d 1357 (Fed. Cir. 2000).

[157]U.S. importers' inventories as a share of Canadian imports ranged from 1.1 percent in 1999 to 1.7 percent in 2001. USITC Pub. 3509 at Table VII-10.

[158]USITC Pub. 3509 at Tables III-16 and VII-2. Canadian producers' reported inventories as a share of production were 9.6 percent in 1999, 10.6 percent in 2000, and 10.2 percent in 2001, compared to 6.4 percent, 7.0 percent, and 6.6 percent in the same years as reported by U.S. producers. Id. This comparison provides context for the Canadian softwood lumber inventories data. Moreover, the fact that Canadian inventory levels are consistently higher shows that Canadian producers, compared to their U.S. counterparts, have a greater ability to supply product immediately from inventory to the U.S. softwood lumber market. The evidence in this Section 129 proceeding shows similar levels for U.S. producers' reported inventories as a share of production, 7.1 percent in first quarter 2002 compared with 7.6 percent and 6.5 percent in first quarters 2001 and 2000, respectively. Section 129 Report at Table III-16B. The reported inventories as a share of production reported in the limited responses for Canadian producers was 7.5 percent in first quarter 2002 compared with 8.0 percent and 7.2 percent in first quarters 2001 and 2000, respectively. Id. at Table VII-2B.

Vulnerability to Threat of Injury

In analyzing the vulnerability of the domestic industry to the threat of material injury, we first evaluate the impact of the subject imports on the domestic industry during the period of investigation.[159] Based on the evidence in the record, we conclude that the deterioration in the performance of the domestic industry, particularly its financial performance, makes it vulnerable to injury.

We consider all relevant economic factors that bear on the state of the industry in the United States.[160] [161] These factors include output, sales, inventories, capacity utilization, market share, employment, wages, productivity, profits, cash flow, return on investment, ability to raise capital, and research and development. No single factor is dispositive and all relevant factors are considered

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[159]On consideration of the impact of subject imports in the present injury analysis, Article 3.4 of the Antidumping Agreement states:

> The examination of the impact of the dumped [subsidized] imports on the domestic industry concerned shall include an examination of all relevant economic factors and indices having a bearing on the state of the industry, including actual and potential decline in sales, profits, output, market share, productivity, return on investments, or utilization of capacity; factors affecting domestic prices; the magnitude of the margin of dumping; actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital or investments. This list is not exhaustive, nor can one or several of these factors necessarily give decisive guidance.

A similar provision in Article 15.4 of the SCM Agreement applies to subsidized imports.

[160]19 U.S.C. § 1677(7)(C)(iii). See also SAA at 851 and 885 ("In material injury determinations, the Commission considers, in addition to imports, other factors that may be contributing to overall injury. While these factors, in some cases, may account for the injury to the domestic industry, they also may demonstrate that an industry is facing difficulties from a variety of sources and is vulnerable to dumped or subsidized imports." Id. at 885.).

[161]The evaluation of all relevant factors does not necessarily require an explicit separate evaluation of a factor if the analysis of the factor is implicit in the analyses of other factors. *EC-Pipe*, AB Report, paras. 160-161.

"within the context of the business cycle and conditions of competition that are distinctive to the affected industry."[162] [163] [164]

The record indicates deterioration in the domestic industry's overall condition, and in particular in its financial performance, over the period of investigation.[165] Many indicators of the industry's performance declined significantly from 1999 to 2000, and then declined slightly or stabilized with relatively weak performance from 2000 to 2001. After expiration of the SLA, subject import volumes and market share increased significantly and prices declined substantially to levels as low as those in

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[162]19 U.S.C. § 1677(7)(C)(iii). See also SAA at 851, 885; Live Cattle from Canada and Mexico, Inv. Nos. 701-TA-386 and 731-TA-812-813 (Preliminary), USITC Pub. 3155 (Feb. 1999) at 25, n.148.

[163]The Panel in *Mexico-HFCS* specifically recognized that the Article 3.4 factors all relate to an evaluation of the general condition and operations of the domestic industry and that their consideration is "necessary in order to establish a background against which the investigating authority can evaluate whether imminent further dumped imports will affect the industry's condition in such a manner that material injury would occur in the absence of protective action, as required by Article 3.7." *Mexico-HFCS*, Panel Report, para. 7.132. See also *Mexico-HFCS*, Panel Report, para. 7.126 ("it is precisely this latter question – whether the 'consequent impact' of continued dumped imports is likely to be material injury to the domestic industry – which must be answered in a threat of material injury analysis.").

[164]The statute and the Agreements instruct the Commission to consider the magnitude of the dumping margin in an antidumping proceeding as part of its consideration of the impact of imports. See 19 U.S.C. § 1677(7)(C)(iii)(V); Article 3.4 of the Antidumping Agreement and Article 15.4 of the SCM Agreement.. In its amendments to its affirmative final antidumping determination, Commerce found a 12.44 percent dumping margin for Abitibi, a 5.96 percent dumping margin for Canfor, a 7.71 percent dumping margin for Slocan, a 10.21 percent dumping margin for Tembec, a 2.18 percent dumping margin for West Fraser, a 12.39 percent dumping margin for Weyerhaeuser, and a 8.43 percent dumping margin for all others. Letter to Chairman Koplan from Commerce Deputy Assistant Secretary Bernard T. Carreau regarding Correction of Ministerial Errors in the final determination of sales at less than fair value and attached memorandum at 18, dated April 25, 2002.

[165]USITC Pub. 3509 at Tables VI-1 and C-1; Section 129 Report at Tables VI-1, VI-1B, C-1, and C-1B.

2000, when the substantial declines in prices had resulted in significant deterioration in the condition of the domestic industry. Over the period of investigation demand remained relatively stable. Because we find that excess supply from both subject imports and domestic production led to declines in price and deterioration in the domestic industry's condition in 2000, we do not conclude that subject imports had a significant impact resulting in present material injury to the domestic industry.[166] However, in light of this deterioration, we find that the domestic industry producing softwood lumber is vulnerable to injury from the significant increases in subject imports at depressed prices.

Public data indicate that domestic production of softwood lumber steadily declined from a peak of 36,606 mmbf in 1999 to 34,996 mmbf in 2001, a decline of 4.4 percent.[167] The revised public U.S. production data collected in this Section 129 proceeding show a similar trend, with a larger decline of 5.5 percent from 36,606 mmbf in 1999 to 34,579 mmbf in 2001.[168] While domestic production in the

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[166]Petitioners argued that the leveling off of declines in industry performance indicators in 2001 and the mid-2001 increases in prices were the result of the pendency of these investigations and expiration of the restraining effect of the SLA. In particular, Petitioners allege that "the three major price increases in 2001 . . . were all related to the present investigation." Petitioners' Original Posthearing Brief at Appendix B-16 - B-22. The statute directs us to consider any change in volume, price effects and impact of the subject imports after the filing of the petition. 19 U.S.C. § 1677(7)(I). The record indicates that prices did increase in the second quarter of 2001, coincident with the filing of the petition, and this price increase abated some of the domestic industry's declining performance indicators. USITC Pub. 3509 at V-11. For example, the declines in such indicators as operating income and net income displayed during 1999 and 2000 leveled off in 2001. Thus, the record evidence is consistent with such effects related to the pendency of the investigation and expiration of the SLA.

[167]USITC Pub. 3509 at Tables III-6 and C-1 (public data). On the other hand, domestic producers' questionnaire responses (covering approximately 63 percent of domestic production) indicated an increase of 1.9 percent in production from 21,758 mmbf in 1999 to 22,163 mmbf in 2001. Id. at Tables III-7 and C-1.

[168]INV-BB-138 at Tables III-6 and IV-2.

first quarter of 2002 was 4.9 percent higher than the first quarter of 2001, apparent U.S. consumption was 9.7 percent higher; moreover, domestic production in the first quarter of 2002 was 9.3 percent lower than in the first quarter of 2000.[169] Domestic capacity utilization peaked in 1999 at 92.0 percent, and was 89.7 percent in 2000 and 87.4 percent in 2001;[170] based on revised U.S. production data, domestic capacity utilization was 86.4 percent in 2001.[171] Domestic production capacity was fairly level during the period of investigation, following a small but steady increase between 1995 and 1999 (when apparent consumption increased).[172] Domestic producers' U.S. shipments by quantity declined by 3.2 percent and by value fell by 25.6 percent from 1999 to 2001.[173] Between 1999 and 2001, the

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[169]Section 129 Report at Tables III-6B and C-1B. Domestic producers' questionnaire responses in the Section 129 proceeding (covering approximately 60 percent of the domestic production) reported production in the first quarter of 2002 at 8.2 percent higher than first quarter 2001 and 1.4 percent higher than first quarter 2000. Id. at Tables III-7B and C-1B.

[170]USITC Pub. 3509 at Tables III-6 and C-1 (public data). Domestic producers' questionnaire responses reported similar declines in capacity utilization rates: 92.8 percent in 1999, 88.5 percent in 2000, and 86.1 percent in 2001. Id. at Tables III-7 and C-1.

[171]INV-BB-138 at Tables III-6 and IV-2. Domestic capacity utilization rates collected in this Section 129 proceeding for first quarter 2000, 2001, and 2002 were 96.1 percent, 83.2 percent and 87.5 percent, respectively. Section 129 Report at Tables III-6B (public data) and C-1B. Domestic producers' questionnaire responses reported similar trends in capacity utilization rates: 84.1 percent in first quarter 2002, 78.3 percent in first quarter 2001, and 88.4 percent in first quarter 2000. Id. at Tables III-7B and C-1B.

[172]USITC Pub. 3509 at Table III-6 and C-1 (public data). Domestic producers' questionnaire responses, with lower coverage than the public data, indicated increases in capacity from 22,847 mmbf in 1999 to 24,709 mmbf in 2001. USITC Pub. 3509 at Table III-7 and C-1.

[173]USITC Pub. 3509 at Table C-1 (public data). Domestic producers' U.S. shipments steadily decreased from 35,175 mmbf in 1999 to 34,034 mmbf in 2001, a decline of 3.2 percent. Domestic producers' U.S. shipments by value decreased from $13.9 billion in 1999 to $10.4 billion in 2001, a decline of 25.6 percent. Id. Questionnaire responses, with lower coverage than the public data, show domestic producers' U.S. shipments increasing each year of the period of investigation from 21,504

number of domestic mills decreased from 795 to 779, down from 816 in 1995.[174]

Domestic producers' share of apparent domestic consumption decreased from 65.0 percent in 1999 to 64.4 percent in 2000 and to 63.1 percent in 2001.[175] The data collected in this Section 129 proceeding show a similar trend, with domestic producers accounting for a 62.3 percent market share in the first quarter of 2002, down from 64.6 percent and 66.2 percent in the first quarters of 2001 and 2000, respectively.[176] The end-of-period inventories reported by the domestic industry fluctuated between years, but increased overall by 6.2 percent from 1999 to 2001.[177] The domestic industry's number of production workers, hours worked, and wages paid declined from 1999 to 2001, while productivity and hourly wages improved, and unit labor costs declined during the period of

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mmbf in 1999 to 22,301 mmbf in 2001, and shipments by value falling from $8.9 billion in 1999 to $7.8 billion in 2001, a decline of 13.3 percent. USITC Pub. 3509 at Tables III-13 and C-1. While domestic producers' U.S. shipments were 5.8 percent higher by quantity and 20.2 percent higher by value in the first quarter of 2002 compared with the first quarter of 2001, they still were 8.1 percent lower by quantity and 24.1 percent lower by value compared with the first quarter of 2000. Section 129 Report at Table C-1B.

[174]USITC Pub. 3509 at Table III-2. The parties disagreed about the extent to which the decline in the number of U.S. mills was attributable to mergers, permanent closure of older facilities, installation of new equipment, maintenance, or competition with subject imports in the U.S. market, but the record reflects that at least some of the mill closures were due to conditions in the U.S. market. USITC Pub. 3509 at Tables II-3 and Appendix G; Petitioners' Original Prehearing Brief at 61-62, 87-89, and Exh. 38; Petitioners' Original Posthearing Brief at Appendix A-1 - A-5 and Appendix H, Exh. 3; CLTA's Original Posthearing Brief at Vol. 2, Tab D, Atttachment 1, and Vol. 3.

[175]USITC Pub. 3509 at Table IV-2.

[176]Section 129 Report at Table C-1B.

[177]USITC Pub. 3509 at Tables III-16 and C-1. The end-of-period inventories reported by the domestic industry rose from 1,382 mmbf in 1999 to 1,467 mmbf in 2001. Inventories as a share of U.S. shipments increased from 6.4 percent in 1999 to 7.1 percent in 2000, and declined to 6.6 percent in 2001. Id.

investigation.[178]

The domestic industry's financial performance declined during the period of investigation, with a dramatic drop from 1999 to 2000 as excess total supply contributed to price declines.[179] The domestic industry's unit net sales value decreased from 1999 to 2001 with the largest decrease occurring from 1999 to 2000.[180] While unit cost of goods sold declined throughout the period of investigation,[181] unit net sales value fell by a greater amount, and the ratio of operating income to net sales fell from 14.3 percent in 1999 to 1.8 percent in 2000, and 1.3 percent in 2001.[182] Total operating income declined from $1.26 billion in 1999 to $93 million in 2001, and over $1 billion of that decline occurred in one year, from 1999 to 2000.[183] Net income as a share of net sales followed a similar trend, decreasing from 13.7 percent in 1999 to 0.8 percent in 2000 and 0.1 percent in 2001.[184] Total net

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[178]USITC Pub. 3509 at Table III-19 and C-1.

[179]While we have considered the financial performance based on the standard Commission practice for examining full production costs, *i.e.*, transfers from related firms at cost, we note that our finding regarding the vulnerability of the domestic industry would not have changed on the basis of consideration of the data with transfer costs at market value. See USITC Pub. 3509 at Tables VI-1 and F-1.

[180]USITC Pub. 3509 at Tables VI-1 and C-1. The domestic industry's unit net sales value decreased from $416.48 in 1999 to $362.05 in 2000, and decreased again to $344.46 in 2001. Id.

[181]Unit cost of goods sold decreased from $342.39 in 1999 to $339.79 in 2000 and decreased again to $324.69 in 2001. USITC Pub. 3509 at Tables VI-I and C-1.

[182]USITC Pub. 3509 at Tables VI-1 and C-1.

[183]USITC Pub. 3509 at Tables VI-1 and C-1.

[184]USITC Pub. 3509 at Table VI-1.

income declined from $1.21 billion in 1999 to $8 million in 2001.[185] The domestic industry's capital expenditures fluctuated between years but decreased from $327 million in 1999 to $253 million in 2001.[186]

We recognize that the data collected in this Section 129 proceeding show some improvements in the domestic industry's financial performance in the first quarter of 2002 compared with the first quarter of 2001,[187] but the financial performance was less favorable when compared with the first quarter of 2000.[188] Financial data for a single quarter, moreover, is not necessarily an accurate indicator of the industry's performance for the entire year. For example, for the first quarter of 2000, the domestic industry reported an operating income margin of 9.2 percent, which became a less favorable 1.8 percent when the industry's performance for full year 2000 was reported.[189] Apparent U.S. consumption increased in Jan.-March 2002,[190] which resulted in increases in prices that had a

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[185]USITC Pub. 3509 at Tables VI-1 and C-1.

[186]USITC Pub. 3509 at Table VI-11.

[187]Confidential evidence in the record suggests that the improvement in the financial performance for the first quarter of 2002 may in part be attributed to methods of cost accounting, and may not signal a sustainable improvement. See Coalition's Posthearing Brief at Appendix C-24 and 25.

[188]Section 129 Report at Table VI-1B.

[189]Compare Section 129 Report at Table VI-1 with Table VI-1B. Similarly, the domestic industry reported a net income margin of 8.0 percent for the first quarter of 2000, which became a less favorable 0.8 percent when the industry's performance for full year 2000 was reported. Id. We also note that the domestic producers responding to the questionnaire in this Section 129 proceeding reported more favorable financial performance than the larger reporting group responding to the Commission's questionnaire in the original investigation. Compare Id. at Table VI-1 with Table D-1.

[190]While apparent U.S. consumption was 9.7 percent higher in the first quarter of 2002 compared with the first quarter of 2001, it was 2.3 percent lower compared with the first quarter of

favorable effect on the performance of the domestic industry. However, this increase in consumption of softwood lumber was not likely to be sustained, as evident by the sharp decline in U.S. housing starts in March 2002 from the record high reported for February 2002.[191] Thus, the evidence, considered in its entirety, shows a domestic industry whose performance, particularly its financial performance, has deteriorated and remained weak during the period of investigation.

For the reasons discussed above, we find that the domestic industry is vulnerable to injury. As discussed below, this finding, combined with our prior findings regarding likely substantial increases in the volume of subject imports and their likely price effects, lead us to determine that the domestic softwood lumber industry is threatened with material injury by reason of subject imports of softwood lumber from Canada that are subsidized and sold at less than fair value.[192]

2000. Section 129 Report at Table C-1B.

[191]Section 129 Report at Tables 1 and 2.

[192]19 U.S.C. §§ 1671d(b) and 1673d(b).

IV. The Causal Relationship

The statute and Agreements require that the Commission determine that the domestic industry is materially injured or threatened with material injury by reason of subject imports.[193] [194] In making this determination, the Commission examines "any known factors" other than the dumped and subsidized imports that might be injuring the domestic industry to ensure that it does not improperly attribute injury from other causal factors to the subject imports.[195] [196] The Commission is not required to use any

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[193]See 19 U.S.C. §§ 1671d(b)(1) and 1673d(b)(1).

[194]Under Article 3.5 of the Antidumping Agreement and Article 15.5 of the SCM Agreement, the Commission first must demonstrate a causal relationship between the dumped and subsidized imports and the injury or threat of injury to the domestic industry by reason of subject imports. Article 3.5 of the Antidumping Agreement states in relevant part:

> It must be demonstrated that the dumped [subsidized] imports are, through the effects of dumping, as set forth in paragraphs 2 and 4, causing injury within the meaning of this Agreement. The demonstration of a causal relationship between the dumped [subsidized] imports and injury to the domestic industry shall be based on an examination of all relevant evidence before the authorities. . . .

A similar provision in Article 15.5 of the SCM Agreement applies to subsidized imports.

[195]Article 3.5 of the Antidumping Agreement states in relevant part:

> The authorities shall also examine any known factors other than the dumped imports, which at the same time are injuring the domestic industry, and the injuries caused by these other factors must not be attributed to the dumped imports.

The same provision in Article 15.5 of the SCM Agreement applies to subsidized imports. See *European Communities - Antidumping Duties on Malleable Cast Iron Tube or Pipe Fittings from Brazil*, AB Report, WT/DS219/AB/R, para. 188 ("*EC-Pipe*").

[196]Similarly, Congress has directed, as affirmed by the Federal Circuit, that the Commission in making this determination "need not isolate the injury caused by other factors from injury caused by unfair imports" rather it "must examine other factors to ensure that it is not attributing injury from other sources to the subject imports." SAA at 851-852. The Federal Circuit has affirmed in a threat analysis

particular methodology in examining the causal relationship between dumped or subsidized imports and injury, provided that it "does not attribute the injuries of other causal factors to dumped imports."[197] Such an analysis, however, only is warranted if an alleged other factor is in fact having, or threatening to have, a causal impact. When upon examination, if the factor is found not to have, or threaten to have, injurious effects on the domestic industry, such a factor is not an "other known factor" and no further consideration or examination of the factor is called for.[198] [199] On the other hand, if an alleged other

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that: "[T]he Commission need not isolate the injury caused by other factors from injury caused by unfair imports. . . . Rather, the Commission must examine other factors to ensure that it is not attributing injury from other sources to the subject imports." Taiwan Semiconductor Industry Ass'n v. USITC, 266 F.3d 1339, 1345 (Fed. Cir. 2001)(emphasis in original); see also Chilean Salmon, 180 F. Supp. 2d at 1375 (CIT 2002) (CIT affirmed in the context of a threat analysis that "[t]he Commission is not required to isolate the effects of subject imports from other factors contributing to injury" or make "bright line distinctions" between the effects of subject imports and other causes. Id.).

[197]*EC-Pipe*, AB Report, para. 189, *citing to United States - Antidumping Measures on Certain Hot-Rolled Steel Products from Japan*, AB Report, WT/DS184/AB/R, para. 224, states:

> We underscored in *US-Hot-Rolled Steel*, however, that the *Anti-Dumping Agreement* does not prescribe the *methodology* by which an investigating authority must avoid attributing the injuries of other causal factors to dumped imports. . . . Thus, provided that an investigating authority does not attribute the injuries of other causal factors to dumped imports, it is free to choose the methodology it will use in examining the "causal relationship" between dumped imports and injury.

See also *US-Hot-Rolled Steel*, AB Report, para. 224 ("[W]hat the Agreement requires is simply that the obligations in Article 3.5 be respected when a determination of injury is made.").

[198]*EC-Pipe*, AB Report, paras. 178-179:

> . . . "the European Communities did examine these factors, and, in light of its findings, did not perceive of them as 'known' causal factors." . . . once the cost of production difference was found by the European Commission to be "minimal", the factor claimed by Brazil to be "injuring the domestic industry" had effectively been found *not* to exist. As such, there was no "factor" for the European Commission to "examine" further pursuant to Article 3.5.

factor is found to be a known factor (i.e., more then "tangential or minor cause"), our analysis would consider such causal or known factor to ensure that we are not attributing the injury from other sources to subject imports.[200] Such causal factor, while more than a "tangential or minor cause," still may not independently fully account for any injury or threat of injury.

A. Likely Substantial Increases in Subject Imports at Depressed Prices Threaten to Injure the Domestic Industry in the Imminent Future

As discussed above, the evidence demonstrates that the domestic industry is vulnerable to injury in light of declines in its performance over the period of investigation, particularly its financial performance.[201]

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179. We therefore uphold the Panel's finding, in paragraph 7.362 of the Panel Report, that the difference in cost of production between the Brazilian exporter and the European Communities industry was not a "known factor[] other than the dumped imports which at the same time [was] injuring the domestic industry."

[199]See Gerald Metals, Inc. v. United States, 132 F.3d 716, 722 (Fed. Cir. 1997) (the statute "does not suggest that an importer of LTFV goods can escape countervailing duties by finding some tangential or minor cause unrelated to the LTFV goods that contributed to the harmful effects on domestic market prices."); Taiwan Semiconductor, 266 F.3d at 1345 (Fed. Cir. 2001) ("to ensure that the subject imports are causing the injury, not simply contributing to the injury in a tangential or minimal way.").

[200]See Nippon Steel Corp, 345 F.3d at 1381 (Fed. Cir. 2003) ("the 'dumping' need not be the sole or principal cause of injury. As long as its effects [dumped imports] are not merely incidental, tangential or trivial, the foreign product sold at less than fair value meets the causation requirement."); Gerald Metals, 132 F.3d at 722 (Fed. Cir. 1997).

[201]In brief, the evidence shows that many performance indicators declined significantly from 1999 to 2000, and then declined slightly or stabilized with relative weak performance from 2000 to 2001. With respect to the domestic industry's financial performance in particular, the evidence also generally shows declines during the period of investigation, with a dramatic drop from 1999 to 2000, as prices declined. We recognize that the data collected in this Section 129 proceeding show some improvements in the domestic industry's financial performance in the first quarter of 2002 compared with the first quarter of 2001, but the financial performance was less favorable when compared with the

We consider the consequent impact of the likely substantial increases in imports and likely price effects on the domestic industry. The evidence demonstrates that subject imports, already at significant and increasing levels even with the restraining effect of the SLA in place, and with significant increases in volume after expiration of the SLA, will continue to enter the U.S. market at significant levels and are projected to further increase substantially. Prices were weak toward the end of the period of investigation, with prices in the third and fourth quarters of 2001 again at levels as low as they were in 2000. While prices increased in the first quarter of 2002, as consumption temporarily increased, they were still at the low levels reported in 2000 when subject imports were impacting the financial performance of the domestic industry. The likely substantial increases in subject imports will result in excess supply in the U.S. market, putting further downward pressure on prices. Excess supply generally caused the substantial price declines in 2000 that led to the deterioration in the condition of the domestic industry. U.S. producers have brought their production in line with consumption. Canadian producers, however, have excess capacity, and project increased production; the United States is the likely market for this excess production which will result in excess supply in the U.S. market. Thus, we find that subject imports are likely to increase substantially and are entering at prices, particularly at the low levels seen at the end of the period of investigation, that are likely to have a significant depressing or suppressing effect on domestic prices, are likely to increase demand for further imports, and thereby are likely to adversely impact the U.S. industry in the imminent future,

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first quarter of 2000. Financial data for a single quarter, moreover, is not necessarily an accurate indicator of the industry's performance for the entire year. Thus, the evidence, considered in its entirety, shows a domestic industry whose performance, particularly its financial performance, has deteriorated and remained weak during the period of investigation.

unless protective action is taken.

B. Alleged Other "Known" Factors

Canadian parties to these investigations alleged that a number of potential other known factors were threatening injury to the domestic industry. We consider whether any of the following alleged potential other factors is an other known or causal factor in the context of our injury and/or threat of injury analysis: (1) the excess supply from the domestic industry itself; (2) third-country or non-subject imports; (3) increases in importation to meet demand in the U.S. market; (4) integration in the North American market; (5) the growth in importance of engineered wood products ('EWPs'); and (6) constraints on domestic production/insufficient timber supplies in the United States. We discussed these factors as alleged other known factors as the Panel characterized them in its Report. We note, however, that some of these factors (specifically increases in importation to meet demand and market integration) could also be viewed as factors potentially lessening the effect of subject imports rather than as alternative causes of injury.

We have considered the evidence in these investigations regarding all of these potential other factors allegedly causing injury to the domestic industry. Based on our analysis, as discussed below, we find that these alleged other factors are not known or causal factors in the context of our threat analysis; thus, we have no basis to undertake a further examination to ensure that injury from them is not attributed to subject imports in the context of our threat determination.

Excess supply from the domestic industry. While we find in our present material injury analysis that excess supply from both subject imports and the domestic industry were contributing factors to price declines in 2000 that adversely affected the performance of the domestic industry, we

find that the evidence demonstrates that domestic supply would not be a causal factor in the imminent future, as it had been in the 1999-2000 period. We base this finding on evidence regarding domestic production and capacity as well as evidence indicating that the domestic producers have brought their production in line with consumption. Canadian producers, however, have excess capacity, and project increases in production; the likely market for this excess production is the U.S. market. Moreover, the evidence demonstrates that Canadian exports continue to oversupply the U.S. market.

We have relied on a variety of factors in reaching our conclusion that the U.S. industry had restrained its overproduction. Domestic production capacity was fairly level during the period of investigation, following a small but steady increase between 1995 and 1999, as apparent consumption increased.[202] Public data indicate that domestic production of softwood lumber steadily declined from a peak of 36,606 mmbf in 1999 to 34,996 mmbf in 2001, a decline of 4.4 percent.[203] The revised U.S. production data collected in this Section 129 proceeding show a similar trend, with a larger decline of 5.5 percent from 36,606 mmbf in 1999 to 34,579 mmbf in 2001.[204] While domestic production in the first quarter of 2002 was 4.9 percent higher than the first quarter of 2001, apparent

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[202]USITC Pub. 3509 at Table III-6 and C-1 (public data). Public data show domestic producers' production capacity at 39,800 mmbf in 1999, 40,100 mmbf in 2000, and 40,040 mmbf in 2001. Id. Domestic producers' questionnaire responses, with lower coverage than the public data, reported production capacity of 22,847 mmbf in 1999, 24,233 mmbf in 2000, and 24,709 mmbf in 2001. Id. at Table III-7 and C-1. Apparent U.S. consumption increased by 13.5 percent from 1995 to 1999. Id. at Table IV-2.

[203]USITC Pub. 3509 at Tables III-6 and C-1 (public data). On the other hand, domestic producers' questionnaire responses (covering approximately 63 percent of domestic production) indicated an increase of 1.9 percent in production from 21,758 mmbf in 1999 to 22,163 mmbf in 2001. Id. at Tables III-7 and C-1.

[204]INV-BB-138 at Tables III-6 and IV-2.

U.S. consumption was 9.7 percent higher; moreover, domestic production in the first quarter of 2002 was 9.3 percent lower than in the first quarter of 2000.[205] Domestic capacity utilization was 87.4 percent in 2001 and, with the exception of a peak in 1999 at 92 percent, had consistently held this level from 1995-2001;[206] based on revised U.S. production data, domestic capacity utilization was 86.4 percent in 2001.[207]

In contrast, Canadian capacity utilization had declined in 2001 to 83.7 percent, a rate substantially lower than that reported for any other year in the 1995-2001 period.[208] Thus, in 2001, excess Canadian capacity had increased to 5,343 mmbf, which was equivalent to 10 percent of U.S.

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[205]Section 129 Report at Tables III-6B and C-1B. Domestic producers' questionnaire responses in the Section 129 proceeding (covering approximately 60 percent of the domestic production) reported production in the first quarter of 2002 at 8.2 percent higher than first quarter 2001 and 1.4 percent higher than first quarter 2000. Id. at Tables III-7B and C-1B.

[206]USITC Pub. 3509 at Tables III-6 and C-1 (public data). Domestic capacity utilization, based on public data, was 86.1 percent in 1995, 87.6 percent in 1996, 89.9 percent in 1997, 88.5 percent in 1998, 92.0 percent in 1999, 89.7 percent in 2000 and 87.4 percent in 2001. Id. Domestic producers' questionnaire responses reported similar capacity utilization rates: 92.8 percent in 1999, 88.5 percent in 2000, and 86.1 percent in 2001. Id. at Tables III-7 and C-1.

[207]INV-BB-138 at Tables III-6 and IV-2. Public data for domestic capacity utilization collected in this Section 129 proceeding for first quarter 2000, 2001, and 2002 were 96.1 percent, 83.2 percent and 87.5 percent, respectively. Section 129 Report at Tables III-6B and C-1B. Domestic producers' questionnaire responses reported similar trends in capacity utilization rates: 84.1 percent in first quarter 2002, 78.3 percent in first quarter 2001, and 88.4 percent in first quarter 2000. Id. at Tables III-7B and C-1B.

[208]USITC Pub. 3509 at Tables VII-1 (public data). Canadian capacity utilization, based on public data, was 87.8 percent in 1995, 87.7 percent in 1996, 87.4 percent in 1997, 87.3 percent in 1998, 90.5 percent in 1999, 88.9 percent in 2000 and 83.7 percent in 2001. Id. Canadian producers' questionnaire responses reported similar capacity utilization rates: 90.3 percent in 1999, 88.8 percent in 2000, 84.4 percent in 2001 and projections of 88.5 percent in 2002, and 90.4 percent in 2003. Id. at Table VII-2.

apparent consumption.[209] Moreover, in spite of this decline in capacity utilization rates from 90 percent in 1999 to about 84 percent in 2001, Canadian producers projected slight increases in capacity, increases in production of 8.9 percent from 2001 to 2003,[210] and a return of capacity utilization to 90.4 percent in 2003.[211] [212] Thus, Canadian producers expected to further increase their ability to supply the U.S. softwood lumber market. These increases were projected at the same time that demand in the U.S. market was forecast to remain relatively unchanged or increase only slightly as the economy improved.

We recognize that while production data for the 2000-2001 period (public data) show that both Canadian and U.S. production declined by similar quantities,[213] the evidence also demonstrates that Canadian exports to the U.S. market increased for this period. Moreover, Canadian producers

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[209]USITC Pub. 3509 at Tables VII-1 and C-1.

[210]Canadian producers projected production increases from 21,770 mmbf in 2001 to 23,698 mmbf in 2003. USITC Pub. 3509 at Table VII-2.

[211]USITC Pub. 3509 at Table VII-2.

[212]The revised quarterly data show first quarter 2002 at a lower capacity utilization rate (90 percent) compared with first quarter 2001 (93.1 percent) and first quarter 2000 (97.9 percent). Section 129 Report at Table VII-1B (129). While only accounting for 20 percent of Canadian production, we note that questionnaire responses also show capacity utilization lower at 86.6 percent in first quarter 2002 compared with about 96 percent in both first quarter 2001 and 2000. Id. at Table VII-2B.

[213]Section 129 Report at Tables VII-1 and C-1; INV-BB-138 at Table III-6. Based on revised Canadian production data, Canadian production declined by 1,347 mmbf, or by 4.2 percent, from 2000 to 2001; Canadian production was only 1.2 percent lower in 2001 compared with 1999. Section 129 Report at Tables VII-1. Based on revised U.S. production data, U.S. production declined by 1,386 mmbf, or by 3.9 percent from 2000 to 2001; U.S. production was 5.5 percent lower in 2001 compared with 1999. INV-BB-138 at Table III-6.

projected increases in production of 8.9 percent from 2001 to 2003.[214] The first quarter data provide further confirmation that Canadian producers had increasing excess capacity to use to increase exports to the U.S. market. When Canadian consumption declined by 23 percent in the first quarter of 2002 compared with the first quarter of 2001, Canadian producers apparently made some adjustments to production as Canadian production reportedly was 2.6 percent lower, but primarily shifted sales to the U.S. market since subject imports were 14.6 percent higher for the same comparable periods.[215]

Thus, Canadian producers expected to further increase their ability to supply the U.S. softwood lumber market. In addition to the evidence regarding production and exports, evidence from industry analysts also indicated that U.S. production had been curbed at the end of the period of investigation while Canadian imports continued to oversupply the U.S. market.[216]

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[214]USITC Pub. 3509 at Table VII-2.

[215]Section 129 Report at Tables VII-1B and C-1B.

[216]See, e.g., Bank of America, "Wood & Building Products Quarterly," at 11 (Nov. 2001) (emphasis added) in Petitioners' Original Posthearing Brief at 2 and Appendix H, Exh. 2 at 11. This report states as follows:

> *The U.S. industry was widely criticized in years passed for lumber overproduction in order to secure wood chips for pulp and paper manufacturing.* This behavior has been curbed considerably here, but remains a problem in Canada, where Provincial forestry officials must also protect pulp mill employment, which is the lifeblood of many small towns. However, as the Canadian softwood lumber industry ships 65% of its output to the U.S., its general failure to manage production to new order volumes and its capacity growth in its eastern provinces have both undermined prices in recent years.

We note that while the motivation for Canadian lumber overproduction may be for a byproduct, wood chips, it does not eliminate or lessen the central problem – lumber itself is still being overproduced by Canadian producers. Moreover, it actually is more problematic, because it indicates that the Canadian overproduction of lumber is not tied exclusively to the demand for lumber. Thus the overproduction will continue even after the lumber market has been substantially oversupplied.

We have thus considered, in the context of our threat of material injury analysis, the evidence regarding excess domestic supply and find it not likely to be an other factor potentially causing injury to the domestic industry in the imminent future. Thus, there is no basis to examine whether any injury can be attributed to excess domestic supply in the imminent future.

We considered and assessed the alleged other factors in our Conditions of Competition section of the original Views of the Commission, incorporated by reference here.[217] However, we provide a more detailed discussion for each of these alleged potential other factors.

Third-country or nonsubject imports. The evidence demonstrates that there is no basis for allegations that nonsubject imports, which were not an "other known factor" at present, would be an other known factor in the imminent future. While nonsubject imports were present in the U.S. market during the period of investigation, they never exceeded 3 percent of apparent domestic consumption. We recognize that the volume of nonsubject imports (from Brazil, Chile, New Zealand, Germany, Sweden, Austria, and other countries) increased from 937 mmbf in 1999 to 1,378 mmbf in 2001, and that as share of apparent domestic consumption, nonsubject imports increased from 1.7 percent in 1999 to 2.6 percent in 2001.[218] We also point out that the average unit values for non-subject imports

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[217]USITC Pub. 3509 at 21-27. Our analysis in Section III. Conditions of Competition of the original Views of the Commission is a distinct section of our opinion and applied to both our Section V. Present Material Injury analysis and our Section VI. Threat of Material Injury analysis.

[218]USITC Pub. 3509 at II-7, n.23 and Tables IV-1 and C-1. The additional evidence gathered in this Section 129 proceeding shows non-subject imports accounting for 3.0 percent of the U.S. market in the first quarter of 2002 compared with 2.2 percent and 1.9 percent in the first quarters of 2001 and 2000, respectively. Section 129 Report at Table C-1B.

were 80 to 90 percent higher than those for subject imports from 1999-2001.[219]

We recognize that the incremental increase in subject import volume in mmbf between 1999 and 2001 was approximately the same as the increase in nonsubject import volume. However, this comparison must be placed in perspective: subject imports are responsible for an enormous volume of imports during the period of investigation, ranging from 17,983 mmbf to 18,483 mmbf and accounting for 33.2 percent to 34.3 percent of U.S. apparent consumption in the 1999-2001 period, compared with higher valued nonsubject imports, which never exceeded 1,378 mmbf or 2.6 percent of apparent domestic consumption.[220] Furthermore, individual country non-subject imports would have been deemed negligible under U.S. law and the WTO Agreements, with no individual country accounting for more than 1.3 percent of total imports while Canadian imports account for about 93 percent of all imports.[221] Finally, imports from Canada were subject to import restraints for most of the period of investigation; nonsubject imports were not restrained. Thus, the less than 3 percent market share held by nonsubject imports in 2001 is not likely to increase in contrast to previously restrained subject imports.

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[219]USITC Pub. 3509 at Table C-1. The average unit values for non-subject imports ranged from $623.60 to $712.22 from 1999 to 2001, whereas the average unit values for subject imports ranged from $323.57 to $395.72. Id.

[220]USITC Pub. 3509 at Tables IV-2 and C-1..

[221]USITC Pub. 3509 at II-7, n. 23 ("Official statistics from the Department of Commerce reveal that nonsubject imports accounted for 6.9 percent of the overall quantity of softwood lumber imports into the U.S. market in 2001, with Brazil, Chile, and New Zealand accounting for 1.3, 1.1, and 1.0 percent, respectively. Germany, Sweden, and Austria accounted for 1.0, 0.8, and 0.5 percent, respectively, while Lithuania, the Czech Republic, Mexico, and all other countries accounted for the remaining 1.2 percent of 2001 softwood lumber imports.").

The speculative theories proffered by respondents fail to explain why any significant increase in nonsubject imports would be imminent, and how any likely imminent increase in such a small volume of nonsubject imports relative to apparent consumption might rise to the level of having a causal impact on the domestic industry. The speculation is particularly unconvincing when these parties acknowledge that Canadian exports to the U.S. market will continue at, and even increase above, the already significant level of imports (which is well over a thousand times as large as the level of nonsubject imports) during the period of investigation. Moreover, increases, and not even significant increases, in nonsubject imports have been alleged to be likely only if trade remedies were imposed against Canadian imports.[222] The statute, however, directs us to consider "whether material injury by reason of the [subject] imports would occur unless an order is issued;"[223] not to consider the events that would occur only if an order is imposed.

We have thus considered, in the context of our threat of material injury analysis, the evidence regarding nonsubject imports and find them not likely to be an other factor potentially causing injury to the domestic industry in the imminent future. Thus, there is no basis to examine whether any injury can be attributed to nonsubject imports in the imminent future.

Importation relative to Demand. The evidence does not demonstrate that likely substantial increases in subject imports will be to meet alleged substantial growth in demand for softwood lumber

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[222]Importers of softwood lumber stated that "any restrictions on the supply of Canadian softwood lumber to the U.S. market would result in an increased supply of imports from other sources, particularly European sources, to meet U.S. demand for softwood lumber." USITC Pub. 3509 at II-3. The share of U.S. imports held in 2001 by European countries was only 2.3 percent of total imports. Id. at II-7, n. 23.

[223]19 U.S.C. § 1677(7)(F)(ii).

in the U.S. market and thus would be an other known factor in the imminent future, nor that importation relative to demand would lessen the effect of subject imports.

First, the actual evidence in 2001 shows that the increase in subject imports outstripped demand; imports of softwood lumber from Canada increased by 2.4 percent from 2000 to 2001 and U.S. apparent consumption increased by only 0.2 percent for the same period.[224] Moreover, subject imports after removal of the restraining effect of the SLA were 11.3 percent higher for the April-August 2001 period compared to the same period in 2000, and 4.9 percent for the April-December 2001 period compared to the April-December 2000 period,[225] while apparent U.S. consumption for the entire year was only 0.2 percent.[226] The evidence in this Section 129 proceeding demonstrates that while apparent U.S. consumption for first quarter 2002 increased compared with first quarter 2001, it was at a substantially lower rate, 9.7 percent, than the 14.6 percent increase in subject imports.[227] Moreover, subject imports were 6.2 percent higher in the first quarter of 2002 compared with the first quarter of 2000, while apparent U.S. consumption declined by 2.3 percent for first quarter 2002 compared with first quarter 2000.[228] Thus, the actual increases in subject imports during the period of investigation substantially outstripped demand; similarly, actual data shows that subject imports after expiration of the SLA have increased at a significantly higher rate than any forecasts for increases in

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[224]USITC Pub. 3509 at Table C-1.

[225]Official import statistics.

[226]USITC Report 3509 at Table C-1.

[227]Section 129 Report at Table C-1B (129).

[228]Section 129 Report at Table C-1B (129).

demand for softwood lumber for 2002 and 2003.

The evidence dispels any claims that projected substantial growth in demand for softwood lumber in the imminent future.[229] The record indicates that U.S. apparent consumption was high on a historical basis, but relatively stable or flat during the period of investigation.[230] Forecasts of softwood lumber demand on the record indicated little change or a slight increase in 2002, and then an increase in 2003 as the U.S. economy rebounds from recession. Most producers and importers, in response to Commission questionnaires, indicated that they believed overall demand would remain relatively unchanged until the second half of 2002 or the beginning of 2003, and then would begin to increase as the U.S. economy rebounded from recession.[231] The demand forecasts for softwood lumber from industry analysts are somewhat mixed. However, the more optimistic forecasts do not correlate to

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[229]Demand for softwood lumber is derived primarily from demand for construction uses, including new home construction, repairs and remodeling, and commercial construction (respectively accounting for 38 percent, 30 percent, and 14 percent of demand in 2000). These end use demands for softwood lumber are determined by such factors as the general strength of the overall U.S. economy (which can be measured by the growth of GDP), with residential construction also affected by the level of long-term and home mortgage interest rates. USITC Pub. 3509 at II-3 and Table I-1.

[230]USITC Pub. 3509 at Table C-1; Section 129 Report at Table C-1B. The evidence shows that during the period of investigation, apparent domestic consumption fluctuated between years and declined slightly (by 0.4 percent) from 54,095 mmbf in 1999 to 53,894 mmbf in 2001. However, apparent domestic consumption increased every year between 1995 and 1999, from 47,641 mmbf in 1995 to a peak of 54,095 mmbf in 1999, an overall increase of 13.5 percent. USITC Pub. 3509 at Table IV-2.

[231]USITC Pub. 3509 at II-3-4.

forecasts for softwood lumber's primary end-use, U.S. housing starts.[232] [233] Moreover, the forecasts do not correlate to the actual data for 1995 to 2001, where U.S. housing starts (i.e., new residential construction) substantially outpaced softwood lumber demand.[234] For example, RISI projected demand for lumber to increase by 1 percent[235] and demand for housing starts to increase by 4.3 percent for the 2001-2002 period,[236] but projected the opposite correlation – 4 percent growth for lumber demand and 1.8 percent growth for housing starts – for the 2002-2003 period. Industry analyst Clear Vision forecast that demand for softwood lumber from 2001-2002 would increase by 3.7

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[232]In an attempt to place these mixed demand forecasts for softwood lumber in perspective, we consider data regarding the primary end-use -- new residential construction -- which accounted for about 38 percent of demand for softwood lumber in 2000. USITC Pub. 3509 at Table I-1.

[233]Respondents' claims regarding cyclical demand and housing construction cycles is an extension of their claims regarding alleged effects of substantial growth in demand and not a claim that housing construction cycles are about to enter a downturn and be a cause of injury to the domestic industry. In fact, this argument is posited on the opposite result that improvements in demand for softwood lumber derived from demand for new housing will benefit the U.S. industry. Thus, there is no basis that this is an other known factor.

[234]From 1995 to 2001, U.S. housing starts increased by 18.3 percent while increases in apparent domestic consumption for softwood lumber were 13.1 percent. USITC Pub. 3509 at IV-3 and Table IV-6. Housing starts reached a peak in 1999 at 1.66 million units, declining to 1.59 million units in 2000 and remaining relatively flat at 1.60 million units in 2001. Housing starts were 23.0 percent higher in 1999 and 18.3 percent higher in 2001 compared with housing starts in 1995. Id.

[235]Industry analyst RISI forecasted U.S. demand for softwood lumber to increase by 1.0 percent from 53.2 mmbf in 2001 to 53.7 mmbf in 2002, and then further increase by 4.0 percent to 56 mmbf in 2003. Section 129 Report at F-4 (Table 2); Petitioners' Original Posthearing Brief, Vol. II, Appendix H, Exhibit 28 at 5 (Table 3; CLTA's Original Posthearing Brief, Vol. 2, Tab R at 2.

[236]Industry analyst RISI forecasted U.S. housing starts to increase by 4.3 percent from 1.61 million units in 2001 to 1.68 million units in 2002, and then further increase by 1.8 percent to 1.71 million units in 2003. Section 129 Report at F-5 (Table 4); Petitioners' Original Posthearing Brief, Vol. II, Appendix H, Exhibit 28 at 3 (Table 2); CLTA's Original Posthearing Brief, Vol. 2, Tab R at 1.

percent,[237] its forecast for U.S. housing start growth for the same period was 3 percent.[238] But, another industry analyst report, from the Bank of America, projected a slight decline in demand for lumber in 2002 and increases below the 2 percent range in 2003.[239] Thus, the U.S. demand forecasts for softwood lumber in 2002 include a forecast for a slight decline (Bank of America), a 1 percent increase (RISI), and a 3.7 percent increase (Clear Vision).[240] While there was a correlation between actual data for lumber demand and housing starts during the period of investigation, the lack of a correlation between lumber and housing forecasts, and any agreement among forecasters, raised questions about the usefulness of these forecasts.

Moreover, the most recent actual data show that, while U.S. housing starts increased in January and February of 2002 to the highest levels for single-family home starts in over 20 years, they then fell

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[237]Clear Vision forecast U.S. demand for softwood lumber to increase by 3.7 percent from 53.6 mmbf in 2001 to 55.6 mmbf in 2002, and then further increase by 4.7 percent to 58.2 mmbf in 2003. Section 129 Report at F-6 (Table 5); CLTA's Original Prehearing Brief, Vol. 3, Tab 1 at 1 and 3; CLTA's Original Posthearing Brief, Vol. 2, Tab R at 1-3.

[238]Clear Vision forecast U.S. housing starts to increase by 3 percent from 1.6 million units in 2001 to 1.65 million units in 2002, and then further increase by 6 percent to 1.75 million units in 2003. Section 129 Report at F-6 (Table 6); CLTA's Original Prehearing Brief, Vol. 3, Tab 1 at 1 and 2; CLTA's Original Posthearing Brief, Vol. 2, Tab R at 1-3.

[239]Bank of America, "Wood & Building Products Quarterly," at 12 (Nov. 2001) (Bank of America projected "U.S. consumption [for lumber] to decline by a little less than 1% next year [2002] . . . . consumption growth should remain below the 2% range in those two years [2003 and 2004]") in Petitioners' Original Posthearing Brief at 2 and Appendix H, Exh. 2 at 11.

[240]Subject imports after the expiration of the SLA, on the other hand, were higher by 11.3 percent in April-August 2001, 4.9 percent in April-December 2001, and 14.6 percent in the first quarter of 2002 than the comparable period in the prior year.

by 10.2 percent in March 2002.[241] This sharp decline in housing starts shows that the improvements in demand during the mild winter of 2001-2002 were not sustainable.[242]

When this evidence is considered together with the mixed evidence regarding forecasts for demand and U.S. housing starts and questionnaire responses, there is substantial evidence to support our finding that demand is forecast to remain relatively unchanged or flat in 2002 and then begin to increase in 2003 as the U.S. economy rebounds from recession. However, demand in the U.S. market for softwood lumber will remain at a high absolute level of consumption and will continue to make the U.S. market a very attractive, and necessary, one for Canadian producers (as the U.S. market has consistently accounted for about 60- 65 percent of Canadian production). Nevertheless, the evidence does not support finding that there will be substantial growth in demand that would eclipse the likely substantial increases in subject imports.

We have thus considered, in the context of our threat of material injury analysis, the evidence regarding the likely substantial increases in subject imports relative to forecasts for growth in demand. We find demand not likely to be an other factor potentially causing injury to the domestic industry in the imminent future, nor would it lessen the effect of subject imports. Thus, there is no basis to examine whether any injury can be attributed to alleged increases in demand in the imminent future.

Integration of North American Softwood Lumber Industry. The evidence demonstrates that there is no basis for allegations that the integration of the North American softwood lumber industry

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[241]Section 129 Report at Table 2.

[242]USITC Pub. 3509 at II-3-4, n.10. Coalition's Posthearing Brief at 40-42; Coalition's Posthearing Brief at Appendix C-5 - C-7 and C-22 - C-25.

was an "other known factor" at present or would be an other known factor in the imminent future, nor that integration would lessen the effect of subject imports. No evidence whatsoever has been proffered to support speculative assertions that integrated firms will not harm their related companies.[243] Furthermore, such claims about related firms says nothing at all about the impact of the integrated companies' operations on the remainder of the U.S. industry or on the industry as a whole, which is the required focus of the injury analysis.

Moreover, this integration is not new. There is no evidence that it would have a different effect in the future than during the period of investigation, when, with integration in place, subject import volumes were significant and subject imports had some adverse price effects. The Commission conducted a detailed analysis of the relationship between various integrated firms in its related parties analysis in its original investigation, as incorporated here.[244] The Commission determined that appropriate circumstances did not exist to exclude any firms from the domestic industry. No Canadian exporters, nor any other party, advocated that any firms be excluded as related parties. Nor did any party provide evidence that integrated domestic producers are shielded from harm.[245] [246]

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[243]CLTA's Original Prehearing Brief at 30-32.

[244]USITC Pub. 3509 at 16-19.

[245]See USITC Pub. 3509 at 16-19; Conference Transcript at 108 (CLTA).

[246]Canadian exporters also made allegations in the original investigations about the effect of the "Big Box" retailers, such as The Home Depot and Lowe's, on U.S. consumption patterns and purchases of imports. These allegations are not supported by the evidence, most of it confidential, presented to the Commission. USITC Report at II-8 Dealers/Builders' Original Prehearing Brief at Exhs. 2, 3, 4, 6, 8, 9, 11, 13, 14 15, 16, 17, 21, and 23; Petitioners' Original Posthearing Brief at 5-6. In addition, there is evidence, including from representatives of some of the "Big Boxes," that regional preferences reflect nothing more than the local availability of species.

We have thus considered, in the context of our threat of material injury analysis, the evidence regarding integration of the North American industry and find it not likely to be an other factor potentially causing injury to the domestic industry in the imminent future, nor that it would lessen the effect of subject imports. Thus, there is no basis to examine whether any injury can be attributed to such integration in the imminent future.

Engineered Wood Products ("EWPs") and Other Substitute Products. The evidence demonstrates that there is no basis for allegations that EWPs and other substitute products, which were not an other known factor at present, would be an other known factor in the imminent future. We consider whether substitute products for softwood lumber have, or are likely to have, an effect on demand for softwood lumber. A number of products, such as EWPs, steel studs for framing, brick and block for exterior uses, and composites and plastic resins for decking and fencing, may substitute for softwood lumber.[247] While these substitute products may have increased in availability and importance over the last few years, Commission questionnaire responses indicate that such products still account for a small share of the market traditionally utilizing softwood lumber.[248] We recognize that use of EWPs has gradually increased and will likely continue to increase, but the evidence shows it will continue to account for a relatively small share of the market. The evidence demonstrates that use of EWPs "constitutes 5 % of North American softwood dimension/structural lumber (sawnwood)

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[247]USITC Pub. 3509 at II-4.

[248]USITC Pub. 3509 at II-4.

consumption."[249] [250] Furthermore, increased use of EWPs does not entirely "replace" softwood lumber because softwood lumber is an input into some EWPs.[251] Rather it may shift the demand for softwood lumber from larger to smaller dimensions.[252]

We have considered, in the context of our threat of material injury analysis, the evidence regarding EWPs and find them not likely to be an other factor potentially causing injury to the domestic industry in the imminent future. Thus, there is no basis to examine whether any injury can be attributed to EWPs in the imminent future.

Alleged Constraints on Domestic Production or Insufficient Timber Supplies. The evidence demonstrates that there is no basis for allegations that alleged constraints on domestic product

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[249]CLTA's Original Prehearing Brief, Vol. 3, Exh. 21 at 1 and 3 (section 11.2.1 of Chapter 11, ECE/FAO Forest Products Annual Market Review, 1999-2000) ("Softwood dimension lumber is sawnwood produced to standard sizes for construction purposes." Id. at 1).

[250]Canadian exporters (CLTA) estimated that EWPs account for 5 percent of this U.S. market. CLTA's Original Prehearing Brief at 22; USITC Pub. 3509 at II-4 and n.15. Petitioners maintain that it is only in residential housing floor applications, which make up less than 6.5 percent of total softwood lumber consumption, that substitute products hold anything more than a minimal share. Petitioners' Original Prehearing Brief at 40-44; Petitioners' Original Posthearing Brief at Appendix A-28 - A-33.

[251]CLTA's Original Prehearing Brief, Vol. 3, Exh. 21 at 3 ("The wood products industry wants to hold onto its most important market – residential construction – and it believes that modern EWPs will help fend off non wood building materials such as steel and concrete.") and at 5 ("events helped the EWPs industry tap into vast volumes of underutilized, fast growing, relatively inexpensive fibre. . . . [and] allowed the industry to transform what were formerly 'weed species' such as aspen, birch, red maple and sweetgum, into EWPs with superior performance properties.").

[252]USITC Pub. 3509 at II-4 and nn. 14 and 15. At the Commission's hearing, the representative from Wickes stated that smaller sized lumber inputs are used for EWPs and thus EWPs tend to displace wider width 2 x12 lumber. Original Hearing Tr. at 211. Petitioners estimate the net displacement of solid softwood lumber consumption by I-joists and laminated veneer lumber to be 3.3 percent. Petitioners' Original Posthearing Brief at Appendix A-29-A-31.

or insufficient timber supplies, which were not an other known factor at present, would be an other known factor in the imminent future. We note at the outset that this alleged potential other factor, i.e., alleged constraints on domestic production, could not be operative at the same time as the first alleged potential other factor, i.e., excess domestic supply,[253] in a way that would threaten injury.

In considering any constraints on the domestic producers' ability to supply demand, we recognize that the United States is not self-sufficient in the production of lumber since subject imports from Canada have accounted for about one-third of U.S. consumption for more than seven years. However, the evidence does not support allegations that there are constraints on domestic production which would render the U.S. industry unable to increase supply, if demand increases substantially.[254] The domestic industry's production capacity is not fully utilized. As discussed above, the evidence demonstrates that domestic production capacity was fairly level during the period of investigation, following a small but steady increase between 1995 and 1999, as apparent consumption increased.[255] Domestic capacity utilization was 87.4 percent in 2001. With the exception of a peak in 1999 at 92 percent, it has consistently held this level between 1995 and 2001.[256]

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[253]The first alleged other factor assumes that the U.S. industry has the capability to contribute to excess supply in the future and would be the cause of any injury. The facts do not support either theory.

[254]We note that there is no short supply provision in the statute. Moreover, the fact that the domestic industry may not be able to supply all of demand does not mean the industry may not be materially injured or threatened with material injury by reason of subject imports.

[255]USITC Pub. 3509 at Tables III-6, III-7, and C-1.

[256]USITC Pub. 3509 at Tables III-6, III-7, and C-1. In contrast, Canadian capacity utilization had declined in 2001 to 83.7 percent, a rate substantially lower than that reported for any other year in the 1995-2001 period. Id. at Tables VII-1 and VII-2. As discussed above, in spite of this decline in

Arguments about the United State's self-sufficiency in the production of softwood lumber are partly based on the simplistic theory that growth in demand is likely to improve the U.S. industry's financial performance and insulate it from any further adverse effects from additional subject imports from Canada. But, as discussed above, the evidence does not indicate that demand is likely to increase in the manner Canadian parties suggest or to have the effects that they posit. Respondents' arguments ignore the likely price effects of increased subject imports in a market where demand is either static or improving slightly. In addition, even with strong demand during the period of investigation, prices declined and the condition of the domestic industry deteriorated, effects opposite to those Canadian parties speculate should occur in the future.

We have considered, in the context of our threat of material injury analysis, the evidence regarding the U.S. industry's ability to supply the U.S. market and find them not likely to be an other factor potentially causing injury to the domestic industry in the imminent future. Thus, there is no basis to examine whether any injury can be attributed to alleged constraints on domestic production in the imminent future.

Conclusion

For the foregoing reasons, we determine that an industry in the United States is threatened with material injury by reason of imports of softwood lumber from Canada that are subsidized and sold in the United States at less than fair value.[257]

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capacity utilization rates, Canadian producers projected slight increases in capacity, increases in production, and a return of its capacity utilization to 90.4 percent in 2003. Id. at Table VII-2.

[257]Based on the record of these investigations, we do not find that material injury by reason of subject merchandise that is subsidized and sold at less than fair value would have been found but for

Exhibit 1

Softwood Lumber: Framing Lumber Composite Price by Quarters[1]

Period	**$/mbf**
1999	
Jan.-Mar.	**384**
Apr.-June	**425**
July-Sept.	**424**
Oct.-Dec.	**375**
2000	
Jan.-Mar.	**384**
Apr.-June	**337**
July-Sept.	**294**
Oct.-Dec.	**277**
2001	
Jan.-Mar.	**284**
Apr.-June	**364**
July-Sept.	**322**
Oct.-Dec.	**279**
2002	
Jan.-Mar.	**318**

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any suspension of liquidation of entries of such merchandise. 19 U.S.C. §§ 1671d(b)(4)(B) and 1673d(b)(4)(B).

[1]Source: Section 129 Report at Tables V-1 and V-2. The framing composite price indexes include prices of softwood lumber encompassing four grades, two dimensions, and six species (kiln-dried fir/larch, hem fir, ESPF, SYP, WSPF, and green Douglas fir).

Exhibit 2

Home Builders and Purchasers Break-Out by Region of Lumber Species Used for 4 Applications[1]

Region	**Floor Joist**	**Wall/Framing**	**Headers**	**Trusses**
Florida	SYP	SPF	SYP	SYP
Texas	SYP	SYP	SYP	SYP
Indiana and West	SPF	SPF	SPF	SPF
Massachusetts	SPF	SPF	SYP	SYP
Totals	2-SYP 2-SPF	1-SYP 3-SPF	3-SYP 1-SPF	3-SYP 1-SPF

[1]Source: Commission Hearing Transcript at 185-190 and 204-207.

ADDITIONAL AND DISSENTING VIEWS OF COMMISSIONER DANIEL R. PEARSON

I. Introduction

I concur with the determination by my fellow commissioners that the domestic industry producing softwood lumber is not materially injured by reason of subject imports from Canada found to be subsidized and sold in the United States at less than fair value. In reaching this determination, I adopt the reasoning and conclusions of my fellow commissioners on the issues of domestic like product, domestic industry, cross-cumulation, the Canadian Maritime Provinces, and the conditions of competition.[2] I find, however, that the domestic industry producing softwood lumber is not threatened with material injury.

II. Data issues

The Commission gathered extensive additional information during this investigation. Not all of the data presented in the Commission staff report were available at the time of the Commission's original final determination in May 2002. Parties have presented conflicting arguments to support their contentions that the Commission may, or may not, use data not available or not on the record at the time of its original determination.[3] As noted in the majority views, no clear law or precedent prevents the Commission from gathering or relying upon such data. In reaching my determination in this investigation, I have chosen to rely only on data that were available at the time of the Commission's

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[2]In other words, I concur with, and adopt, sections I.-V. of the Views of the Commission in *Softwood Lumber from Canada*, Inv. Nos. 701-TA-414 and 731-TA-928 (Final), USITC Pub. 3509 (May 2002).

[3]Respondents have also argued that the Commission lacked the authority to reopen the record and to gather additional data. As noted in the views of my fellow commissioners, *infra*, U.S. law leaves this decision to the Commission's discretion.

original determination, even if not on the record at that time. As the following makes clear, however, I would have reached the same determination had I relied upon the additional information gathered in this investigation.

III. The domestic industry is not threatened with material injury by reason of subject imports

Section 771(7)(F) of the Act directs the Commission to consider whether the U.S. industry is threatened with material injury by reason of the subject imports by analyzing whether "further dumped or subsidized imports are imminent and whether material injury by reason of imports would occur unless an order is issued or a suspension agreement is accepted."[4] The Commission may not make such a determination "on the basis of mere conjecture or supposition," and considers the threat factors "as a whole" in making its determination.[5] The Commission must consider, in addition to other relevant economic factors, the following statutory factors in its threat analysis:

> (I) if a countervailable subsidy is involved, such information as may be presented to it by the administering authority as to the nature of the subsidy (particularly as to whether the countervailable subsidy is a subsidy described in Article 3 or 6.1 of the Subsidies Agreement) and whether imports of the subject merchandise are likely to increase,
>
> (II) any existing unused production capacity or imminent, substantial increase in production capacity in the exporting country indicating the likelihood of substantially increased imports of the subject merchandise into the United States, taking into account the availability of other export markets to absorb any additional exports,
>
> (III) a significant rate of increase of the volume or market penetration of imports of the subject merchandise indicating the likelihood of substantially increased imports,
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> (IV) whether imports of the subject merchandise are entering at prices that are likely to have a significant depressing or suppressing effect on domestic prices and are likely to increase

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[4] 19 U.S.C. § 1677(7)(F)(ii).
[5] 19 U.S.C. § 1677(7)(F)(ii).

demand for further imports,

(V) inventories of the subject merchandise,

(VI) the potential for product-shifting if production facilities in the foreign country, which can be used to produce the subject merchandise, are currently being used to produce other products,

(VII) in any investigation under this subtitle which involves imports of both a raw agricultural product (within the meaning of paragraph (4)(E)(iv)) and any product processed from such raw agricultural product, the likelihood that there will be increased imports, by reason of product shifting, if there is an affirmative determination by the Commission under section 1671d(b)(1) or 1673d(b)(1) of this title with respect to either the raw agricultural product or the processed agricultural product (but not both),

(VIII) the actual and potential negative effects on the existing development and production efforts of the domestic industry, including efforts to develop a derivative or more advanced version of the domestic like product, and

(IX) any other demonstrable adverse trends that indicate the probability that there is likely to be material injury by reason of imports (or sale for importation) of the subject merchandise (whether or not it is actually being imported at the time).[6]

In this investigation, factor VI was not addressed by the parties and does not appear to be an issue; factor VII is inapplicable because these investigations do not involve imports of both raw and processed agricultural products. In addition, no dumping findings or antidumping remedies against softwood lumber from Canada in other markets have been alleged.

The nature of the subsidies. Commerce identified numerous programs that conferred countervailable subsidies to producers and exporters of softwood lumber in Canada. In particular, stumpage programs exist in the provinces of Quebec, British Columbia, Ontario, Alberta, Manitoba, and Saskatchewan.[7] These stumpage programs adjust stumpage costs to changes in market prices.

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[6]19 U.S.C. § 1677(7)(F)(i).
[7]USITC Pub. 3509 at 39 n.246.

When prices are rising, these stumpage programs would be expected to have modest effects on supply of softwood lumber from Canada or shipments to the U.S. market. In times of falling prices, however, these stumpage programs interfere with market adjustments. In a free market, owners of raw timber stands may opt to remove their goods from the market when prices fall, in hopes of gaining a higher price in the future. The reduction in supply will then slow the fall in prices and hasten market adjustments. With the stumpage programs, softwood producers in Canada will tend to overproduce in times of falling prices or slackening demand. The subsidies provided to producers in Canada suggest that, in times of declining demand, adjustment to market pressures will fall disproportionately on the U.S. industry, which must face market pressures both for raw materials and for sales of its own products.[8] For example, apparent consumption in Canada dropped sharply between 2000 and 2001.[9] Production in Canada decreased, but by a smaller margin, and this difference was directed to the U.S. market.[10] In 2001, apparent U.S. domestic consumption was essentially stagnant, increasing by less than 120 mmbf, or 0.2 percent. Shipments of domestically produced softwood lumber declined by nearly 500 mmbf, down 1.7 percent from 2000. But subject imports from Canada increased by over 400 mmbf, or 2.4 percent.[11]

Other policies in Canada, such as the annual allowable cut requirements, which require firms to "use or lose" rights to harvest timber, may also introduce some distortion into the U.S. market.[12] These programs will also tend to discourage market-driven reductions in production, and, like the stumpage

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[8]USITC Pub. 3509 at Table VII-1.
[9]USITC Pub. 3509 at Table VII-1.
[10]USITC Pub. 3509 at Tables VII-1 and VII-2.
[11]USITC Pub. 3509 at Table C-1.
[12]USITC Pub. 3509 at 40-41 and n.257.

programs, are far more likely to lead to injurious levels of subject imports from Canada at times of weak or falling demand.[13] When demand is increasing, as was forecast for 2002 and 2003, the distorting effects of the stumpage and other subsidy programs will be significantly lessened.

Existing capacity and imminent capacity increases. Between 1999 and 2001 production capacity in Canada increased by a scant 2.2 percent, or 700 mmbf. Only 100 mmbf of that increase occurred between 2000 and 2001. Modest increases in production capacity in Canada have been the norm since before the imposition of the SLA in 1996. Between 1995 and 2001, production capacity in Canada increased by 3,100 mmbf, or by 10.4 percent. During that same time period, apparent domestic consumption in the U.S. increased by 13.1 percent; apparent consumption in Canada increased by 13.8 percent.[14]

Capacity utilization dropped notably in Canada in 2001, at only 83.7 percent for the year. However, the normal pattern has been a relatively stable relationship between production capacity and capacity utilization. Between 1995 and 1998, a period including the imposition of the SLA, capacity utilization varied by only a few tenths of a percentage point. Capacity utilization was above this norm in 1999 and 2000, despite modest increases in capacity, before dropping back down in 2001.[15]

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[13]Canadian respondents have argued that the stumpage programs do not lead to increased production or increased exports to the U.S. and have produced a study to support these claims. *See* Government of Canada posthearing brief (129 investigation) at Responses to Questions, pp. 22-26; CLTA prehearing brief (final investigation), Vol. 2 at App. D. After reviewing this study, I join with my fellow commissioners in not finding it persuasive, particularly in regard to the short-term supply and demand adjustments that must be considered when deciding whether an industry is threatened with material injury. USITC Pub. 3509 at 39 n.245.

[14]USITC Pub. 3509 at Tables VII-1 (capacity in Canada), IV-2 (consumption in U.S.), and VII-7 (consumption in Canada).

[15]USITC Pub. 3509 at Table VII-1.

Additional increases in capacity are forecast for 2002 and 2003. Again, however, these increases are modest, and questionnaire respondents reported that capacity in 2003 would be less than 1.6 percent higher than in 2001.[16] Assuming historical rates of capacity utilization, and assuming that export orientation exceeds the levels projected by respondents, subject imports are likely to remain at levels very close to those recorded between 1999 and 2001. Projections for capacity increases, considered with long-standing historical rates of capacity utilization and export orientation, do not suggest the likelihood of substantially increased imports of the subject merchandise into the United States in the imminent future.

The data gathered during the advisory phase of this investigation bear out these conclusions. Capacity in the first two months of 2002 was 5,510 mmbf, up less than one percent from the same two-month period in 2001. Capacity utilization, at 89.2 percent, was again within the historical range.[17] The newer data suggest that additional substantial increases in capacity in Canada are unlikely.

A significant rate of increase in volume or market penetration. The volume of subject imports increased by 2.8 percent between 1999 and 2001.[18] This increase occurred at a time when apparent domestic consumption declined, so even this small increase in volume led to an increase in market penetration. But the increase in market penetration was also modest. Subject imports accounted for 34.3 percent in 2001, up from 33.2 percent in 1999.[19] Subject import volume as a share of apparent domestic consumption has remained fairly constant over a six-year period. The SLA might

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[16]USITC Pub. 3509 at Table VII-2.
[17]Calculated from CR at Table VII-1B(129).
[18]USITC Pub. 3509 at Table C-1.
[19]USITC Pub. 3509 at Table C-1.

explain this consistency, but the effects of the SLA are likely to have been quite modest. In 1995, the last full year before the imposition of the SLA, subject imports accounted for 35.7 percent of apparent domestic consumption. The SLA took effect in 1996, and subject imports accounted for 35.9 percent of apparent domestic consumption that year. In subsequent years, the market share varied very little, regardless of changes in apparent domestic consumption or production capacity in Canada.[20]

Subject imports did not adjust as quickly to the slowing of demand in the U.S. market as did the domestic industry, and subject import volume increased modestly in 2001.[21] The market share remained below the 1996 level, another year in which the SLA was only in effect for a portion of the year. I agree with my fellow commissioners that, as subject imports account for a third of the market, the volume of those subject imports is significant. But given the long history of consistent presence in the U.S. market and the modest increase registered over the POI, I do not find that either the volume of subject imports or the market penetration of those imports has increased at a significant rate so as to indicate the likelihood of a substantial increase in subject imports.

In making this finding, I am mindful of increases in subject imports during the months of April-August in 2001, after the SLA had expired but before the suspension of liquidation. During that time period, subject import volume was 11.3 percent higher than in the corresponding period of the prior year.[22] But I do not find that this brief period outweighs the long history of steady participation in the U.S. market by subject imports, stretching back to the period before the imposition of the SLA. This petition was filed immediately after the expiration of the SLA, in April 2001. Even in that brief window

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[20]USITC Pub. 3509 at Table IV-2.
[21]USITC Pub. 3509 at Table IV-2.
[22]USITC Pub. 3509 at 42 n.269.

between April and August, market participants had to be aware that further restrictions were both possible and imminent.

Subject imports in the first two months of 2002 were 7.0 percent higher than in the first two months of 2001, and up 3.4 percent from the same period in 2000.[23] Subject import volume increased at a faster rate than did apparent consumption or shipments of the domestic like product.[24] Like the April-August period of 2001, however, the first quarter of 2002 represented a period in between remedies, when the preliminary countervailing duty had expired but parties on both sides expected final, and high, duties to be imposed in the near future. The increase in imports in the first quarter, like the increase in April-August 2001, better reflects the commercial pressures to import as much as possible prior to the initiation of new trade restrictions rather than the volume of subject imports likely under normal conditions.

Prices likely to have a significant depressing or suppressing effect. I agree with my fellow commissioners that subject imports did not have a significant price effect during the period of investigation.[25] Nor do I think the record supports a finding that subject imports will enter at prices likely to lead to significant price suppression or depression in the imminent future.

Between 1998 and 2000 the volume of subject imports was essentially flat, varying by less than one-half of a percent over that time period. Market penetration was also relatively stable.[26] Prices for

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[23]Calculated from CR at Table IV-2B(129). Apparent domestic consumption was 6.5 percent higher in the first two months of 2002 compared to the same period in 2001, while shipments of the domestic like product were 5.0 percent higher. *Id.*

[24]CR at Table C-1B(129).

[25]USITC Pub. 3509 at 35.

[26]USITC Pub. 3509 at Table IV-2.

products produced primarily in the U.S. rose in 1999 but declined sharply in 2000.[27] By the fourth quarter of 2000, the framing lumber composite was down nearly 30 points over the same quarter of 1999, and as were the indices for Engelmann spruce/lodgepole pine, Douglas fir, and southern yellow pine.[28] Yet the change in subject import volume in those years amounted to a decrease of 56 mmbf between 1998 and 1999 and an increase of 69 mmbf between 1999 and 2000.[29] Nothing in the record suggests that these extremely modest shifts in volume could have exerted such influence on price.

The record also suggests that the SLA exerted little influence on price. Price indices for Engelmann spruce/lodgepole pine and Douglas fir peaked in the second and third quarters of 1996, immediately after the imposition of the SLA. But prices began drifting down soon after, and, except for the third quarter of 1999, never reached those peaks again. The price index for southern yellow pine did not peak until the fourth quarter of 1996, but it too showed a fairly rapid adjustment and subsequent decline.[30] The behavior of these indices suggest that the price effects of the SLA were not lasting, and further suggest that the expiration of the SLA would not lead to significant or lasting price changes, just as the expiration would not likely lead to significant changes in volume.

This investigation was instituted in April 2001. The brief period of untrammeled imports in April-August 2001 might have been expected to pull down prices, but the Commission's preliminary affirmative finding, along with the suspension of liquidation and the expectation of further remedies,

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[27]USITC Pub. 3509 at Table V-1.
[28]USITC Pub. 3509 at Table V-1.
[29]USITC Pub. 3509 at Table IV-2.
[30]USITC Pub. 3509 at Table V-1.

ought to have restricted import volume and buoyed domestic prices after that. But the record does not bear out these expectations. Rather, the price indices spiked in the second quarter but dropped sharply thereafter. The behavior of these price indices suggest that, especially in 2001, subject imports were not exerting a significant price suppressing or depressing influence on the price for the domestic like product. Nor is there any evidence on the record to suggest that subject imports would have a significant price suppressing or depressing effect in the imminent future, especially given that significant increases in volume are also unlikely.

The data gathered in the advisory phase of this investigation bear out these conclusions. Every measure available indicates that prices for the domestic like product increased substantially in the first quarter. The framing lumber composite index, as well as the pricing indices for Engelmann spruce/lodgepole pine, Douglas fir, and southern yellow pine all rose in the first quarter of 2002, and all were higher than in either the preceding quarter or the corresponding quarter in 2001.[31] The unit value for net sales by domestic producers was up 6.1 percent over the corresponding quarter in 2001.[32] These increases occurred despite increases in the volume of subject imports that actually outstripped the increase in apparent domestic consumption or shipments of the domestic like product.[33]

Inventories. Producers in Canada responding to the Commission's questionnaire reported inventories of 2,221 mmbf at the end of 2001.[34] Those inventories were equivalent to 12.0 percent of

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[31]CR at Table V-1.

[32]CR at Table C-1B(129).

[33]CR at Table C-1B(129). The average unit value for subject imports actually increased more from the first quarter of 2001 to the first quarter of 2002 than average unit values for the domestic like product. *Id.*

[34]USITC Pub. 3509 at Table VII-2.

imports from Canada in 2001 and 4.1 percent of U.S. apparent domestic consumption.[35] However, the inventory level had been relatively stable during the POI, at 2,154 mmbf in 1999 and 2,410 mmbf in 2000; in those years, exports by reporting producers were 13,021 and 13,041 mmbf.[36] In the past, inventory levels similar to those on hand at the end of 2001 had not led to significant changes in imports of the subject imports. Inventory at the end of 2001 was well within the range of prior years and not likely to lead to significant increases in the volume of subject imports.

Actual and potential negative effects on the domestic industry. There is no question that the condition of the domestic industry deteriorated in 2000 and 2001. In 1999, only 7 of 73 firms reported net losses; in 2001, 46 did.[37] The unit value of trade sales declined sharply in 2000 and again, though more modestly, in 2001. Reductions in the costs of goods sold were not sufficient to offset these losses in revenue, and operating income declined in 2000 and again in 2001.[38] Capital expenditures dropped significantly in 2001, as did research and development expenditures, suggesting the industry could face difficulties in maintaining productivity and competitiveness unless its condition improved in the near future.[39]

The condition of the industry in 2001, combined with the nature of the subsidies affecting production in Canada, indicate the domestic industry would be vulnerable to injury by reason of subject imports if demand continued to weaken. Falling prices would fail to discourage production, and thus exports, by producers in Canada, and adjustment would fall disproportionately on the domestic

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[35]USITC Pub. 3509 at Tables IV-2 and VII-2.
[36]USITC Pub. 3509 at Table VII-2.
[37]USITC Pub. 3509 at Table VI-1.
[38]USITC Pub. 3509 at Table C-1.
[39]USITC Pub. 3509 at Table VI-11.

industry. This can be seen somewhat in 2001, when net sales of the domestic like product stagnated, as did apparent domestic consumption, but subject imports increased.[40]

However, expectations at the time of the Commission's original determination were for a modest increase in demand in 2002, followed by a more robust expansion in 2003.[41] As noted above, subject imports are not increasing at a substantial rate, or entering at prices likely to have significant price suppressing or depressing effects. A modest recovery in demand, combined with modest increases in subject imports, should allow for a recovery in pricing and in the domestic industry's condition. In 1999, apparent consumption increased by less than four percent, subject imports were essentially unchanged, and prices for the domestic like product generally increased.[42] The record suggests a similar pattern for the imminent future.

The data gathered during the advisory phase of this investigation bear out these conclusions. Apparent domestic consumption increased, as did shipments of the domestic like product and prices. These increases led to notable improvements in the condition of the domestic industry. Capacity utilization rates for questionnaire respondents rose from 78.3 percent in the first quarter of 2001 to 84.1 percent in the first quarter of 2002. Productivity rose 10.5 percent. The cost of goods sold declined by 12.0 percent. Operating losses in the first quarter of 2001 were close to $43 million; for the first quarter of 2002, operating income was $104.7 million. Operating losses in the first quarter of 2001 were equivalent to 2.8 percent of sales; in the first quarter of 2002 operating income was equivalent to

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[40]USITC Pub. 3509 at Table C-1.

[41]Petitioner's posthearing brief at Exhibit 28, p.5 (increases of one percent and four percent in 2002 and 2003, respectively); CLTA posthearing brief at Tab R pp. 2-3.

[42]USITC Pub. 3509 at Tables IV-2 and V-1.

6.1 percent of sales. In the first quarter of 2001, 44 of 56 responding firms reported losses, while only 21 of 56 did so in the first quarter of 2002.[43] In the first quarter of 2002, the domestic industry appeared neither injured nor particularly vulnerable.

CONCLUSION

For the reasons outlined above, I determine that the domestic industry producing softwood lumber is neither materially injured nor threatened with material injury by reason of subject imports from Canada.

[43]CR at Table VI-1B(129).

INTRODUCTION

The Commission instituted this proceeding following receipt, on July 27, 2004, of a request from the United States Trade Representative (USTR) for a determination under section 129(a)(4) of the URAA that would render the Commission's action in connection with Investigations Nos. 701-TA-414 and 731-TA-928[1] not inconsistent with the findings of the dispute settlement panel of the World Trade Organization (WTO) in its report entitled, "United States – Investigation of the International Trade Commission in Softwood Lumber From Canada," WT/DS277/R.

Information relating to the background of this proceeding is provided in the tabulation below:[2]

Date	*Action*
August 5, 2004	Commission institutes Invs. Nos. 701-TA-414 and 731-TA-928 (Section 129 Consistency Determination) (69 FR 47461)
August 23, 2004	Commission issues schedule for Invs. Nos. 701-TA-414 and 731-TA-928 (Section 129 Consistency Determination) (69 FR 52525, August 26, 2004)
October 13, 2004 ...	Commission hearing
November 24, 2004 .	Commission determination transmitted to USTR

[1] *Softwood Lumber from Canada*, USITC Pub. 3509 (May 2002).

[2] Selected *Federal Register* notices cited in the tabulation are presented in app. A. App. B presents the Calendar of Witnesses for the Public Hearing.

BACKGROUND

On May 16, 2002, the Commission determined that an industry in the United States is threatened with material injury by reason of imports from Canada of softwood lumber[3] found to be subsidized

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[3] The softwood lumber products determined by the U.S. Department of Commerce (Commerce) to be covered by investigations Nos. 701-TA-414 and 731-TA-928 are provided for in subheadings 4407.10.00, 4409.10.10, 4409.10.90, and 4409.10.20 of the Harmonized Tariff Schedule (HTS) of the United States. Softwood lumber also includes any products described below: coniferous wood sawn or chipped lengthwise, sliced or peeled, whether or not planed, sanded or finger-jointed, of a thickness exceeding 6 mm; 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; 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 mouldings and wood dowel rods), whether or not planed, sanded or finger-jointed; and 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.

The following products were excluded by Commerce from the scope of the investigations (Group A): (1) trusses and truss kits, properly classified under HTS subheading 4418.90; (2) I-Joist beams; (3) assembled box spring frames; (4) pallets and pallet kits, properly classified under HTS subheading 4415.20; (5) garage doors; (6) edge-glued wood, properly reported under HTS statistical reporting number 4421.90.9840; (7) properly classified complete door frames; (8) properly classified complete window frames; and (9) properly classified furniture.

Also excluded from the scope of the investigations were the following products, only if they meet certain requirements (Group B): (1) stringers (pallet components used for runners) if they have at least two notches on the side, positioned at equal distance from the center, to properly accommodate forklift blades, properly reported under HTS statistical reporting number 4421.90.9840; (2) box-spring frame kits if they contain the following wooden pieces--two side rails, two end (or top) rails, and varying numbers of slats. The side rails and the end rails should be radius-cut at both ends. The kits should be individually packaged and contain the exact number of wooden components needed to make a particular box spring frame, with no further processing required. None of the components exceeds 1" in actual thickness or 83" in length; (3) radius-cut box-spring-frame components, not exceeding 1" in actual thickness or 83" in length, ready for assembly without further processing. The radius cuts must be present on both ends of the boards and must be substantial cuts so as to completely round one corner; (4) fence pickets requiring no further processing and properly classified under HTS subheading 4421.90.70, 1" or less in actual thickness, up to 8" wide, 6' or less in length, and having finials or decorative cuttings that clearly identify them as fence pickets. In the case of dog-eared fence pickets, the corners of the boards should be cut off so as to remove pieces of wood in the shape of isosceles right angle triangles with sides measuring 3/4" or more. (5) U.S. origin lumber shipped to Canada for minor processing and imported into the United States, is excluded from the scope of the investigations if the following conditions are met: (1) the processing occurring in Canada is limited to kiln-drying, planing to create smooth-to-size board, and sanding, and (2) if the importer establishes to Customs' satisfaction that the lumber is of U.S. origin. (6) Softwood lumber products contained in single family home packages or kits, regardless of tariff classification, are excluded from the scope of the investigations if the following criteria are met: (A) the imported home package or kit constitutes a full package of the number of wooden pieces specified in the plan, design or blueprint necessary to produce a home of at least 700 square feet produced to a specified plan, design or blueprint; (B) the package or kit must contain all necessary internal and external doors and windows, nails, screws, glue, subfloor, sheathing, beams, posts, connectors, and if included in the purchase contract, decking, trim, drywall and roof shingles specified in the plan, design, or blueprint; (C) prior to importation, the package or kit must be sold to a retailer of complete home packages or kits pursuant to a valid purchase contract referencing the particular home design plan or blueprint, and signed by a customer not affiliated with the importer; (D) the whole package must be imported under a single consolidated entry when permitted by the U.S. Customs

(continued...)

and sold in the United States at less than fair value (LTFV) (investigations Nos. 701-TA-414 and 731-TA-928, *Softwood Lumber from Canada*, USITC Pub. 3509 (May 2002).[4] The Government of Canada subsequently requested review under the WTO *Understanding on Rules and Procedures Governing the Settlement of Disputes*. A WTO dispute settlement panel issued its final report, and found, *inter alia*, that action by the Commission in connection with its *Softwood Lumber* investigations under Title VII of the Tariff Act of 1930, ITC Investigations Nos. 701-TA-414 and 731-TA-928, is not in conformity with the obligations of the United States under the WTO *Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994* and the WTO *Agreement on Subsidies and Countervailing Measures*. The panel's findings in this regard are set out in paragraphs 7.87 to 7.96, 7.122 and 7.137 of the panel report. Its conclusions based on these findings are set out in paragraphs 8.1 and 8.2 of the report. The panel report was adopted by the WTO Dispute Settlement Body on April 26, 2004. The

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[3] (...continued)
Service, whether or not on a single or multiple trucks, rail cars, or other vehicles, which shall be on the same day except when the home is over 2,000 square feet; (E) the following documentation must be included with the entry documents: (1) a copy of the appropriate home design, plan, or blueprint matching the entry; (2) a purchase contract from a retailer of home kits or packages signed by a customer not affiliated with the importer; (3) a listing of inventory of all parts of the package or kit being entered that conforms to the home design package being entered; and (4) in the case of multiple shipments on the same contract, all items listed in E(3) which are included in the present shipment shall be identified as well. Lumber products that Customs may classify as stringers, radius cut box-spring-frame components, and fence pickets, not conforming to the above requirements, as well as truss components, pallet components, and door and window frame parts, are covered under the scope of these investigations and may be entered under HTS statistical reporting numbers 4418.90.4090, 4421.90.7040 and 4421.90.9840. (67 FR 15545-15548 (Apr. 2, 2002); 67 FR 15539-15542 (Apr. 2, 2002); and Issues and Decision Memorandum for the Final Determination in the Antidumping Duty Investigation of Certain Softwood Lumber Products from Canada to Assistant Secretary, Import Administration, dated March 21, 2002. On January 24, 2002, Customs informed the Department of certain changes in the 2002 HTS affecting these products. Specifically, statistical reporting numbers 4418.90.4090, and 4421.90.9840 were changed to 4418.90.4590 and 4421.90.9740, respectively.

[4] These investigations resulted from a petition filed by the Coalition for Fair Lumber Imports Executive Committee (Coalition), Washington, DC; the United Brotherhood of Carpenters and Joiners (UBCJ), Portland, OR; and the Paper, Allied-Industrial, Chemical and Energy Workers International Union (PACE), Nashville, TN, on April 2, 2001, alleging that an industry in the United States is materially injured and threatened with material injury by reason of imports of subsidized and LTFV imports of softwood lumber from Canada.

The Coalition for Fair Lumber Imports Executive Committee is comprised of Hood Industries, International Paper Co. (International Paper), Moose River Lumber Co. (Moose River), New South, Inc. (New South), Plum Creek Timber Co. (Plum Creek), Potlatch Corp. (Potlatch), Seneca Sawmill Co. (Seneca Sawmill), Shearer Lumber Products (Shearer Lumber), Shuqualak Lumber Co. (Shuqualak Lumber), Sierra Pacific Industries (Sierra Pacific), Swift Lumber, Inc. (Swift Lumber), Temple-Inland Forest Products (Temple Inland), and Tolleson Lumber Co., Inc. (Tolleson Lumber).

USTR transmitted his request for this proceeding following receipt from the Commission on July 14, 2004, of an advisory report under section 129(a)(1) stating that the Commission has concluded that Title VII of the Tariff Act of 1930 permits it to take steps in connection with its action in *Softwood Lumber from Canada*, Investigations Nos. 701-TA-414 and 731-TA-928, that would render its action in that proceeding not inconsistent with the findings of the dispute settlement panel.

In order to make a determination that would render its original action not inconsistent with the findings of the WTO panel, the Commission instituted a proceeding under section 129(a)(4) of the URAA (19 U.S.C. § 3538(a)(4)). This proceeding only involves issues related to the WTO dispute settlement findings and does not involve issues that were not in dispute in the WTO proceeding or on which the WTO dispute settlement panel found the United States in conformity with its obligations under the WTO. Therefore, this proceeding does not involve any issue relating to the Commission's definitions of the domestic like product and domestic industry (including related parties), and the Commission's findings regarding the Maritime Provinces, effects of the subsidies or dumping, consideration of the nature of the subsidy and its likely trade effects, and cross-cumulation.

The Commission established procedures for conducting this section 129 proceeding in order for it to make an appropriate determination which includes reopening the record to gather additional information to be used to supplement the information gathered in the original investigations.[5] As discussed below, the Commission has gathered additional information from public data sources and from questionnaires sent to domestic producers and Canadian producers requesting specific additional data. In addition, the Commission held a public hearing and will provide parties to this proceeding three opportunities to submit written comments (prehearing briefs, posthearing briefs, and final comments).

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[5] *See*, 19 U.S.C. §§ 3538(a)(4) and (d); SAA at 1024 and 1026.

ORGANIZATION OF THIS REPORT

This reported is essentially divided into three sections: (1) data tables; (2) a review of U.S. softwood lumber market conditions, January 1999-March 2002, gleaned from public sources; and (3) U.S. and Canadian producer comments regarding supply, demand, and business planning obtained from Commission questionnaires. In addition, there are appendices that include: (1) additional financial tables; (2) a review of market conditions during 1994-98; (3) a review of demand forecasts; and (4) business plans provided to the Commission by certain questionnaire respondents.

Insofar as the data presentation for the report is concerned, tables developed specifically for this proceeding are presented immediately following their companion tables that were developed during the original investigations and are identified with the mark "***B (129)***," and appear in ***bold italics*** in their entirety (i.e., table III-1 from the original investigations will be followed by ***table III-1B (129)*** developed for this proceeding).[6] All tables, be they original or new, have the number used in the original investigations (i.e., table III-1 remains table III-1). Tables using public data sources have been updated with the addition of 2001 annual data (if not available for the original staff report) and/or January-March 2000-02 data.[7] Such additional data are identified in the tables in ***bold italics***. Certain tables from the original investigations with information not under consideration in this proceeding are not included in this report. Hence, the table numbers will not necessarily run consecutively (i.e., tables III-3, III-4, III-6, III-7, III-10, etc.). A summary of data collected in the original investigations and this proceeding is presented in appendix C, tables C-1 and ***C-1B (129)***, respectively. Except as noted, U.S. industry data are based on publicly available data concerning the U.S. softwood lumber industry. U.S. imports are

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[6] For this proceeding, the Commission sent questionnaires to the 76 U.S. producers and the 27 Canadian producers who had provided useable data in the original investigations. Fifty-five U.S. producers and 6 Canadian producers responded to the Commission's request for information. The 55 U.S. producers accounted for 59.5 percent of U.S. production of softwood lumber during January-March 2002 while the responding Canadian producers accounted for 20.1 percent of Canadian production for the same period.

[7] The Commission made its original determinations in May 2002 and thus has collected and/or revised data for periods prior to those determinations.

based on official statistics. Finally, readers are referred to the business proprietary and/or the public version[8] of the Commission's report in the original investigations for the complete text and data developed for those investigations.

For this proceeding, the Commission sent questionnaires to the 76 U.S. producers and the 27 Canadian producers who had provided useable data in the original investigations. Fifty-five U.S. producers and 6 Canadian producers responded to the Commission's request for information. The 55 U.S. producers accounted for 59.5 percent of U.S. production of softwood lumber during January-March 2002 while the responding Canadian producers accounted for 20.1 percent of Canadian production for the same period.

U.S. INDUSTRY DATA

Table III-1 presents USFS sales and timber harvested for 1996 through 2001.

Table III-1
Softwood lumber: USFS timber sold and harvested, 1996-2001

Item	1996	1997	1998	1999	2000	2001
			Quantity (*mmbf*)			
Timber sold	2,412	1,968	1,567	1,188	764	1,109
Timber harvested	1,968	2,139	1,822	1,589	1,284	1,025
Source: WWPA, Western Lumber Facts, USFS statistics.						

Table III-1B (129) presents USFS sales and timber harvested for January-March 2000-02.

Table III-1B (129)
Softwood lumber: USFS timber sold and harvested, January-March 2000-02

Item	*2000*	*2001*	*2002*
		Quantity (mmbf)	
Timber sold	*88*	*116*	*195*
Timber harvested	*234*	*174*	*216*
Source: USFS statistics.			

[8] *Softwood Lumber from Canada*, USITC Pub. 3509 (May 2002).

The number of establishments producing softwood lumber during 1995-2001 is shown in table III-2.

Table III-2
Softwood lumber: Number of U.S. establishments producing softwood lumber, 1995-2001

Item	1995	1996	1997	1998	1999	2000	2001
Establishments	816	816	810	804	795	790	779

Source: Spelter and McKeever, 2001.

The distribution of mills in 1999-2001, by regions and selected States, is shown in table III-3.

Table III-3
Softwood lumber: Distribution of sawmills, by regions and selected States, 1999-2001

Region and States	1999	2000	2001
North[1]	103	103	103
Maine	38	38	38
South[2]	441	436	436
North Carolina and South Carolina	98	98	99
Georgia, Alabama, and Mississippi	171	168	168
Texas and Arkansas	63	62	62
West[3]	260	255	251
Oregon	77	76	73
California	43	41	41
Washington	61	59	59
Idaho and Montana	61	59	59

[1] Connecticut, Illinois, Indiana, Iowa, Kansas, Maine, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Dakota, Ohio, Pennsylvania, Rhode Island, Wisconsin, and Vermont.
[2] Alabama, Arkansas, Delaware, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia, and West Virginia.
[3] Alaska, Arizona, California, Colorado, Hawaii, Idaho, Montana, New Mexico, Nevada, Oregon, South Dakota, Utah, Washington, and Wyoming.

Source: Estimated by USITC staff, Spelter and McKeever, 2001.

The share of U.S. softwood lumber production in 1996 and 2000-01 for the 5 largest firms and the 20 largest firms is presented in table III-4.

Table III-4
Softwood lumber: U.S. and Canadian production, shares held by 5 largest producers and 20 largest producers, 1996, 2000, and 2001

Country and year	Total production *(mmbf)*	5 largest producers		20 largest producers	
		Production *(mmbf)*	Share of total production *(percent)*	Production *(mmbf)*	Share of total production *(percent)*
United States:					
1996	33,266	9,389	28.2	16,470	49.5
2000	35,848	11,600	32.4	19,300	53.8
2001	***34,657***	***11,426***	***33.0***	***19,011***	***54.9***
Canada:					
1996	26,588	6,430	24.2	13,741	51.7
2000	29,054	9,893	34.0	19,390	66.7
2001	***29,100***	***9,410***	***32.3***	***19,876***	***68.3***

Source: Forest Industries North American Fact Book, 1998, Bank of America, "Wood & Building Products Quarterly, August 2000," p. 19., ***Wood Markets, Vol. 6, No. 11 Feb. 2002, p. 9, Wood Markets, Vol. 8, No. 1 Feb. 2003, p. 3, Wood Markets, Vol .8, No. 3 Apr. 2003, p. 9, RISI, USITC estimates.***

U.S. PRODUCTION, PRODUCTION CAPACITY, AND CAPACITY UTILIZATION

U.S. production, production capacity, and capacity utilization of softwood lumber for 1995-2001 and January-March 2000-02 are presented in tables III-6 and ***III-6B (129)***, respectively.

Table III-6
Softwood lumber: U.S. capacity, production, and capacity utilization, 1995-2001

Item	Calendar year						
	1995	1996	1997	1998	1999	2000	2001
Capacity *(mmbf)*	37,400	38,000	38,600	39,200	39,800	40,100	40,040
Production *(mmbf)*	32,233	33,266	34,666	34,678	36,606	35,965	34,996
Capacity utilization *(percent)*	86.1	87.6	89.9	88.5	92.0	89.7	87.4

Source: Compiled from data published by Resource Information Systems, Inc. (RISI) and the WWPA.

Note: The final tabulation of the 2001 WWPA lumber production survey was published in the ***August 2002 Lumber Track (issued November 6, 2002)–Revised U.S. production for 2001 is 34,579 mmbf.***

Table III-6B (129)
Softwood lumber: U.S. capacity, production, and capacity utilization, by month, January-March 2000-02

Item	January-March		
	2000	2001	2002
January:			
Capacity (mmbf)	3,343	3,338	3,329
Production (mmbf)	3,018	2,865	2,997
Capacity utilization (percent)	90.3	85.8	90.0
February:			
Capacity (mmbf)	3,343	3,338	3,329
Production (mmbf)	3,140	2,655	2,749
Capacity utilization (percent)	93.9	79.5	82.6
March:			
Capacity (mmbf)	3,343	3,338	3,329
Production (mmbf)	3,478	2,814	2,998
Capacity utilization (percent)	104.0	84.3	90.1
January-March			
Capacity (mmbf)	10,030	10,013	9,988
Production (mmbf)	9,636	8,334	8,744
Capacity utilization (percent)	96.1	83.2	87.5

Source: Compiled from data published by Resource Information Systems, Inc. (RISI) and the WWPA. March 2002 WWPA Lumber Track data issued June 5, 2002.

Data for softwood lumber production, production capacity, and capacity utilization in 1999-2001 and January-March 2000-02[9] from questionnaire respondents are shown in tables III-7 and ***III-7B (129)***, respectively.

Table III-7
Softwood lumber: U.S. capacity, production, and capacity utilization, 1999-2001

Item	Calendar year		
	1999	2000	2001
Capacity (*mmbf*)	22,847	24,233	24,709
Production (*mmbf*)	21,758	21,981	22,163
Capacity utilization (*percent*)	92.8	88.5	86.1
Source: Compiled from data submitted in response to Commission questionnaires.			

Table III-7B (129)
Softwood lumber: U.S. capacity, production, and capacity utilization, January-March 2000-02

Item	*January-March*		
	2000	*2001*	*2002*
Capacity (mmbf)	***5,556***	***5,855***	***5,903***
Production (mmbf)	***5,130***	***4,808***	***5,204***
Capacity utilization (percent)	***88.4***	***78.3***	***84.1***
Source: Compiled from data submitted in response to Commission questionnaires.			

[9] U.S. producers providing useable questionnaire data for this proceeding accounted for 59.5 percent of U.S. production of softwood lumber during January-March 2002.

Data presenting production by geographic regions, and selected States therein, are presented in table III-10.

Table III-10
Softwood lumber: U.S. production, by regions and by specified States, 1995-2001

Region and State	Calendar year						
	1995	1996	1997	1998	1999	2000	2001
	(In mmbf, except as noted)						
West:							
California	3,169	3,257	3,432	3,188	3,216	3,250	***3,021***
Oregon	4,828	5,205	5,748	5,705	6,314	6,250	***6,211***
Washington	3,646	3,732	3,907	4,163	4,487	4,750	***4,386***
All other	3,904	3,960	4,317	4,074	4,436	2,875	***3,561***
Total	15,547	16,154	17,404	17,130	18,453	17,125	***17,179***
Share of total United States (*percent*)	47.1	47.4	48.1	47.7	48.4	47.8	***48.4***
South:							
Alabama	2,148	2,110	2,155	2,184	2,238	2,340	***2,190***
Arkansas	1,762	1,852	1,976	1,960	2,079	2,130	***2,133***
Georgia	2,514	2,632	2,790	2,838	2,899	2,770	***2,547***
Mississippi	2,219	2,301	2,287	2,299	2,494	2,400	***2,219***
All other	6,785	6,917	7,351	7,204	7,533	6,974	***7,339***
Total	15,428	15,812	16,559	16,485	17,243	16,614	***16,428***
Share of total United States (*percent*)	46.7	46.4	45.8	45.9	45.3	46.3	***46.3***
North:							
Maine	894	939	931	1,012	1,057	1,020	***774***
All other	1,175	1,161	1,274	1,270	1,336	1,089	***1,098***
Total	2,069	2,100	2,205	2,282	2,393	2,109	***1,872***
Share of total United States (*percent*)	6.3	6.2	6.1	6.4	6.3	5.9	***5.3***
Total United States	33,043	34,065	36,167	35,896	38,088	35,848	***35,033***

Source: Commerce, *Current Industrial Reports*, and the WWPA (2001).

Production of softwood lumber by species or species groups is presented in table III-11.

Table III-11
Softwood lumber: U.S. production, by species and species groups, 1995-2001

Species	Calendar year						
	1995	1996	1997	1998	1999	2000	2001
	(mmbf)						
SYP	14,700	15,060	15,408	15,557	16,269	16,200	15,835
Douglas fir[1]	6,669	6,848	7,322	7,408	7,991	8,142	8,133
Hem-fir	3,451	3,737	4,120	4,228	4,568	4,478	3,563
Ponderosa pine	2,365	2,263	2,198	1,949	1,913	1,823	1,843
W-SPF	906	966	992	1,094	1,103	978	882
Redwood	733	770	824	752	658	578	565
Western cedar[2]	899	880	855	766	841	890	850
Western pines[3]	180	189	207	166	189	170	190
Eastern softwoods[4]	1,764	1,953	2,080	2,015	2,289	2,000	2,465
Other softwoods	566	600	660	743	785	589	707
Total	32,233	33,266	34,666	34,678	36,606	35,848	35,479

[1] Includes a small amount of inland larch.
[2] Includes western red cedar and incense cedar.
[3] Includes western white (Idaho) pine and sugar pine.
[4] Includes those softwood species native to the forests east of the Mississippi River and not included in the SYP species group.

Source: Commerce, *Current Industrial Reports*, and the WWPA.

U.S. PRODUCERS' SHIPMENTS

Table III-12 presents data on shipments, by region, as compiled by the WWPA.

Table III-12
Softwood lumber: Shipments by U.S. producers, by region, 1995-2001

Region	Calendar year						
	1995	1996	1997	1998	1999	2000	2001
	(mmbf)						
West	15,864	16,352	16,501	16,668	17,516	17,061	***17,179***
South	14,719	15,426	16,291	16,068	16,851	16,676	***16,428***
North	1,758	1,827	1,887	2,046	2,148	2,109	***1,872***
Total	32,341	33,605	34,679	34,782	36,515	35,846	***35,479***

Source: WWPA, *Western Lumber Facts, Lumber Track*, Current Industrial Report.

Data regarding domestic and export shipments of softwood lumber in 1999-2001 and January-March 2000-02 from questionnaire respondents are presented in tables III-13 and ***III-13B (129)***,[10] respectively.

Table III-13
Softwood lumber: U.S. producers' shipments, by type, 1999-2001

Item	Calendar year		
	1999	2000	2001
		Quantity (*mmbf*)	
Commercial shipments	19,932	20,276	20,803
Internal consumption	1,004	909	770
Transfers to related firms	568	589	728
U.S. shipments	21,504	21,774	22,301
Export shipments	295	289	231
Total	21,799	22,063	22,532
		Value (*$1,000,000*)	
Commercial shipments	8,249	7,259	7,179
Internal consumption	458	377	320
Transfers to related firms	241	226	258
U.S. shipments	8,948	7,862	7,758
Export shipments	159	155	115
Total	9,107	8,017	7,873
		Unit value (*per mbf*)	
Commercial shipments	$413.84	$358.00	$345.12
Internal consumption	456.71	414.50	415.29
Transfers to related firms	424.71	384.10	354.92
U.S. shipments	416.13	361.07	347.86
Export shipments	537.03	536.65	496.93
Average	417.76	363.37	349.39

Source: Compiled from data submitted in response to Commission questionnaires.

[10] U.S. producers providing useable questionnaire data for this proceeding accounted for 59.5 percent of U.S. production of softwood lumber during January-March 2002.

Table III-13B (129)
Softwood lumber: U.S. producers' shipments, by type, January-March 2000-02

Item	January-March		
	2000	2001	2002
	Quantity (mmbf)		
Commercial shipments	4,634	4,377	4,659
Internal consumption	188	181	180
Transfers to related firms	136	162	194
U.S. shipments	4,958	4,720	5,033
Export shipments	74	59	44
Total	5,032	4,779	5,077
	Value ($1,000,000)		
Commercial shipments	1,831	1,376	1,561
Internal consumption	88	71	76
Transfers to related firms	55	53	66
U.S. shipments	1,974	1,500	1,703
Export shipments	40	31	21
Total	2,014	1,531	1,724
	Unit value (per mbf)		
Commercial shipments	$395.05	$314.33	$335.03
Internal consumption	$466.92	$391.40	$423.08
Transfers to related firms	$403.17	$327.24	$342.16
U.S. shipments	$398.01	$317.73	$338.45
Export shipments	$544.42	$516.67	$476.01
Average	$400.17	$320.20	$339.64

Source: Compiled from data submitted in response to Commission questionnaires.

U.S. PRODUCERS' INVENTORIES

Data on U.S. producers' inventories of softwood lumber in 1999-2001 and January-March 2000-02 from questionnaire respondents are presented in tables III-16 and ***III-16B (129)***,[11] respectively.

Table III-16
Softwood lumber: U.S. producers' inventories, 1999-2001

Item	Calendar year		
	1999	2000	2001
Inventories (*mmbf*)	1,382	1,543	1,467
Ratio to production (*percent*)	6.4	7.0	6.6
Ratio to U.S. shipments (*percent*)	6.4	7.1	6.6
Ratio to total shipments (*percent*)	6.3	7.0	6.5
Source: Compiled from data submitted in response to Commission questionnaires.			

Table III-16B (129)
Softwood lumber: U.S. producers' inventories, as of March 31, 2000-02

Item	*As of March 31--*		
	2000	*2001*	*2002*
Inventories (mmbf)	***1,192***	***1,273***	***1,312***
Ratio to production (percent)	***6.5***	***7.6***	***7.1***
Ratio to U.S. shipments (percent)	***6.8***	***7.7***	***7.4***
Ratio to total shipments (percent)	***6.7***	***7.6***	***7.3***
Source: Compiled from data submitted in response to Commission questionnaires.			

[11] U.S. producers providing useable questionnaire data for this proceeding accounted for 59.5 percent of U.S. production of softwood lumber during January-March 2002.

U.S. PRODUCERS' EMPLOYMENT, WAGES, AND PRODUCTIVITY

Data on U.S. producers' softwood lumber employment, wages, and productivity for 1999-2001 and January-March 2000-02 from questionnaire respondents are presented in tables III-19 and *III-19B (129)*,[12] respectively.

Table III-19
Softwood lumber: Average number of production and related workers, hours worked, wages paid to such employees, hourly wages, productivity, and unit labor costs, 1999-2001

Item	Calendar year		
	1999	2000	2001
Production and related workers (PRWs)	29,607	29,573	29,082
Hours worked by PRWs (*1,000 hours*)	68,578	69,735	66,013
Wages paid to PRWs (*1,000 dollars*)	1,038,566	1,079,375	1,030,426
Hourly wages	$15.14	$15.48	$15.61
Productivity (*mbf per 1,000 hours*)	307.3	305.7	320.9
Unit labor costs (*per mbf*)	$49.29	$50.62	$48.64
Source: Compiled from data submitted in response to Commission questionnaires.			

Table III-19B (129)
Softwood lumber: Average number of production and related workers, hours worked, wages paid to such employees, hourly wages, productivity, and unit labor costs, January-March 2000-02

Item	*January-March*		
	2000	*2001*	*2002*
Production and related workers (PRWs)	***21,632***	***20,526***	***20,653***
Hours worked by PRWs (1,000 hours)	***12,787***	***11,125***	***11,590***
Wages paid to PRWs (1,000 dollars)	***205,716***	***189,869***	***202,146***
Hourly wages	***$16.09***	***$17.07***	***$17.44***
Productivity (mbf per 1,000 hours)	***337.1***	***355.2***	***372.5***
Unit labor costs (per mbf)	***$47.73***	***$48.05***	***$46.83***
Source: Compiled from data submitted in response to Commission questionnaires.			

[12] U.S. producers providing useable questionnaire data for this proceeding accounted for 59.5 percent of U.S. production of softwood lumber during January-March 2002.

U.S. IMPORT AND CONSUMPTION DATA

Data on U.S. imports of softwood lumber for 1999-2001 and January-March 2000-02, based on official statistics of Commerce, are presented tables IV-1 and *IV-1B (129)*, respectively.[13]

Table IV-1
Softwood lumber: U.S. Imports, by sources, 1999-2001

Source	Calendar year		
	1999	2000	2001
	Quantity (*mmbf*)		
Canada	17,983	18,052	18,483
Other sources	937	1,116	1,378
Total	18,920	19,168	19,860
	Value (*1,000,000 dollars*)[1]		
Canada	7,116	6,280	5,980
Other sources	667	710	859
Total	7,784	6,990	6,840
	Unit value (*per mbf*)[1]		
Canada	$395.72	$347.89	$323.57
Other sources	712.22	635.84	623.60
Average	411.39	364.66	344.38
	Share of quantity (*percent*)		
Canada	95.0	94.2	93.1
Other sources	5.0	5.8	6.9
Total	100.0	100.0	100.0
	Share of value (*percent*)		
Canada	91.4	89.8	87.4
Other sources	8.6	10.2	12.6
Total	100.0	100.0	100.0

[1] Landed, duty-paid.

Source: Compiled from official Commerce statistics and from data submitted in response to Commission questionnaires.

[13] Less imports of excluded products as reported in importer questionnaires (including the Maritimes). Excluded products amounted to just over 0.1 percent of total imports during the period examined.

Table IV-1B (129)
Softwood lumber: U.S. imports, by sources, by month, January-March 2000-02

Year and Source	January	February	March	January-March
		Quantity (mmbf)		
2000:				
Canada	1,387	1,462	1,619	4,467
Other sources	82	80	108	269
Total	1,468	1,542	1,726	4,736
2001:				
Canada	1,341	1,413	1,387	4,141
Other sources	102	81	94	277
Total	1,443	1,494	1,481	4,418
2002:				
Canada	1,402	1,544	1,800	4,745
Other sources	152	115	149	416
Total	1,554	1,659	1,949	5,161
		Value (1,000,000 dollars)[1]		
2000:				
Canada	542	565	624	1,731
Other sources	58	54	74	186
Total	600	620	697	1,916
2001:				
Canada	388	411	439	1,238
Other sources	64	50	58	172
Total	451	461	497	1,410
2002:				
Canada	425	494	623	1,542
Other sources	72	68	87	227
Total	497	562	710	1,769

Table continued on following page.

Year and Source	January	February	March	January-March
		Unit value (dollars per mbf)[1]		
2000:				
Canada	390.70	386.62	385.27	387.40
Other sources	705.90	682.94	684.54	690.56
Average	408.27	401.95	403.93	404.63
2001:				
Canada	289.15	291.03	316.75	299.04
Other sources	622.70	618.83	619.98	620.64
Average	312.73	308.85	335.98	319.21
2002:				
Canada	303.27	319.95	346.25	325.00
Other sources	475.77	589.10	580.32	544.55
Average	320.15	338.61	364.16	342.70
		Share of quantity (percent)		
2000:				
Canada	94.4	94.8	93.8	94.3
Other sources	5.6	5.2	6.2	5.7
Total	100.0	100.0	100.0	100.0
2001:				
Canada	92.9	94.6	93.7	93.7
Other sources	7.1	5.4	6.3	6.3
Total	100.0	100.0	100.0	100.0
2002:				
Canada	90.2	93.1	92.3	91.9
Other sources	9.8	6.9	7.7	8.1
Total	100.0	100.0	100.0	100.0

Table continued on following page.

Year and Source	January	February	March	January-March
		Share of value (percent)		
2000:				
Canada	90.4	91.2	89.4	90.3
Other sources	9.6	8.8	10.6	9.7
Total	100.0	100.0	100.0	100.0
2001:				
Canada	85.9	89.1	88.3	87.8
Other sources	14.1	10.9	11.7	12.2
Total	100.0	100.0	100.0	100.0
2002:				
Canada	85.5	87.9	87.8	87.2
Other sources	14.5	12.1	12.2	12.8
Total	100.0	100.0	100.0	100.0

[1] Landed, duty-paid.

Source: Compiled from official Commerce statistics. March 2002 available May 17, 2002.

APPARENT U.S. CONSUMPTION AND U.S. MARKET SHARES

Data on apparent U.S. consumption of softwood lumber for 1995-2001 and January-March 2000-02 are presented tables IV-2 and ***IV-2B (129)***, respectively. Table IV-3 presents consumption figures with imports from the Maritimes broken out from the rest of Canada.

Table IV-2
Softwood lumber: U.S. production, exports of domestic merchandise, total imports, imports from Canada, and apparent consumption, 1995-2001

Period	Production	Exports	Total imports	Imports from Canada	Apparent consumption	Imports to consumption	Canadian imports to consumption	Production to consumption[1]
			Quantity (*mmbf*)				(*Percent*)	
1995	32,233	1,986	17,395	16,992	47,641	36.5	35.7	63.5
1996	33,266	1,935	18,213	17,802	49,544	36.8	35.9	63.2
1997	34,666	1,812	18,003	17,431	50,856	35.4	34.3	64.6
1998	34,678	1,260	18,686	18,039	52,104	35.9	34.6	64.1
1999	36,606	1,431	18,920	17,983	54,095	35.0	33.2	65.0
2000	35,965	1,355	19,168	18,052	53,778	35.6	33.6	64.4
2001	34,996	962	19,860	18,483	53,894	36.8	34.3	63.1
			Value (*$1,000,000*)					
1995	10,863	1,264	5,679	5,363	15,278	37.2	35.1	62.8
1996	13,380	1,238	6,993	6,671	19,135	36.5	34.9	63.5
1997	14,482	1,137	7,518	7,056	20,863	36.0	33.8	64.0
1998	12,085	763	6,828	6,356	18,150	37.6	35.0	62.4
1999	14,749	827	7,784	7,116	21,706	35.9	32.8	64.1
2000	11,617	799	6,990	6,280	17,808	39.3	35.3	60.7
2001	10,919	564	6,840	5,980	17,194	39.8	34.8	60.2
			(*Per mbf*)					
1995	$337.01	$636.46	$326.47	$315.62	$320.68	101.8	98.4	99.0
1996	402.21	639.79	383.96	374.74	386.22	99.4	97.0	100.3
1997	417.76	627.48	417.60	404.80	410.23	101.8	98.7	99.0
1998	348.49	605.56	365.40	352.36	348.35	104.9	101.2	97.3
1999	402.91	577.92	411.39	395.72	401.26	102.5	98.6	98.6
2000	323.01	589.67	364.66	347.89	331.14	110.1	105.1	94.4
2001	312.01	586.28	344.38	323.57	319.01	107.9	101.4	95.4

[1] Calculated with exports subtracted from production.

Note: The final tabulation of the 2001 WWPA lumber production survey was published in the ***August 2002 Lumber Track (issued November 6, 2002)–Revised U.S. production for 2001 is 34,579 mmbf.***

Source: Compiled from WWPA, Random Lengths and official statistics of Commerce.

Table IV-2B (129)
Softwood lumber: U.S. production, exports of domestic merchandise, total imports, imports from Canada, and apparent consumption, by month, January-March 2000-02

Period	Production	Exports	Total imports	Imports from Canada	Apparent consumption	Imports to consumption	Canadian imports to consumption	Production to consumption[1]
	Quantity (mmbf)					(Percent)		
2000:								
January	3,018	118	1,468	1,387	4,368	33.6	31.8	66.4
February	3,140	121	1,542	1,462	4,561	33.8	32.1	66.2
March	3,478	122	1,726	1,619	5,082	34.0	31.9	66.0
Total/Average	9,636	361	4,736	4,467	14,011	33.8	31.9	66.2
2001:								
January	2,865	100	1,443	1,341	4,208	34.3	31.9	65.7
February	2,655	83	1,494	1,413	4,066	36.7	34.8	63.3
March	2,814	96	1,481	1,387	4,199	35.3	33.0	64.7
Total/Average	8,334	279	4,418	4,141	12,473	35.4	33.2	64.6
2002:								
January	2,997	66	1,554	1,402	4,485	34.6	31.3	65.4
February	2,749	78	1,659	1,544	4,330	38.3	35.7	61.7
March	2,998	79	1,949	1,800	4,868	40.0	37.0	60
Total/Average	8,744	223	5,162	4,745	13,683	37.7	34.7	62.3
	Value ($1,000,000)							
2000:								
January	1,168	72	600	542	1,696	35.4	31.9	64.6
February	1,209	69	620	565	1,760	35.2	32.1	64.8
March	1,325	72	697	624	1,950	35.8	32.0	64.2
Total/Average	3,703	213	1,916	1,731	5,407	35.4	32.0	64.6
2001:								
January	759	55	451	388	1,156	39.0	33.6	61.0
February	757	50	462	411	1,168	39.5	35.2	60.5
March	847	56	498	439	1,289	38.6	34.1	61.4
Total/Average	2,364	161	1,410	1,238	3,614	39.0	34.3	61.0
2002:								
January	890	39	498	425	1,348	36.9	31.5	63.1
February	871	43	562	494	1,390	40.4	35.5	59.6
March	1,016	48	710	623	1,678	42.3	37.1	57.7
Total/Average	2,778	130	1,769	1,542	4,417	40.0	34.9	60.0

Table continued on following page.

Period	Production	Exports	Total imports	Imports from Canada	Apparent consumption	Imports to consumption	Canadian imports to consumption	Production to consumption[1]
			(Per mmbf)					
2000:								
January	387.00	608.47	408.38	390.56	388.20	105.2	100.7	97.4
February	385.00	570.25	401.88	386.59	385.79	104.2	100.2	97.9
March	381.00	593.44	403.94	385.18	383.69	105.3	100.4	97.3
Total/Average	384.33	590.74	404.66	387.32	385.88	104.9	100.4	97.5
2001:								
January	265.00	549.00	312.68	289.11	274.60	113.9	105.3	92.7
February	285.00	603.61	308.90	291.01	287.28	107.5	101.3	95.7
March	301.00	578.13	335.92	316.65	306.98	109.5	103.2	94.8
Total/Average	283.67	575.32	319.18	298.96	289.73	110.2	103.3	94.4
2002:								
January	297.00	596.97	320.14	303.21	300.60	106.5	100.9	96.6
February	317.00	550.00	338.52	319.88	321.05	105.5	99.7	96.6
March	339.00	603.80	364.14	346.22	344.77	105.7	100.5	96.2
Total/Average	317.67	582.92	342.66	324.94	322.77	106.2	100.7	96.3

[1] Calculated with exports subtracted from production.

Source: Compiled from WWPA, Random Lengths and official statistics of Commerce. March 2002 WWPA Lumber Track data issued on June 5, 2002.

Table IV-3
Softwood lumber: U.S. production, exports of domestic merchandise, total imports, imports from Canada,, imports from the Maritimes, and apparent consumption, 1995-2001

Period	Production	Exports	Total imports	Imports from Canada[1]	Imports from Maritimes[2]	Apparent consumption	Imports to consumption	Canadian imports to consumption[1]	Maritimes imports to consumption	Production to consumption[3]
			Quantity (mmbf)					(Percent)		
1995	32,233	1,986	17,395	16,289	703	47,641	36.5	34.2	1.5	63.5
1996	33,266	1,935	18,213	16,871	931	49,544	36.8	34.1	1.9	63.2
1997	34,666	1,812	18,003	16,089	1,342	50,856	35.4	31.6	2.6	64.6
1998	34,678	1,260	18,686	16,361	1,671	52,104	35.9	31.4	3.2	64.1
1999	36,806	1,431	18,920	15,960	2,023	54,095	35	29.5	3.7	65.0
2000	35,965	1,355	19,168	15,922	2,130	53,778	35.6	29.6	4.0	64.4
2001	34,996	962	19,860	16,642	1,641	53,894	36.8	30.9	3.4	63.1

[1] Less the Maritimes.
[2] Calculated using Statistic Canada export figures.
[3] Calculated with exports subtracted from production.

Source: Compiled from the WWPA, official statistics of Commerce, and Statistics Canada.

Data with regard to housing starts, by type of structure and by regions, for 1995-2001 and January-March 2000-02 are presented in tables IV-6 and ***IV-6B (129)***, respectively.

Table IV-6
Housing starts: U.S. privately owned housing starts, by type of structure and by regions, 1995-2001[1]

Period and region	Privately owned								Total, privately owned housing starts	Share of total privately owned housing starts
	Single unit			Multi-unit						
					Five or more units					
	Town house	Detached	Total	2-4 units	Townhouse development	Conventional apartment	Total	Total		
	(1,000 units)									*(percent)*
1995:										
North	45	290	336	14	7	51	58	72	408	30
South	42	443	485	11	2	117	119	130	615	45
West	16	239	256	9	4	63	67	76	331	24
Total	103	972	1,076	34	13	231	244	278	1,354	100
1996:										
North	45	321	366	21	4	62	66	87	453	31
South	45	479	524	13	7	119	125	138	662	45
West	16	255	271	11	4	75	79	90	361	24
Total	107	1,054	1,161	45	15	256	271	316	1,477	100
1997:										
North	50	299	349	22	7	63	69	91	441	30
South	39	469	507	13	6	145	151	164	671	45
West	15	263	278	10	4	72	76	86	363	25
Total	104	1,030	1,134	44	17	280	296	340	1,475	100
1998:										
North	55	340	395	18	4	61	66	84	479	30
South	45	529	574	15	4	151	155	170	743	46
West	17	286	303	9	3	79	83	92	396	24
Total	117	1,154	1,271	43	11	292	303	346	1,617	100
1999:										
North	62	363	426	15	7	63	69	84	510	31
South	45	550	595	10	7	148	154	164	760	46
West	19	296	314	6	2	74	76	82	396	24
Total	126	1,209	1,335	32	15	284	300	332	1,666	100
2000:										
North	65	324	389	17	n/a	n/a	75	92	480	30
South	50	520	570	10	n/a	n/a	143	153	725	45
West	16	288	303	8	n/a	n/a	78	86	389	24
Total	130	1,130	1,262	36	n/a	n/a	296	332	1,593	100

Period and region	Privately owned								Total, privately owned housing starts	Share of total privately owned housing starts
	Single unit			Multi-unit						
					Five or more units					
	Town house	Detached	Total	2-4 units	Townhouse development	Conventional apartment	Total	Total		
2001:										
North	61	317	380	20	n/a	n/a	80	100	480	30
South	59	531	590	9	n/a	n/a	132	141	731	46
West	18	285	303	8	n/a	n/a	81	89	392	24
Total	140	1,133	1,273	37	n/a	n/a	292	329	1,602	100

[1] Includes units in semidetached (semiattached) structures.

Note.–Because of rounding, figures may not add to the totals shown.

Source: Compiled from Commerce data (Series G-20 reports).

Table IV-6B (129)
Housing starts: U.S. privately owned housing starts, by type of structure and by regions, January-March 2000-02[1]

Period and region	*Privately owned*								*Total, privately owned housing starts*	*Share of total privately owned housing starts*
	Single unit			*Multi-unit*						
					Five or more units					
	Town house	*Detached*	*Total*	*2-4 units*	*Townhouse development*	*Conventional apartment*	*Total*	*Total*		
	(1,000 units)									*(percent)*
January-March 2000:										
North	12	60	72	4	n/a	n/a	16	20	92	26
South	12	126	138	2	n/a	n/a	38	40	178	50
West	3	66	69	1	n/a	n/a	17	18	87	24
Total	26	252	278	7	n/a	n/a	73	79	357	100
January-March 2001:										
North	10	56	67	3	n/a	n/a	18	21	88	25
South	12	125	137	2	n/a	n/a	31	34	171	49
West	4	65	70	2	n/a	n/a	17	19	87	25
Total	27	247	274	8	n/a	n/a	66	74	348	100
January-March 2002:										
North	14	60	73	6	n/a	n/a	14	20	93	25
South	14	132	146	4	n/a	n/a	34	38	184	50
West	5	68	74	2	n/a	n/a	16	17	91	25
Total	33	260	293	11	n/a	n/a	65	76	369	100

[1] Includes units in semidetached (semiattached) structures.

Note.–Because of rounding, figures may not add to the totals shown.

Source: Compiled from Commerce data (Series G-20 reports).

Softwood lumber consumption, by region, for 1996-2001 are presented in table IV-7.

Table IV-7
Softwood lumber: U.S. production, exports of domestic merchandise, imports for consumption, and apparent consumption, by regions, 1996-2001

Period and region	Production	Exports	Shipments to other U.S. regions[1]	Imports from foreign sources[2]	Shipments from other U.S. regions	Apparent consumption	Ratio of– Imports to consumption	Ratio of– Exports to production
	(mmbf)						(Percent)	
1996:								
North	1,809	204	0	8,485	9,700	19,790	42.9	11.3
South	15,262	407	5,300	6,830	3,000	19,385	35.2	2.7
West	16,195	1,324	8,300	2,898	900	10,369	27.9	8.2
Total	33,266	1,935	13,600	18,213	13,600	49,544	36.8	5.8
1997:								
North	1,888	193	0	9,002	10,400	21,097	42.7	10.2
South	16,113	499	6,000	6,353	3,000	18,967	33.5	3.1
West	16,665	1,120	8,500	2,648	1,100	10,793	24.5	6.7
Total	34,666	1,812	14,500	18,003	14,500	50,857	35.4	5.2
1998:								
North	2,040	186	0	9,185	10,300	21,339	43.0	9.1
South	16,151	444	5,800	6,757	3,000	19,664	34.4	2.7
West	16,487	630	8,600	2,745	1,100	11,102	24.7	3.8
Total	34,678	1,260	14,400	18,686	14,400	52,104	35.9	3.6
1999:								
North	2,153	232	0	9,025	10,100	21,046	42.9	10.8
South	16,923	547	5,600	7,070	3,300	21,146	33.4	3.2
West	17,529	652	8,900	2,825	1,100	11,902	23.7	3.7
Total	36,606	1,431	14,500	18,920	14,500	54,095	35.0	3.9
2000:								
North	2,116	227	0	9,068	9,800	20,757	43.7	10.7
South	16,672	466	5,600	7,100	3,300	21,006	33.8	2.8
West	17,178	662	8,600	3,000	1,100	12,016	25.0	3.9
Total	35,965	1,355	14,200	19,168	14,200	53,779	35.6	3.8
2001:								
North	***2,039***	***189***	***0***	***11,873***	***2,409***	***16,132***	***73.6***	***9.2***
South	***16,168***	***334***	***4,000***	***915***	***7,986***	***24,735***	***3.7***	***2.1***
West	***16,450***	***440***	***10,395***	***7,290***	***4,000***	***12,905***	***56.5***	***2.7***
Total	***34,657***	***962***	***14,395***	***20,075***	***14,395***	***53,770***	***37.3***	***2.8***

[1] Based on the premise that northern U.S. production was not exported to other regions of the United States.
[2] Regional imports are estimated by the staff of the Commission.

Note.–Totals may not add due to rounding.

Source: Compiled from data supplied by the WWPA and RISI.

PRICES

Table V-1 presents the *Random Lengths* framing lumber composite price index, and selling prices and price indexes of specific products produced primarily in the United States, by quarters, from January-March 1994 through January-March 2002.

Table V-1
Softwood lumber: Framing lumber composite price index, and selling prices and price indexes of specific products produced primarily in the United States, by quarters, *January 1994-March 2002*

Period	Framing lumber composite[1]		Engelmann spruce/lodgepole pine (ESLP), kiln-dried, 2x4, P.E.T., stud grade, 8-foot length, net f.o.b. mill[2]		Douglas fir, green, 2x4, standard and better, random lengths, net f.o.b. mill, Portland[3]		Southern yellow pine--Eastside (SYP), kiln-dried, 2x4, #2, random lengths, net f.o.b. mill	
	$/mbf	*Index*	*$/mbf*	*Index*	*$/mbf*	*Index*	*$/mbf*	*Index*
1994:								
Jan.-Mar.	***475***	***138.7***	***495***	***154.0***	***317***	***93.4***	***481***	***128.8***
Apr.-June	***399***	***116.4***	***403***	***125.3***	***284***	***83.8***	***384***	***102.9***
July-Sept.	***383***	***111.8***	***371***	***115.2***	***313***	***92.1***	***355***	***95.2***
Oct.-Dec.	***385***	***112.3***	***339***	***105.4***	***322***	***95.0***	***432***	***115.7***
1995:								
Jan.-Mar.	***375***	***109.3***	***333***	***103.4***	***444***	***130.9***	***413***	***110.7***
Apr.-June	***315***	***91.9***	***282***	***87.7***	***356***	***104.9***	***342***	***91.6***
July-Sept.	***334***	***97.6***	***323***	***100.5***	***330***	***97.2***	***347***	***92.9***
Oct.-Dec.	***325***	***94.9***	***294***	***91.5***	***319***	***93.9***	***365***	***97.8***
1996:								
Jan.-Mar.	***343***	100.0	$322	100.0	$339	100.0	$373	100.0
Apr.-June	***397***	115.7	394	122.4	382	112.7	400	107.2
July-Sept.	***429***	125.1	394	122.4	428	126.3	443	118.8
Oct.-Dec.	***436***	127.1	364	113.0	403	118.9	499	133.8
1997:								
Jan.-Mar.	***438***	127.7	358	111.2	416	122.7	489	131.1
Apr.-June	***443***	129.2	365	113.4	407	120.1	468	125.5
July-Sept.	***412***	120.1	350	108.7	349	103.0	440	118.0
Oct.-Dec.	***375***	109.3	332	103.1	350	103.2	437	117.2
1998:								
Jan.-Mar.	***368***	107.3	344	106.8	326	96.2	422	113.1
Apr.-June	***344***	100.3	339	105.3	296	87.3	389	104.3
July-Sept.	***342***	99.7	340	105.6	337	99.4	389	104.3
Oct.-Dec.	***341***	99.4	315	97.8	296	87.3	421	112.9
1999:								
Jan.-Mar.	***384***	112.0	350	108.7	355	104.7	421	112.9
Apr.-June	***425***	123.9	372	115.5	399	117.7	420	112.6
July-Sept.	***424***	123.6	364	113.0	428	126.3	434	116.4
Oct.-Dec.	***375***	109.3	320	99.4	360	106.2	405	108.6

Table continued on next page:

Table V-1--Continued
Softwood lumber: Framing lumber composite price index, and selling prices and price indexes of specific products produced primarily in the United States, by quarters, *January 1994-March 2002--Continued*

Period	Framing lumber composite[1]		Engelmann spruce/lodgepole pine (ESLP), kiln-dried, 2x4, P.E.T., stud grade, 8-foot length, net f.o.b. mill[2]		Douglas fir, green, 2x4, standard and better, random lengths, net f.o.b. mill, Portland[3]		Southern yellow pine--Eastside (SYP), kiln-dried, 2x4, #2, random lengths, net f.o.b. mill	
	$/mbf	*Index*	*$/mbf*	*Index*	*$/mbf*	*Index*	*$/mbf*	*Index*
2000:								
Jan.-Mar.	*384*	112.0	327	101.6	364	107.4	398	106.7
Apr.-June	*337*	98.3	307	95.3	313	92.3	373	100.0
July-Sept.	*294*	85.7	269	83.5	283	83.5	343	92.0
Oct.-Dec.	*277*	80.8	204	73.9	278	81.5	575	125.0
2001:								
Jan.-Mar.	*284*	82.8	245	76.1	292	86.1	306	82.0
Apr.-June	*364*	106.0	360	111.9	332	97.8	378	101.3
July-Sept.	*322*	94.0	319	99.0	299	88.3	350	93.8
Oct.-Dec.	*279*	81.2	252	78.4	262	77.4	320	85.8
2002:								
Jan.-Mar.	***318***	***92.7***	***311***	***96.7***	***309***	***91.0***	***343***	***91.9***

[1] The framing lumber composite price indexes include prices of softwood lumber encompassing four grades, two dimensions, and six species (kiln-dried fir/larch, hem fir, ESPF, SYP, WSPF, and green Douglas fir).
[2] This product corresponds to product 1 for which price data were requested in the purchasers' questionnaires.
[3] This product corresponds to product 4 for which price data were requested in the purchasers' questionnaires.

Source: *Random Lengths 2002 Yearbook.*

Table V-2 presents the *Random Lengths* framing lumber composite price index, and selling prices and price indexes of specific products produced primarily in Canada, by quarters, from January-March 1994 through January-March 2002.

Table V-2
Softwood lumber: Framing lumber composite price index, and selling prices and price indexes of specific products produced primarily in Canada, by quarters, *January 1994-March 2002*

Period	Framing lumber composite[1]		SPF--Western (WSPF), kiln-dried, 2x4, P.E.T., stud grade, 8-foot length, base prices[2]		SPF--Eastern (ESPF), kiln-dried, 2x4, #1&2, random lengths, net delivered Boston[3]		Western red cedar (WRC), green, 2x8, #2 and better, rough, net f.o.b. mill[4]		Eastern white pine, kiln-dried, 1x12, standard, random lengths, net f.o.b. mill[5]	
	$/mbf	*Index*	*$/mbf*	*Index*	*$/mbf*	*Index*	*$/mbf*	*Index*	*$/mbf*	*Index*
1994:										
Jan.-Mar.	***475***	***138.7***	***454***	***164.4***	***469***	***137.5***	***495***	***107.6***	***574***	***119.9***
Apr.-June	***399***	***116.4***	***365***	***132.2***	***408***	***119.6***	***464***	***101.0***	***566***	***118.2***
July-Sept.	***383***	***111.8***	***330***	***119.4***	***390***	***114.3***	***443***	***96.4***	***583***	***121.7***
Oct.-Dec.	***385***	***112.3***	***303***	***109.9***	***363***	***106.4***	***446***	***97.0***	***591***	***123.5***
1995:										
Jan.-Mar.	***375***	***109.3***	***293***	***106.0***	***354***	***103.7***	***458***	***99.6***	***573***	***119.7***
Apr.-June	***315***	***91.9***	***278***	***100.7***	***289***	***84.8***	***451***	***98.0***	***524***	***109.5***
July-Sept.	***334***	***97.6***	***272***	***98.7***	***337***	***98.8***	***435***	***94.6***	***481***	***100.5***
Oct.-Dec.	***325***	***94.9***	***255***	***92.5***	***310***	***91.0***	***445***	***96.7***	***464***	***96.9***
1996:										
Jan.-Mar.	***343***	100.0	$276	100.0	$341	100.0	$460	100.0	$390	100.0
Apr.-June	***397***	115.7	350	126.8	413	121.1	531	115.4	369	94.6
July-Sept.	***429***	125.1	355	128.6	468	137.2	614	133.6	371	95.0
Oct.-Dec.	***436***	127.1	327	118.5	487	142.8	652	141.8	403	103.3
1997:										
Jan.-Mar.	***438***	127.7	323	117.0	470	137.8	740	161.0	479	122.7
Apr.-June	***443***	129.2	324	117.4	451	132.3	783	170.3	506	129.7
July-Sept.	***412***	120.1	307	111.2	418	122.6	785	170.8	513	131.5
Oct.-Dec.	***375***	109.3	293	106.2	370	108.5	787	171.2	488	125.2
1998:										
Jan.-Mar.	***368***	107.3	301	109.1	363	106.5	768	167.0	487	124.8
Apr.-June	***344***	100.3	301	109.1	356	104.4	725	157.7	466	119.6
July-Sept.	***342***	99.7	299	108.3	367	107.6	686	149.2	439	112.6
Oct.-Dec.	***341***	99.4	283	102.5	365	107.0	619	134.7	435	111.6
1999:										
Jan.-Mar.	***384***	112.0	313	113.4	397	116.4	624	135.7	459	117.7
Apr.-June	***425***	123.9	336	121.7	441	129.3	619	134.7	454	116.3
July-Sept.	***424***	123.6	328	118.8	441	129.3	565	122.9	436	111.8
Oct.-Dec.	***375***	109.3	304	110.1	403	118.2	563	122.4	440	112.8

Table continued on next page.

Table V-2--Continued
Softwood lumber: Framing lumber composite price index, and selling prices and price indexes of specific products produced primarily in Canada, by quarters, *January 1994-March 2002--Continued*

Period	Framing lumber composite[1]		SPF--Western (WSPF), kiln-dried, 2x4, P.E.T., stud grade, 8-foot length, base prices[2]		SPF--Eastern (ESPF), kiln-dried, 2x4, #1&2, random lengths, net delivered Boston[3]		Western red cedar (WRC), green, 2x8, #2 and better, rough, net f.o.b. mill[4]		Eastern white pine, kiln-dried, 1x12, standard, random lengths, net f.o.b. mill[5]	
	$/mbf	*Index*	*$/mbf*	*Index*	*$/mbf*	*Index*	*$/mbf*	*Index*	*$/mbf*	*Index*
2000:										
Jan.-Mar.	***384***	**112.0**	307	111.2	406	119.1	570	124.0	448	114.9
Apr.-June	***337***	**98.3**	282	102.2	353	103.5	572	124.4	460	117.9
July-Sept.	***294***	**85.7**	234	84.8	298	87.4	575	125.0	462	118.4
Oct.-Dec.	***277***	**80.8**	204	73.9	278	81.5	575	125.0	466	119.6
2001:										
Jan.-Mar.	***284***	**82.8**	224	81.2	273	80.1	572	124.4	455	116.8
Apr.-June	***364***	**106.0**	334	121.1	371	108.9	596	129.6	450	115.4
July-Sept.	***322***	**94.0**	296	107.2	365	107.1	610	132.6	450	115.4
Oct.-Dec.	***279***	**81.2**	227	82.1	305	89.5	619	134.6	453	116.1
2002:										
Jan.-Mar.	***318***	***92.7***	***287***	***104.0***	***344***	***101.0***	***610***	***132.7***	***495***	***103.4***

[1] See footnote 1 of Table V-1.
[2] This product corresponds to product 2 for which price data were requested in the purchasers' questionnaires. See footnote 16 on p. V-7 for a description of base prices.
[3] This product corresponds to product 3 for which price data were requested in the purchasers' questionnaires.
[4] This product corresponds to product 5 for which price data were requested in the purchasers' questionnaires.
[5] This product corresponds to product 6 for which price data were requested in the purchasers' questionnaires.

Source: *Random Lengths 2002 Yearbook.*

FINANCIAL EXPERIENCE OF U.S. PRODUCERS

Income and loss data for U.S. producers' softwood lumber operations for 1999-2001 and January-March 2000-02 are presented in tables VI-1 and ***VI-1B (129)***,[14] [15] respectively. Seventy-three producers provided useable financial data for table VI-1 and 55 producers provided useable data for ***table VI-1B (129)***.

Table VI-1
Results of softwood lumber operations of U.S. producers, fiscal years 1999-2001

Item	Fiscal year		
	1999	2000	2001
	Quantity (*mmbf*)		
Trade sales	19,632,763	19,935,490	19,956,618
Internal consumption	978,032	877,492	701,590
Related company transfers	597,007	628,941	802,061
Total net sales	21,207,802	21,441,923	21,460,269
	Value (*$1,000*)		
Trade sales	8,130,564	7,156,351	6,815,731
Internal consumption	454,286	370,965	301,122
Related company transfers	247,708	235,800	275,279
Total net sales	8,832,558	7,763,116	7,392,132
Cost of goods sold	7,261,403	7,285,804	6,967,889
Gross profit	1,571,155	477,312	424,243
SG&A expenses	311,049	337,676	331,615
Operating income or (loss)	1,260,106	139,636	92,627
Interest expense	65,716	81,716	78,873
Other expense	27,486	23,407	35,087
Other income items	42,805	31,334	29,342
Net income or (loss)	1,209,709	65,847	8,009
Depreciation/amortization	275,866	296,418	302,430
Cash flow	1,485,575	362,265	310,439

Table continued on following page.

Table VI-1--Continued

[14] U.S. producers providing useable questionnaire data for this proceeding accounted for 59.5 percent of U.S. production of softwood lumber during January-March 2002.

[15] App. D presents operating data for the U.S. industry producing softwood lumber that has been revised to align the firms providing useable financial data for both the underlying Title VII investigations and the section 129 consistency proceeding. Revisions to the data essentially involve deleting the data of firms that did not provide useable financial data in both instances. Hence, the data presented in app. D are consistent between the title VII and section 129 investigations and provide information from 54 firms.

Results of softwood lumber operations of U.S. producers, fiscal years 1999-2001

Item	Fiscal year		
	1999	2000	2001
	Ratio to net sales (*percent*)		
Cost of goods sold	82.2	93.9	94.3
Gross profit	17.8	6.1	5.7
SG&A expenses	3.5	4.4	4.5
Operating income or (loss)	14.3	1.8	1.3
Net income or (loss)	13.7	0.8	0.1
	Unit value (*per mbf*)		
Trade sales	$414.13	$358.98	$341.53
Internal consumption	464.49	422.76	429.20
Related company transfers	414.92	374.92	343.21
Total net sales	416.48	362.05	344.46
Cost of goods sold	342.39	339.79	324.69
Gross profit	74.08	22.26	19.77
SG&A expenses	14.67	15.75	15.45
Operating income or (loss)	59.42	6.51	4.32
Net income or (loss)	57.04	3.07	0.37
	Number of firms reporting		
Net losses	7	50	46
Data	73	73	73

Note.–Net sales values, other income, and raw materials were adjusted by the value of revenues reported from the sale of by-products.

Source: Compiled from data submitted in response to Commission questionnaires.

Table VI-1B (129)
Results of softwood lumber operations of U.S. producers, January-March 2000-02

Item	January-March		
	2000	2001	2002
	Quantity (mbf)		
Trade sales	4,704,846	4,434,597	4,700,143
Internal consumption	188,405	181,098	179,826
Related company transfers	137,261	163,147	196,200
Total net sales	5,030,513	4,778,842	5,076,169
	Value ($1,000)		
Trade sales	1,857,478	1,397,573	1,574,217
Internal consumption	88,075	70,955	76,135
Related company transfers	56,060	54,683	66,901
Total net sales	2,001,613	1,523,212	1,717,253
Cost of goods sold	1,735,382	1,479,318	1,526,716
Gross profit	266,231	43,894	190,536
SG&A expenses	82,430	86,405	85,862
Operating income or (loss)	183,801	(42,512)	104,674
Interest expense	27,431	28,832	23,694
Other expense	6,661	7,286	5,649
Other income items	11,406	4,582	10,339
Net income or (loss)	161,115	(74,049)	85,671
Depreciation/amortization	64,014	67,843	67,777
Cash flow	225,130	(6,206)	153,448

Table continued on following page.

Table VI-1B (129)--Continued
Results of softwood lumber operations of U.S. producers, January-March, 2000-02

Item	January-March		
	2000	2001	2002
	Ratio to net sales (percent)		
Cost of goods sold	86.7	97.1	88.9
Gross profit	13.3	2.9	11.1
SG&A expenses	4.1	5.7	5.0
Operating income or (loss)	9.2	(2.8)	6.1
Net income or (loss)	8.0	(4.9)	5.0
	Unit value (per mbf)		
Trade sales	$395.00	$315.00	$335.00
Internal consumption	$467.48	$391.81	$423.38
Related company transfers	$408.42	$335.18	$340.98
Total net sales	$397.89	$318.74	$338.30
Cost of goods sold	$344.97	$309.56	$300.76
Gross profit	$52.92	$9.19	$37.54
SG&A expenses	$16.39	$18.08	$16.91
Operating income or (loss)	$36.54	($8.90)	$20.62
Net income or (loss)	$32.03	($15.50)	$16.88
	Number of firms reporting		
Net losses	17	44	21
Data	55	56	56

Note.--Net sales values, other income, and raw materials were adjusted by the value of revenues reported from the sale of by-products.

Source: Compiled from data submitted in response to Commission questionnaires.

Per-unit values of raw materials and by-product revenues for 1999-2001 and January-March 2000-02 are shown in tables VI-2 and *VI-2B (129)*,[16] respectively.

Table VI-2
Per-unit values of cost of goods sold and average by-product revenues of U.S. producers of softwood lumber, fiscal years 1999-2001

Item	Fiscal year		
	1999	2000	2001
	Unit value *(per mbf)*		
Cost of goods sold:			
Raw materials	$231.20	$225.07	$205.64
Direct labor	47.09	47.32	44.97
Other factory costs	64.10	67.40	74.08
Total	342.39	339.79	324.69
Average by-product revenue	40.68	39.46	38.62

Note.–Net sales values, other income, and raw materials were adjusted for the sale of by-products as described earlier. Average by-product revenue is the sum of all by-product revenues divided by total net sales quantity. *** combined labor costs and factory overhead together in reporting factory overhead.

Source: Compiled from data submitted in response to Commission questionnaires.

Table VI-2B (129)
Per-unit values of cost of goods sold and average by-product revenues of U.S. producers of softwood lumber, January-March 2000-02

Item	*January-March*		
	2000	*2001*	*2002*
	Unit value (per mbf)		
Cost of goods sold:			
Raw materials	***$238.71***	***$196.34***	***$198.78***
Direct labor	***44.44***	***43.24***	***43.77***
Other factory costs	***61.83***	***69.98***	***58.22***
Total	***344.97***	***309.56***	***300.76***
Average by-product revenue	***35.93***	***35.28***	***30.63***

Note.–Net sales values, other income, and raw materials were adjusted for the sale of by-products as described earlier. Average by-product revenue is the sum of all by-product revenues divided by total net sales quantity.

Source: Compiled from data submitted in response to Commission questionnaires.

[16] U.S. producers providing useable questionnaire data for this proceeding accounted for 59.5 percent of U.S. production of softwood lumber during January-March 2002.

A variance analysis for the responding U.S. producers for 1999-2001 and January-March 2000-02 is presented in tables VI-3 and *VI-3B (129)*,[17] respectively.

Table VI-3
Variance analysis for softwood lumber operations of U.S. producers, fiscal years 1999-2001

Item	Fiscal years		
	1999-2001	1999-2000	2000-2001
	Value ($1,000)		
Trade sales:			
Price variance	(1,448,952)	(1,099,582)	(348,205)
Volume variance	134,119	125,369	7,584
Trade sales variance	(1,314,833)	(974,213)	(340,620)
Internal consumption:			
Price variance	(24,760)	(36,622)	4,521
Volume variance	(128,404)	(46,700)	(74,363)
Internal consumption variance	(153,164)	(83,322)	(69,842)
Related company transfers:			
Price variance	(57,509)	(25,158)	(25,426)
Volume variance	85,080	13,250	64,905
Transfers variance	27,571	(11,908)	39,479
Total sales:			
Price variance	(1,545,573)	(1,166,949)	(377,626)
Volume variance	105,147	97,506	6,642
Total sales variance	(1,440,426)	(1,069,443)	(370,984)
Cost of sales:			
Cost variance	379,957	55,761	324,149
Volume variance	(86,443)	(80,161)	(6,234)
Total cost variance	293,514	(24,401)	317,915
Gross profit variance	(1,146,912)	(1,093,843)	(53,069)
SG&A expenses:			
Expense variance	(16,863)	(23,193)	6,349
Volume variance	(3,703)	(3,434)	(289)
Total SG&A variance	(20,566)	(26,626)	6,060
Operating income variance	(1,167,479)	(1,120,470)	(47,009)
Summarized as:			
Price variance	(1,545,573)	(1,166,949)	(377,626)
Net cost/expense variance	363,094	32,568	330,498
Net volume variance	15,001	13,911	119

Note.–Unfavorable variances are shown in parentheses; all others are favorable. Data were adjusted as described earlier, and are consistent with those in table VI-1.

Source: Compiled from data submitted in response to Commission questionnaires.

[17] U.S. producers providing useable questionnaire data for this proceeding accounted for 59.5 percent of U.S. production of softwood lumber during January-March 2002.

Table VI-3B (129)
Softwood lumber: Variance analysis of U.S. producers' operations, January-March 2000-02

Item	January-March		
	2000-02	2000-01	2001-02
	Value ($1,000)		
Trade sales:			
Price variance	(281,403)	(353,209)	92,956
Volume variance	(1,857)	(106,695)	83,687
Trade sales variance	(283,261)	(459,904)	176,644
Internal consumption:			
Price variance	(7,930)	(13,704)	5,678
Volume variance	(4,011)	(3,416)	(499)
Internal consumption variance	(11,941)	(17,120)	5,179
Related company transfers:			
Price variance	(13,231)	(11,949)	1,139
Volume variance	24,072	10,572	11,079
Transfers variance	10,841	(1,377)	12,218
Total sales:			
Price variance	(302,527)	(378,263)	99,271
Volume variance	18,166	(100,138)	94,770
Total sales variance	(284,360)	(478,401)	194,041
Cost of sales:			
Cost variance	224,416	169,245	44,641
Volume variance	(15,750)	86,819	(92,039)
Total cost variance	208,666	256,064	(47,398)
Gross profit variance	(75,695)	(222,337)	146,643
SG&A expenses:			
Expense variance	(2,684)	(8,099)	5,919
Volume variance	(748)	4,124	(5,376)
Total SG&A variance	(3,432)	(3,975)	543
Operating income variance	(79,126)	(226,313)	147,186
Summarized as:			
Price variance	(302,527)	(378,263)	99,271
Net cost/expense variance	221,732	161,146	50,560
Net volume variance	1,668	(9,195)	(2,645)

Note.–Unfavorable variances are shown in parentheses; all others are favorable. Data were adjusted as described earlier, and are consistent with those in table VI-1B (129).

Source: Compiled from data submitted in response to Commission questionnaires.

CAPITAL EXPENDITURES, RESEARCH AND DEVELOPMENT EXPENSES, AND INVESTMENT IN PRODUCTIVE FACILITIES

The responding firms' data on capital expenditures, research and development ("R&D") expenses, and the value of their property, plant, and equipment used in the production of softwood lumber for 1999-2001 and January-March 2000-02 are shown in tables VI-11 and *VI-11B (129)*, respectively.

Table VI-11
Softwood Lumber: Value of assets, capital expenditures, and R&D expenses of U.S. producers, fiscal years 1999-2001

Item	Fiscal year		
	1999	2000	2001
	Value ($1,000)		
Capital expenditures	326,925	473,809	253,496
R&D expenses	1,066	777	417
Fixed assets:			
Original cost	4,798,420	5,244,415	5,408,654
Book value	2,111,114	2,247,802	2,307,293
Source: Compiled from data submitted in response to Commission questionnaires.			

Table VI-11B (129)
Softwood lumber: Value of assets, capital expenditures, and R&D expenses of U.S. producers, January-March 2000-02

Item	*January-March*		
	2000	*2001*	*2002*
	Value ($1,000)		
Capital expenditures	*69,816*	*60,266*	*27,829*
R&D expenses	***	***	***
Fixed assets:			
Original cost	*4,487,183*	*4,839,305*	*4,866,756*
Book value	*1,823,189*	*1,979,894*	*1,996,295*
Source: Compiled from data submitted in response to Commission questionnaires.			

CANADIAN INDUSTRY DATA

Canadian softwood lumber production capacity, production, and capacity utilization data for 1995-2001 and January-March 2000-02 are presented in tables VII-1 and ***VII-1B (129)***, respectively.

Table VII-1 (As presented in the prehearing report in this Section 129 proceeding)
Softwood lumber: Canadian production capacity, production, and capacity utilization, 1995-2001

Item	Calendar year						
	1995	1996	1997	1998	1999	2000	2001
Capacity *(mmbf)*	29,700	30,300	31,000	31,600	32,100	32,700	32,820
Production *(mmbf)*	***26,093***	***27,078***	***27,552***	***27,041***	***30,891***	***31,874***	***30,527***
Capacity utilization *(percent)*	***87.8***	***89.4***	***88.9***	***85.6***	***96.2***	***97.5***	***93.0***

Source: Statistics Canada, RISI, USFS.

Note: Canadian production figures for 1996-2001 reflect revisions to official Statistics Canada figures.

Table VII-1 (As presented in the underlying Title VII investigations)
Softwood lumber: Canadian production capacity, production, and capacity utilization, 1995-2001

Item	Calendar year						
	1995	1996	1997	1998	1999	2000	2001
Capacity *(mmbf)*	29,700	30,300	31,000	31,600	32,100	32,700	32,820
Production *(mmbf)*	26,093	26,588	27,093	27,602	29,041	29,054	27,457
Capacity utilization *(percent)*	87.8	87.7	87.4	87.3	90.5	88.9	83.7

Source: Statistics Canada and RISI.

Table VII-1B (129)
Softwood lumber: Canadian production capacity, production, and capacity utilization, by month, January - March 2000-02

Item	January-March		
	2000	2001	2002
January:			
Capacity (mmbf)	2,725	2,735	2,755
Production (mmbf)	2,517	2,556	2,447
Capacity utilization (percent)	92.4	93.5	88.8
February:			
Capacity (mmbf)	2,725	2,735	2,755
Production (mmbf)	2,576	2,590	2,466
Capacity utilization (percent)	94.3	94.7	89.5
March:			
Capacity (mmbf)	2,725	2,735	2,755
Production (mmbf)	2,913	2,490	2,523
Capacity utilization (percent)	106.9	91.0	91.6
January-March			
Capacity (mmbf)	8,175	8,205	8,264
Production (mmbf)	8,007	7,637	7,436
Capacity utilization (percent)	97.9	93.1	90.0

Source: RISI, Statistics Canada, Sawmills and Planing Mills (1/02., 2/02), WWPA. March 2002 Lumber Track (issued June 5, 2002.)

Data for 1999-2001 and projected 2002-03 provided by 27 leading Canadian producers who accounted for 79.3 percent of production in 2001 and 72.4 percent of exports to the United States in 2001 are presented in table VII-2. Table ***VII-2B (129)*** reflects data provided by the six Canadian producers who responded to the Commission questionnaires in this proceeding. The six producers accounted for 20.1 percent of production and 21.5 percent of exports to the United States in January-March 2002.

Table VII-2
Softwood lumber: Canadian production capacity, production, shipments, and inventories, 1999-2001 and projected 2002-2003

Item	Actual experience			Projections	
	1999	2000	2001	2002	2003
	Quantity (*mmbf*)				
Capacity	24,871	25,595	25,804	25,990	26,206
Production	22,452	22,719	21,770	23,011	23,698
End of period inventories	2,154	2,410	2,221	2,132	2,152
Shipments: Internal consumption	639	581	525	518	519
Home market	7,094	7,041	6,431	7,095	7,267
Exports to-- The United States	13,021	13,041	13,546	13,660	13,954
All other markets	1,929	2,050	1,728	1,946	2,095
Total exports	14,951	15,091	15,274	15,605	16,048
Total shipments	22,683	22,714	22,229	23,219	23,834
	Ratios and shares (*percent*)				
Capacity utilization	90.3	88.8	84.4	88.5	90.4
Inventories to production	9.6	10.6	10.2	9.3	9.1
Inventories to total shipments	9.5	10.6	10.0	9.2	9.0
Share of total quantity of shipments: Internal consumption	2.8	2.6	2.4	2.2	2.2
Home market	31.3	31.0	28.9	30.6	30.5
Exports to-- The United States	57.4	57.4	60.9	58.8	58.5
All other markets	8.5	9.0	7.8	8.4	8.8
All export markets	65.9	66.4	68.7	67.2	67.3

Note.--Because of rounding, figures may not add to the totals shown.

Source: Compiled from data submitted in response to Commission questionnaires.

Table VII-2B (129)
Softwood lumber: Canadian production capacity, production, shipments, and inventories, January March 2000-02

Item	January-March		
	2000	2001	2002
	Quantity (mmbf)		
Capacity	1,770	1,838	1,874
Production	1,699	1,774	1,623
End of period inventories	491	566	486
Shipments:			
Internal consumption	2	7	6
Home market	578	576	434
Exports to--			
The United States	889	958	1,022
All other markets	210	184	164
Total exports	1,099	1,142	1,186
Total shipments	1,679	1,726	1,627
	Ratios and shares (percent)		
Capacity utilization	96.0	96.5	86.6
Inventories to production	7.2	8.0	7.5
Inventories to total shipments	7.3	8.2	7.5
Share of total quantity of shipments:			
Internal consumption	0.1	0.4	0.4
Home market	34.4	33.4	26.7
Exports to--			
The United States	53.0	55.5	62.8
All other markets	12.5	10.7	10.1
All export markets	65.5	66.2	72.9

Note.--Because of rounding, figures may not add to the totals shown.

Source: Compiled from data submitted in response to Commission questionnaires.

Canadian production data, by Provinces, for 1995-2001 and January-March 2000-02 are presented in tables VII-5 and ***VII-5B (129)***, respectively.

Table VII-5
Softwood lumber: Canadian production, by Provinces, 1995-2001

Period	British Columbia			Quebec	Ontario	Maritime Provinces[1]	Prairie Provinces[2]	Total
	Coast	Interior	Total					
				(mmbf)				
1995	3,313	10,507	13,819	5,842	2,367	1,365	2,700	26,093
1996	3,387	10,459	13,845	6,298	2,594	1,567	2,774	27,078
1997	3,031	10,344	13,375	6,645	2,793	1,804	2,935	27,552
1998	2,684	10,130	12,814	6,886	2,678	1,900	2,763	27,041
1999	3,235	10,494	13,729	8,751	3,180	1,981	3,251	30,891
2000	3,413	11,142	14,555	8,219	3,463	2,144	3,493	31,874
2001	3,157	10,660	13,818	7,673	3,469	2,107	3,460	30,527
				Share of total production (*percent*)				
1995	12.7	40.3	53.0	22.4	9.1	5.2	10.3	100.0
1996	12.5	38.6	51.1	23.2	9.6	5.8	10.2	100.0
1997	11.0	37.5	48.5	24.1	10.1	6.5	10.7	100.0
1998	9.9	37.5	47.4	25.5	9.9	7.0	10.2	100.0
1999	10.5	34.0	44.4	28.3	10.3	6.4	10.5	100.0
2000	10.7	35.0	45.7	25.8	10.9	6.7	11.0	100.0
2001	10.3	34.9	45.3	25.1	11.4	6.9	11.3	100.0

[1] New Brunswick, Newfoundland, Nova Scotia, and Prince Edward Islands.
[2] Alberta, Manitoba, and Saskatchewan.

Source: Statistics Canada.

Note: Canadian production figures for 1996-2001 reflect revisions to official Statistics Canada figures.

Table VII-5B (129)
Softwood lumber: Canadian production, by Provinces, January-March 2000-02

Period	*British Columbia*			*Quebec*	*Ontario*	*Maritime Provinces*[1]	*Prairie Provinces*[2]	*Total*
	Coast	Interior	Total					
				(mmbf)				
January-March:								
2000	*935*	*2,981*	*3,916*	*2,164*	*859*	*552*	*893*	*8,384*
2001	*925*	*2,921*	*3,846*	*1,882*	*896*	*489*	*902*	*8,015*
2002	*742*	*2,983*	*3,724*	*2,028*	*927*	*525*	*879*	*8,082*
				Share of total production *(percent)*				
January-March:								
2000	*11.2*	*35.6*	*46.7*	*25.8*	*10.2*	*6.6*	*10.7*	*100.0*
2001	*11.5*	*36.4*	*48.0*	*23.5*	*11.2*	*6.1*	*11.3*	*100.0*
2002	*9.2*	*36.9*	*46.1*	*25.1*	*11.5*	*6.5*	*10.9*	*100.0*

[1] New Brunswick, Newfoundland, Nova Scotia, and Prince Edward Islands.
[2] Alberta, Manitoba, and Saskatchewan.

Source: Statistics Canada.

Note: Canadian production figures for January-March 2000-01 reflect revisions to official Statistics Canada figures.

Canadian production, by species, is presented in table VII-6.

Table VII-6
Softwood lumber: Canadian production, by species and species groups, 1995-2001

Species	Calendar year						
	1995	1996	1997	1998	1999	2000	2001
				(mmbf)			
SPF[1]	20,870	21,892	22,457	22,616	24,511	24,474	23,544
Hem-fir[2]	2,350	2,405	2,172	1,764	1,696	1,824	1,824
Red cedar	1,067	1,085	1,150	1,885	928	934	752
Douglas fir	1,084	1,003	1,056	930	991	1,024	1,029
Other	722	203	258	407	915	798	676
Total	26,093	26,588	27,093	27,602	29,041	29,054	27,825

[1] Includes white spruce, Engelmann spruce, lodgepole pine, and alpine fir.
[2] A species combination used by grading agencies to designate any of various species having common characteristics. Included in this group are California red fir, grand fir, noble fir, Pacific silver fir, Shasta fir, white fir, and western hemlock.

Source: Statistics Canada.

Data concerning Canadian production, exports, imports, and apparent consumption of softwood lumber for 1995-2001 and January-March 2000-02 are presented in tables VII-7 and ***VII-7B (129)***, respectively.

Table VII-7
Softwood lumber: Canadian production, imports, exports of domestic merchandise, and apparent consumption, 1995-2001

Period	Canadian production	Imports into Canada	Canadian exports to U.S.	Total Canadian exports	Apparent Canadian consumption	Total Canadian exports to Canadian production	Canadian exports to U.S. to Canadian production	Imports into Canada to Canadian consumption
	Quantity (*mmbf*)					(*Percent*)		
1995	26,093	322	16,992	20,310	6,105	77.8	65.1	5.3
1996	27,078	325	17,802	21,182	6,221	78.2	65.7	5.2
1997	27,552	348	17,431	20,304	7,596	73.7	63.3	4.6
1998	27,041	270	18,039	20,006	7,305	74.0	66.7	3.7
1999	30,891	319	18,241	20,560	10,650	66.6	59.0	3.0
2000	31,874	327	18,333	20,731	11,470	65.0	57.5	2.9
2001	30,527	290	18,702	20,798	10,019	68.1	61.3	2.9
	Value (*$1,000,000*)							
1995	11,035	130	5,363	7,785	3,380	70.5	48.6	3.8
1996	12,150	132	6,671	8,985	3,297	73.9	55.9	4.0
1997	12,791	170	7,056	9,152	3,809	71.6	55.2	4.5
1998	12,358	133	6,356	7,596	4,895	61.5	51.4	2.7
1999	13,456	155	7,213	8,612	4,999	64.0	53.6	3.1
2000	13,917	163	6,379	7,875	6,205	56.6	45.8	2.6
2001	12,330	135	6,050	7,200	5,265	58.4	49.1	2.6
	Unit value (*per mbf*)							
1995	$422.91	$403.73	$315.62	$383.31	$553.63	90.6	74.6	72.9
1996	448.71	406.15	374.73	424.18	530.00	94.5	83.5	76.6
1997	464.25	488.51	404.80	450.75	501.45	97.1	87.2	97.4
1998	457.00	492.59	352.35	379.69	670.07	83.1	77.1	73.5
1999	435.59	485.89	395.43	418.87	469.37	96.2	90.8	103.5
2000	436.64	498.47	347.95	379.87	541.02	87.0	79.7	92.1
2001	403.90	465.52	323.49	346.19	525.48	85.7	80.1	88.6

Source: Statistics Canada and official Commerce statistics. Production value estimated by USITC staff.

Note: Canadian production figures for 1996-2001 reflect revisions to official Statistics Canada figures.

Table VII-7B (129)
Softwood lumber: Canadian production, imports, exports of domestic merchandise, and apparent consumption, by month, January-March 2000-02

Period	Canadian production	Imports into Canada	Canadian exports to U.S.	Total Canadian exports	Apparent Canadian consumption	Total Canadian exports to Canadian production	Canadian exports to U.S. to Canadian production	Imports into Canada to Canadian consumption
	Quantity (mmbf)					(Percent)		
2000:								
January	2,517	29	1,387	1,600	946	63.6	55.1	3.1
February	2,576	28	1,462	1,683	921	65.3	56.7	3.0
March	2,913	34	1,619	1,857	1,091	63.7	55.6	3.1
January-March	8,007	91	4,467	5,140	2,958	64.2	55.8	3.1
2001:								
January	2,556	34	1,341	1,542	1,048	60.3	52.4	3.2
February	2,590	22	1,413	1,608	1,005	62.1	54.6	2.2
March	2,490	22	1,387	1,579	933	63.4	55.7	2.4
January-March	7,637	78	4,141	4,729	2,986	61.9	54.2	2.6
2002:								
January	2,447	22	1,402	1,547	922	63.2	57.3	2.4
February	2,466	20	1,544	1,701	785	69.0	62.6	2.5
March	2,523	22	1,800	1,958	587	77.6	71.3	3.7
January-March	7,436	64	4,745	5,206	2,294	70.0	63.8	2.8
	Value ($1,000,000)					(Percent)		
2000:								
January	974	15	542	616	374	63.2	55.6	4.1
February	992	14	565	642	364	64.7	57.0	4.0
March	1,110	18	624	707	421	63.7	56.2	4.2
January-March	3,076	47	1,731	1,965	1,159	63.9	56.3	4.1
2001:								
January	677	15	388	433	260	63.9	57.3	5.9
February	738	12	411	455	295	61.6	55.7	4.0
March	750	12	439	487	275	64.9	58.6	4.5
January-March	2,165	40	1,238	1,374	831	63.5	57.2	4.6
2002:								
January	727	12	425	464	275	63.9	58.5	4.4
February	782	11	494	541	251	69.2	63.2	4.2
March	820	12	623	675	157	82.3	76.0	7.5
January-March	2,328	35	1,542	1,680	683	72.1	66.2	5.1

Table continued on following page.

Period	Canadian production	Imports into Canada	Canadian exports to U.S.	Total Canadian exports	Apparent Canadian consumption	Total Canadian exports to Canadian production	Canadian exports to U.S. to Canadian production	Imports into Canada to Canadian consumption
	Unit value (per mmbf)					(Percent)		
2000:								
January	387.00	525.00	390.56	384.67	395.17	99.4	101.1	132.9
February	385.00	517.00	386.59	381.53	395.35	99.1	100.4	130.8
March	381.00	517.00	385.18	380.76	385.64	99.9	101.2	134.1
January-March	384.17	519.55	387.32	382.23	394.71	99.5	100.8	132.6
2001:								
January	265.00	454.00	289.11	280.54	248.26	105.9	109.2	182.9
February	285.00	541.00	291.01	282.78	294.16	99.2	102.1	183.9
March	301.00	562.00	316.65	308.20	294.98	102.4	105.2	190.5
January-March	283.52	509.00	298.96	290.54	278.31	101.1	105.4	186.0
2002:								
January	297.00	554.00	303.21	300.13	297.89	101.1	102.1	186.0
February	317.00	525.00	319.88	318.11	319.90	100.3	100.9	164.1
March	325.00	539.00	346.22	344.49	268.02	106.0	106.5	201.1
January-March	313.13	539.78	324.94	322.69	297.77	103.1	103.8	181.3

Source: Statistics Canada, Sawmills and Planing Mills (1/02, 2/02), March 2002 Lumber Track (issued June 5, 2002), and official Commerce statistics. Production value estimated by USITC staff.

Data showing British Columbia's exports to the United States, the share of its production accounted for by these exports, and the share of U.S. consumption accounted for by these exports during 1995-2001 and January-March 2000-02 are presented in tables VII-8 and ***VII-8B (129)***, respectively.

Table VII-8
Softwood lumber: British Columbia exports to the United States, 1995-2001

Item	1995	1996	1997	1998	1999	2000	2001
Exports to the United States (*mmbf*)	9,400	9,100	8,856	8,713	8,633	8,475	9,218
Share (in percent) of:							
British Columbia production	68.0	65.7	66.2	68.0	62.9	58.2	66.7
U.S. consumption	19.9	18.5	17.4	16.7	15.9	15.7	17.1

Source: Derived from Statistics Canada data.

Note: Canadian production figures for 1996-2001 reflect revisions to official Statistics Canada figures.

Table VII-8B (129)
Softwood lumber: British Columbia exports to the United States, January-March 2000-02

Item	January-March		
	2000	2001	2002
Exports to the United States (mmbf)	1,941	1,939	2,428
Share (in percent) of:			
British Columbia production	49.6	50.4	65.2
U.S. consumption	13.9	15.5	17.7

Source: Derived from Statistics Canada data.

Note: Canadian production figures for January-March 2000-01 reflect revisions to official Statistics Canada figures.

Table VII-9 shows the estimated share of softwood lumber consumed in Canada, by end use, in 2000.

Table VII-9
Softwood lumber: Distribution of Canadian consumption by end use, 2000

End use	Share of consumption (*percent*)
Construction:	
New residential (new construction)	28.0
Repair and remodeling	40.0
New nonresidential construction	7.0
Industrial	25.0
Total	100.0

Source: Derived from Statistics Canada data.

U.S. importers' inventories of softwood lumber for 1999-2001 are presented in table VII-10.

Table VII-10
Softwood lumber: U.S. importers' inventories of imports from Canada, 1999-2001

Item	Calendar year		
	1999	2000	2001
Inventories (*mmbf*)	143	181	231
Imports (*mmbf*)	12,803	12,810	13,454
Ratio to imports (*percent*)	1.1	1.4	1.7

Source: Compiled from data submitted in response to Commission questionnaires

U.S. SOFTWOOD LUMBER MARKET CONDITIONS, JANUARY 1999-MARCH 2002[18]

The material in this section was prepared by USITC staff and relies on third-party published analyses covering January 1999 to end of March 2002, which is prior to the Commission's original determinations in May 2002.

Review of Market Conditions During January 1999-March 2002

Consumption

Contrary to expectations, demand for U.S. housing remained strong in 1999.[19] There were 1.64 million housing starts, up slightly from 1998, in spite of an increase of one half percentage point in the average 30-year, fixed rate mortgage rate (7.44 percent) over 1998 (tables 1 (1994-2001) and 2 (January-March 2002)). U.S. consumption of softwood lumber was 54.4 billion board feet, or over 2 billion board feet more than in 1998 (table 3).[20] Industry sources noted that consolidation in the retail sector was reducing the number of lumber dealers in the United States,[21] and it was recognized that the growth of the home improvement retailer sector was driving changes in the U.S. market for softwood lumber. First, because of the visual expectations of home center customers, appearance, rather than the acceptable limits of grading rules, was becoming a quality factor.[22] Second, home centers had begun programs with producers and secondary suppliers under which they awarded set weekly or monthly volumes in exchange for a consistent supply of lumber at an agreed upon price.[23]

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[18] A review of market conditions during 1994-1998 is presented in app. E.

[19] "U.S. Housing Market Profile, " *Crow's Market Report*, (Jan. 21, 2000), p. 2.

[20] Based on the number of building permits issued in the first three quarters of 1999, six of the top 10 U.S. housing markets (Atlanta, Dallas, Washington DC, Houston, Orlando, and Charlotte) were in the South. Two of the top 10 were in the West (Phoenix and Las Vegas), and two were in the Midwest (Chicago and the Twin Cities). Joe Heitz, "South Claims Six of Top 10 Housing Markets," *Yardstick*, Eugene, OR, Random Lengths Publications, Inc., Oct. 1999, p. 1.

[21] Joe Heitz, "Mergers, Acquisitions a Growing Industry Trend," *Yardstick*, Eugene, OR, Random Lengths Publications, Inc., Jan. 1999, p. 1.

[22] "Home Center's Growth Changes Industry," *Crow's*, July 16, 1999, p. 1.

[23] "Home Center's Growth Changes Industry," *Crow's*, July 16, 1999, p. 1.

Table 1
Annual housing starts and average mortgage rates 1994-2001

Year	Housing starts (1,000)	Mortgage rates (percent)
1994	1,457.0	8.38
1995	1,354.1	7.93
1996	1,476.8	7.81
1997	1,474.0	7.60
1998	1,616.9	6.94
1999	1,640.9	7.44
2000	1,568.7	8.05
2001	1,602.7	6.97

Source: Freddie Mac, U.S. Census Bureau.

Note. Mortgage rates are annual averages for 30-year fixed-rate mortgages.

Table 2
Monthly U.S. housing starts, seasonally adjusted annual rate and average mortgage rates, January-March 2002

Year	Housing starts (1,000)	Mortgage rates (percent)
January	1,698.0	7.00
February	1,829.0	6.89
March	1,642	7.01

Source: Freddie Mac, U.S. Census Bureau.

Note. Mortgage rates are monthly averages for 30-year fixed-rate mortgages.

Table 3
Softwood lumber: U.S. production, exports, imports, imports from Canada, and apparent consumption, 1994-2002

Item	1994	1995	1996	1997	1998	1999	2000	2001
				Quantity (million board feet)				
Production	33,657	31,782	32,859	34,663	34,678	36,605	35,965	34,657
Exports	2,187	1,988	1,935	1,812	1,260	1,432	1,355	962
Imports	16,426	17,395	18,213	18,003	18,686	19,178	19,449	20,075
Imports from Canada	16,102	16,992	17,802	17,431	18,039	18,241	18,333	18,698
Apparent consumption	47,896	47,189	49,137	50,854	52,104	54,351	54,059	53,770

Sources: WWPA 2001, 2002 Statistical Yearbooks of the Western Lumber Industry.

In 2000, *Random Lengths* reported that overproduction had taken most of the blame for the recent weakness in lumber markets but that some traders also wondered whether consumption had tapered off.[24] In spite of a small upturn in August 2000,[25] housing starts declined to 1.57 million or 4 percent for the year.[26] The average 30-year, fixed rate mortgage rate began an upward trend in May 1999, peaked in May 2000 at over 8.5 percent, but subsequently declined during the second half of 2000. Nevertheless, the average mortgage rate for 2000 was 8.05 percent, the first time since 1994 that the annual average was greater than 8 percent. U.S. consumption of softwood lumber in 2000 was 54.1 billion board feet, a decline of less than 1 percent from the previous year.

Initially, industry analysts foresaw a decline in U.S. consumption in 2001, although estimates of how large the decline would be varied from 2 to 10 percent.[27] However, by midyear the outlook had improved; 2001 consumption would equal or exceed 2000 consumption.[28] In fact, U.S. consumption of

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[24] *Yardstick*, Eugene, OR, Random Lengths Publications, Inc., Apr. 2000.

[25] David F. Seiders, "The Outlook", *Housing Economics*, Sept. 2000, p. 1.

[26] Based on the number of building permits issued in 2000, the top 10 U.S. housing markets were mostly in the U.S. South (Atlanta, Dallas, Washington DC, Houston, Orlando, and Charlotte) and the West (Phoenix, Las Vegas, and Denver). Burrle Elmore, "Top Housing Markets Holding Up," *Yardstick*, Eugene, OR, Random Lengths Publications, Inc., Mar. 2001, p. 1.

[27] Mike Dawson, "Analysts Forecast Declines in Lumber Consumption," *Yardstick*, Eugene, OR, Random Lengths Publications, Inc., Feb. 2001, p. 1.

[28] "U.S. Market: Up or Down?," *Wood Markets*, Vol. 6, No. 6 (Aug. 2001), p. 1.

softwood lumber was 53.8 billion board feet, or 0.5 percent lower than in 2000. U.S. housing starts increased slightly to 1.6 million units, and large home builders reported significant backlogs of new home orders.[29]

In late 2001 after the terrorist attacks, industry analysts were pessimistic about U.S. demand for lumber in 2002, which was expected to dip due to weak demand in the repair and remodeling and industrial sectors.[30] Nonetheless, by the first quarter of 2002 as consumer confidence improved and low interest rates fueled continued strength in U.S. housing, revised expectations were for consumption to increase slightly.[31] In the first quarter of 2002, U.S. consumption of softwood lumber was 13.7 billion board feet, or 10 percent more than in the same period in 2001, but still more than 2 percent below the same period in 2000 (table 4). Mortgage rates stayed at or below 7 percent.

Production

Softwood lumber production in 1999 was 36.6 billion board feet (table 5).[32] In January 1999, *Random Lengths* noted that deals such as the International Paper acquisition of Union Camp and the Tembec purchase of Crestbrook were evidence of a trend toward further industry consolidation and that the merger of Stora, Enso, and Schweighofer in Europe showed the trend was not confined to North

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[29] The average mortgage rate dropped as low as 6.6 percent in October and November and averaged 6.97 percent for the entire year, just over 1 percentage point less than in 2000. Mike Dawson, "Analysts Forecast Declines in Lumber Consumption," *Yardstick*, Eugene, OR, Random Lengths Publications, Inc., Feb. 2001, p. 2.

[30] "U.S. demand for Lumber Expected to Dip in 2002," *Yardstick*, Eugene, OR, Random Lengths Publications, Inc., Nov. 2001, p. 2.

[31] "Lumber Outlook for 2002/03," *Wood Markets*, Vol. 6, No. 11 (Feb. 2002), p. 4.

[32] Rail service affected the lumber business as the major railroad in the Northeast, Conrail, was split in two and the resulting pieces acquired by the two major Southeastern railroads, CSX Transportation and Norfolk Southern Corporation. Amidst faulty computer systems and unfamiliar train crews, rail service to former Conrail reloads and distribution yards grew steadily worse as the year progressed. "Disruption of Rail Service Has Distribution Yards Worried, " *Crow's Market Report*, (June 18, 2000), p. 1.

Table 4
Softwood lumber: U.S. production, exports, imports, imports from Canada, and apparent consumption, January-March 2000-02

Item	January-March		
	2000	2001	2002
U.S. production (mmbf)	9,636	8,334	8,744
Exports (mmbf)	361	279	223
Imports (mmbf)	4,736	4,418	5,162
Imports from Canada (mmbf)	4,468	4,141	4,746
Apparent consumption	14,011	12,473	13,683
Ratio of: Imports to consumption (percent)	33.8	35.4	37.7
Canadian imports to consumption (percent)	31.9	33.2	34.7
Exports to production (percent)	3.7	3.6	2.6
Source: WWPA, Lumber Track, WWPA, January, February, and March 2001, 2002.			

Table 5
Softwood lumber: U.S. production, capacity, and capacity utilization, 1994-2001

Item	1994	1995	1996	1997	1998	1999	2000	2001
	Quantity (million board feet)							
Capacity: Western region	8,760	8,870	9,150	9,310	9,470	9,610	9,560	9,610
Inland region	8,650	8,250	8,300	8,380	8,470	8,530	7,980	7,800
Southern region	16,680	17,180	17,680	18,090	18,360	18,650	18,790	18,890
Other	3,500	3,570	3,630	3,700	3,750	3,740	3,790	3,750
Total	37,590	37,870	38,760	39,480	40,050	40,530	40,120	40,050
Production	33,657	31,782	32,859	34,663	34,678	36,605	35,965	34,657
Capacity utilization (percent)	89.5	83.9	84.8	87.8	86.6	90.3	89.6	86.5
Source: RISI, WWPA.								

America.[33] It was reported that British Columbia firms were particularly vulnerable to buy-outs as restrictive government policies had left them undervalued.[34] The usual motives, the desire to increase market share and lower cost, were given as factors driving the trend although it was also suggested that lumber dealers were trying to reduce the number of vendors with which they must deal.[35] In mid-year, two acquisitions, the Weyerhaeuser acquisition of MacMillan Bloedel and the International Paper acquisition of Champion International, had an effect on the complexion of the North American industry. As a result of the acquisitions, both companies owned significant lumber production capacity on both sides of the border. Because a number of the mergers involved firms with distributors or buying groups, it was expected that there would be fewer buyers in addition to fewer and larger primary manufacturers.[36]

In January 2000, U.S. mills cited low inventories and strong regional demand as reasons for optimism,[37] and North American softwood lumber production for the first five months of 2000 exceeded 1999 by over 1.5 billion board feet.[38] *Random Lengths* noted that several wood products firms had reported record earnings in the first quarter of 2000, but attributed the profits to pulp and paper earnings.[39] [40] In May, the WWPA reported that prices had lowered, inventories remained high, and mills

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[33] Joe Heitz, "Mergers, Acquisitions a Growing Industry Trend," *Yardstick*, Eugene, OR, Random Lengths Publications, Inc., Jan. 1999, p. 1.

[34] Joe Heitz, "Industry Mergers: the Beat Goes On," *Yardstick*, Eugene, OR, Random Lengths Publications, Inc., June 1999, p. 1.

[35] Joe Heitz, "Mergers, Acquisitions a Growing Industry Trend," *Yardstick*, Eugene, OR, Random Lengths Publications, Inc., Jan. 1999, p. 2.

[36] Joe Heitz, "Industry Mergers: The Beat Goes On," *Yardstick*, Eugene, OR, Random Lengths Publications, Inc., June 1999, p. 1.

[37] "National Lumber Markets", *Crows Market Report,* (Jan. 14, 2000), p. 1.

[38] "Sawmill Production Cuts Exceed Announced Curtailments", *Crows,* (Jan. 5, 2001), p. 1.

[39] *Yardstick*, Eugene, OR, Random Lengths Publications, Inc., May 2000.

[40] Lumber mills, which process sawlogs, produce wood chips as a by-product of lumber production. Sawlogs are of sufficient size and quality and appropriate species to contain material suitable for conversion to wood products, but also contain material typically recovered as residual wood chips, not only from the outer portions but also from the tops of logs that have been delivered to the mill tree length. Thus, slabs and edgings, the outer circumference of the sawlog, are made into wood chips for use in pulp and paper mills (USITC Pub. 3509 at Figure I-1). Lumber mills do not cut up the entire sawlog into chips because the revenue from the sale of wood chips would not cover the cost of the sawlog, let alone the processing.

The demands for paper products and wood products are largely independent of one another. When the demand for wood chips for paper production is high, particularly integrated forest product companies may produce more lumber in order to secure more of the byproduct – wood chips to meet the demand for paper production.

were beginning to curtail production.[41] By the end of the year, 240 mills had announced some sort of curtailment,[42] the net effect of which was to decrease North American production by an estimated 2.6 billion feet during the last 6 months of the year.[43] USDA Forest Service data indicate that during 1999-2001 53 U.S. sawmills with a combined capacity of 2.7 billion board feet were permanently closed.[44] The closures were more geographically dispersed than reported closures prior to 1999, indicating a more general response to worsening market conditions. Sixty percent of the closures were in the West.[45] However, total capacity was relatively flat due to efficiency upgrades at other mills,[46] and operating rates generally remained flat or declined during 1999-2001. With available capacity, analysts foresaw continuing weakness in lumber prices at the end of 2001 in spite of the healthy U.S. housing market.[47]

Exports

During 1999-2001, U.S. exports continued a general decline, although exports recovered somewhat in 1999 after a decade of decline. Softwood lumber exports increased by 172 million board

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Nevertheless, there are separate wood chip mills which process much less expensive pulpwood logs into wood chips for pulp and paper mills; the revenue from the wood chips will cover the cost of the pulpwood log. Pulpwood refers to timber harvested from trees that are considerably smaller than sawlogs and cut primarily to be a source of wood fiber for the production of paper, fiberboard and other fiber products. Pulpwood is used to produce wood chips for pulp because it is too small, of inferior quality, or the wrong species to be used in the manufacture of wood products. The term may refer to whole stems or pieces thereof, but in any case it implies that the stem does not contain any sawlog material. Technical advances in sawmill design have steadily reduced the size of a stem from which it is possible to recover sawlog material, both in terms of diameter and length. Wood chip mills do not process sawlogs, and thus do not produce lumber, but do cut up the entire pulpwood log into wood chips for use in pulp and paper production.

[41] *Western Lumber Facts*, (May 30, 2000), p. 1.

[42] "Sawmill Production Cuts Exceed Announced Curtailments", *Crows*, (Jan. 5, 2001), p. 1.

[43] "Sawmill Production Cuts Exceed Announced Curtailments", *Crows*, (Jan. 5, 2001), p. 1, and Mike Dawson, "Analysts Forecast Declines in Lumber Consumption," *Yardstick*, Eugene, OR, Random Lengths Publications, Inc., Feb. 2001, p. 2.

[44] Henry Spelter, *Sawmill Closures, Openings and Net Capacity Changes in the Softwood Lumber Sector, 1996-2003*, USDA Forest Service-Forest Products Laboratory, Research Paper FPL-RP-603, (Madison, WI), Apr. 2002, p. 1.

[45] Henry Spelter, *Sawmill Closures, Openings and Net Capacity Changes in the Softwood Lumber Sector, 1996-2003*, USDA Forest Service-Forest Products Laboratory, Research Paper FPL-RP-603, (Madison, WI), Apr. 2002, p. 1.

[46] "U.S. Demand for Lumber Expected to Dip in 2002," *Yardstick*, Eugene, OR, Random Lengths Publications, Inc., Nov. 2001, p. 2.

[47] "Analysts Give Mixed Outlooks on 2002 Earnings," *Yardstick*, Eugene, OR, Random Lengths Publications, Inc., Dec. 2001, p. 2.

feet or 13.7 percent (by quantity) to 1.4 billion board feet in 1999. However, offshore exports increased by 7 percent, and exports to Japan actually declined by 3 percent.[48] Exports of SYP increased approximately 15 percent. Sales of SYP high grades (e.g., saps and primes) were strong in some traditional markets (e.g., Spain) and in emerging markets (e.g., Japan),[49] and sales of SYP construction grades to the Caribbean were heavy following Hurricane George in September 1998.[50] However, the euro depreciated about 15 percent against the dollar in 1999, increasing the difficulty for U.S. suppliers selling into Europe.[51]

U.S. exporters anticipated moderate growth in 2000 based on continued recovery in Asia and steady growth in most European economies.[52] The United Kingdom, Spain, and France were especially promising although salvage operations in France following devastating storms in December 1999 created some uncertainty.[53] In the end, U.S. exports declined 5.4 percent (by quantity) in 2000 for a variety of reasons. Exports of SYP high grades (i.e., flitches, saps, and primes) to Spain came to a halt in early May as (contrary to earlier expectations) the dollar rapidly appreciated 5 percent against the euro[54] before depreciating 6 percent later in the month.[55] Ironically, U.S. production curtailments at some southern mills resulting from oversupply and low prices in the U.S. market impacted the supply of SYP available

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[48] "Mixed Trends Seen in Final 1999 Softwood Export Data," *Exports*, Eugene, OR, Random Lengths Publications, Inc., Vol. 33, No. 6, Mar. 15, 2001, p. 1.

[49] "Small but Growing Markets Help Solidify SYP Exports," *Exports*, Eugene, OR, Random Lengths Publications, Inc., Vol. 33, No. 5, Mar. 1, 2001, p. 1.

[50] "Caribbean Imports of Southern Pine Tilt Downward ," *International*, Eugene, OR, Random Lengths Publications, Inc., Vol. 34, No. 6, Mar. 21, 2001, p. 1.

[51] "Steady Growth to Continue in Europe; Australia Running Hot," *Export*, Eugene, OR, Random Lengths Publications, Inc., Vol 33, No. 2, Jan. 19, 2000, p. 1.

[52] "Export Sales Growth Expected in Many Key Markets," *Export*, Eugene, OR, Random Lengths Publications, Inc., Vol 34, No. 1, Jan. 5, 2000, p. 1.

[53] "Steady Growth to Continue in Europe; Australia Running Hot," *Export*, Eugene, OR, Random Lengths Publications, Inc., Vol 33, No. 2, Jan. 19, 2000, p. 1.

[54] "Currency Trends Undermine North American Exports," *Export*, Eugene, OR, Random Lengths Publications, Inc., Vol 33, No. 10, May 10, 2000, p. 1.

[55] "Softening Dollar Gives Key European Importers Relief," *Export*, Eugene, OR, Random Lengths Publications, Inc., Vol 33, No. 13, June 21, 2000, p. 1.

to exporters.[56] Also, SYP exports to the Caribbean declined by 20 percent as rebuilding subsided.[57] In Japan, the Housing Quality Assurance Law, which was intended to enhance the longevity and earthquake resistance of homes,[58] was expected to result in less consumption of green lumber and more of kiln dry lumber and engineered wood products (EWP).[59] North American (U.S. and Canadian) softwood lumber exports to Japan continued to be impacted by increased competition from Asian and European suppliers.[60] The weakness of the euro against the U.S. dollar made it increasingly difficult for U.S. and Canadian exporters to compete against European producers in Japan.[61]

In late 2001, overseas markets remained difficult for North American exporters, who were reportedly concerned about the lack of a foreseeable turnaround and the potential impact of the September terrorist attacks.[62] U.S. exports of softwood lumber slipped below 1 billion board foot for the first time since 1971 to 962 million board feet, or 29.0 percent less than in 2000. Canadian offshore exports fell 19 percent to 2.1 billion board feet.[63] The continued decline was attributed to several specific factors: (1) the heavy bark beetle infestation in British Columbia and consequent salvage effort limited the production of the higher quality lumber necessary for the Japanese market;[64] (2) the Italian market for Douglas Fir clears, once an important market for North American Douglas Fir, continued a

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[56] "Second Half Looks Challenging for North American Exporters," *Export*, Eugene, OR, Random Lengths Publications, Inc., Vol 33, No. 17, Aug. 23, 2000, p. 1.

[57] "Canadian Lumber Exports Grow, U.S. Shipments Fall," *International*, Eugene, OR, Random Lengths Publications, Inc., Vol. 34, No. 5, Mar. 7, 2001, p. 1.

[58] "Export Sales Growth Expected in Many Key Markets," *Export*, Eugene, OR, Random Lengths Publications, Inc., Vol 34, No. 1, Jan. 2001, p. 1.

[59] "Export Sales Growth Expected in Many Key Markets," *Export*, Eugene, OR, Random Lengths Publications, Inc., Vol. 34, No. 1, Jan. 2001, p. 1.

[60] "Short-Term Forecast on Supply and Demand of Major Timber; European Lumber Exports Expand 13.5%", *Japan Lumber Journal*, July 31, 2000, p. 1.

[61] "Currency Trends Undermine North American Exports," *Export*, Eugene, OR, Random Lengths Publications, Inc., Vol. 33, No. 10, May 10, 2000, p. 2.

[62] "Exporters Continue to Lose Market Share," *Yardstick*, Eugene, OR, Random Lengths Publications, Inc., Sept. 2001, p. 1.

[63] "Canadian, U.S. Offshore Exports Fell Hard in 2001," *International*, Eugene, OR, Random Lengths Publications, Inc., Vol. 35, No. 6, Mar. 20, 2002, p. 1.

[64] Infested logs are susceptible to blue stain, which is not acceptable in the Japanese market. "Beetle Salvage Expected to Tighten J-grade Supplies," *International*, Eugene, OR, Random Lengths Publications, Inc., Vol. 34, No. 19, Sept. 19, 2001, p. 1.

decline that began in the early 1990s in the wake of changes in Federal log supplies;[65] (3) in the Caribbean market, SYP faced competition from Honduran Pine from Brazil and Honduras, radiata pine from Chile, and Elliottii pine from Brazil;[66] and (4) Japanese demand had not yet fully recovered from the 1997 Asian crisis, and at the same time, lumber from Russia, China, and Europe gained market share in Japan.[67] General factors contributing to the export decline were (1) global recession;[68] (2) the continued strength of the U.S. dollar against other currencies; (3) increasing lumber capacity in Europe,[69] Australia, Asia, and South America; and (4) displacement of U.S. lumber in foreign markets by lower cost competitors.[70] In early 2001, Japan initiated a safeguard investigation against global suppliers of wood products.[71] For the same reasons noted above, the outlook in 2002 for North American (U.S. and Canadian) exports in Europe was not good.[72]

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[65] Reportedly, an initial increase in prices for Douglas Fir lumber resulted from the decreased availability of logs and combined with unfavorable exchange rates to open the door for lower priced alternatives."Douglas Fir Prices, Volumes Fading in Italian Market," *International*, Eugene, OR, Random Lengths Publications, Inc., Vol. 34, No. 15, July 25, 2001, p. 1.

[66] A key feature of South American lumber in the Caribbean market is its lack of wane relative to SYP. "Caribbean Importers Demanding Higher Grades of SYP," *International*, Eugene, OR, Random Lengths Publications, Inc., Vol. 34, No. 17, Aug. 22, 2001, p. 1, and "Honduran Pine Making Another Run in Caribbean Markets," *International*, Eugene, OR, Random Lengths Publications, Inc., Vol. 34, No. 20, Oct. 3, 2001, p. 1.

[67] "Exporters Continue to Lose Market Share," *Yardstick*, Eugene, OR, Random Lengths Publications, Inc., Sept. 2001, p. 1.

[68] "Global Slowdown, Competition Hinder Export Sales ," *International*, Eugene, OR, Random Lengths Publications, Inc., Vol. 34, No. 25, Dec. 12, 2001, p. 1.

[69] Softwood production in Europe was once dominated by traditional suppliers, Sweden and Finland. However, newer, more efficient mills, some in Central Europe or Eastern Europe, are becoming an integral part of European production capacity. "European Softwood Producers Poised to Expand," *International*, Eugene, OR, Random Lengths Publications, Inc., Vol. 34, No. 9, May 2, 2001, p. 1, and "Poland Making Strides in Wood Products Industry," *International*, Eugene, OR, Random Lengths Publications, Inc., Vol. 34, No. 22, Oct. 31, 2001, p. 1.

[70] "Exporters Continue to Lose Market Share," *Yardstick*, Eugene, OR, Random Lengths Publications, Inc., Sept. 2001, p. 1.

[71] "Japan Considering Restrictions on Imported Wood Products ," *International*, Eugene, OR, Random Lengths Publications, Inc., Vol. 34, No. 3, Feb. 7, 2001, p. 1.

[72] "European Economies Slower, Australia Poised for Recovery," *International*, Eugene, OR, Random Lengths Publications, Inc., Vol. 35, No. 2, Jan. 23, 2002, p. 1.

Imports

U.S. imports continued to rise, reaching 19.2 billion board feet in 1999 (table 6). In June 1999, U.S. Customs ruled that notched studs[73] and rougher headed lumber[74] were not exempt from the Softwood Lumber Agreement (SLA).[75] In the first quarter of 2000, Canadian offshore exports posted solid gains as inventories were replenished subsequent to the British Columbia transportation problems in late 1999.[76] Canadian offshore exports finished 2000 at 2.6 billion board feet,[77] still far below levels prior to the Asian crisis.[78]

In 2001, the decline in Canadian offshore exports continued and mirrored the decline in U.S. overseas markets noted above.[79] Canadian offshore exports in 2001 were estimated to be 2.1 billion board feet and in the first quarter of 2002 were 23 percent below exports for the same period in 2001.[80]

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[73] Notched studs have pre-cut notches that are intended to allow space for plumbing within the walls.

[74] Rougher headed lumber has a roughened (textured) surface created by special planer heads and is intended to be used in certain appearance applications.

[75] With the promulgation of the SLA in April 1996, Canada placed a quota on U.S. imports from four Canadian provinces in return for a U.S. agreement not to take official action against softwood lumber imports.

There are studies in the existing record (conducted outside the context of this proceeding) that appraise or quantify the magnitude or impact of the SLA (See, e.g., Zhang, Daowei, "Welfare Impacts of the 1996 United States-Canada Softwood Lumber (trade) Agreement," *Canadian Journal of Forest Research*, Vol 31 at 1958-1967 (2001) (in Petitioners' Prehearing Brief, Vol. II at Exh. 16); and R&S Consulting, "West Central B.C. Mountain Pine Beetle Strategic Business Recommendations Report," prepared for the Province of British Columbia Ministry of Forests, at 18 (Sept. 2001) in Petitioners' Prehearing Brief, Vol. II at Exh. 72.

[76] "First Quarter Exports Hindered by Currency, Competition," *Export*, Eugene, OR, Random Lengths Publications, Inc., Vol. 33, No. 12, June 7, 2000, p. 1.

[77] *2001 Yearbook Forest Product Market Prices and Statistics*, Eugene, OR, Random Lengths Publications, Inc., p. 287.

[78] For example, Coastal BC exports of hemlock to Japan were under increasing pressure due both to the drop in consumption of green hemlock brought about by the Housing Quality Assurance Law and to competition from European laminated beams. Coastal BC producers were scrambling to add drying capacity, and it was noted that added dry-kilns would help the Coastal BC industry expand in the U.S. market "B.C. Hemlock Industry Stakes Future on Kiln Drying," *Export*, Eugene, OR, Random Lengths Publications, Inc., Vol 33, No. 8 (Apr 12, 2000), pp. 1,2. "Export Sales Growth Expected in Many Key Markets," *Export*, Eugene, OR, Random Lengths Publications, Inc., Vol . 34, No. 1, Jan. 2001, p. 1.

[79] "Exporters Continue to Lose Market Share," *Yardstick*, Eugene, OR, Random Lengths Publications, Inc., Sept. 2001, p. 1.

[80] WWPA, *Lumber Track*, Apr. 2002, p. 3.

Table 6
Softwood lumber: U.S. imports by principal supplier, 1997-2001

Item	1997	1998	1999	2000	2001
			Quantity (million board feet)		
Canada	17,431	18,039	18,241	18,333	18,698
Latin America	432	441	594	592	551
Europe	52	106	198	382	605
New Zealand	80	94	133	135	204
Other	8	6	12	7	17
Total	18,003	18,686	19,178	19,449	20,075
Ratio of Canadian import to total imports (percent)	96.8	96.5	95.1	94.3	93.1

Sources: Statistical Yearbook of the Western Lumber Industry, WWPA, Lumber Track, WWPA.

Some European exporters were reportedly uncomfortable with the volatility of the U.S. auction-style market and, having sustained losses in 2000, were reconsidering their position in the U.S. market.[81] Other factors reported to be limiting the position of European lumber in the U.S. market were long transit times and a high percentage of small logs which limits lumber to narrow widths and maximum lengths of 16 feet.[82]

USDA Forest Service data indicate that during 1999-2001, six Canadian sawmills with a combined capacity of 509 million board feet were closed as compared to the 53 U.S. sawmills with a combined capacity of 2.7 billion board feet closed during the same period.[83] [84]

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[81] "European-U.S. Lumber Trade Rewarding, Risky," *International*, Eugene, OR, Random Lengths Publications, Inc., Vol. 34, No. 10, May 16, 2001, p. 1.

[82] "European-U.S. Lumber Trade Rewarding, Risky," *International*, Eugene, OR, Random Lengths Publications, Inc., Vol. 34, No. 10, May 16, 2001, p. 1.

[83] Henry Spelter, *Sawmill Closures, Openings and Net Capacity Changes in the Softwood Lumber Sector, 1996-2003*, USDA Forest Service-Forest Products Laboratory, Research Paper FPL-RP-603, (Madison, WI), Apr. 2002, p. 1.

[84] Canadian mills were reportedly restricting shipments to the United States to avoid "critical circumstances" that would trigger retroactive duties. "U.S. Rally Puts Std & Btr 2x4 at Premium to J-grade," *International*, Eugene, OR, Random Lengths Publications, Inc., Vol. 34, No. 11, May 30, 2001, p. 1.

Price

In early 1999, a change in buying patterns in U.S. wood products markets was noted. To manage (minimize) inventories, lumber buyers have tended to delay purchases, which reportedly has increased price volatility in the U.S. market.[85] Led by strong markets for solid wood products, including softwood lumber, publicly traded forest products firms posted healthy profits in the first quarter of 1999, a turnaround from the first quarter of the previous year.[86] By the start of the third quarter of 1999 strong housing activity had pushed the *Random Lengths* Framing Lumber Composite Price Index (Index) to $490 per thousand board feet.[87] However, the peak was followed by a free-fall for the balance of the quarter, and the market hit bottom at the beginning of the fourth quarter of 1999 at $355 per thousand board feet before recovering slightly by the end of the year.[88] The Index remained over $380 for the first three months of 2000, but began declining steadily thereafter, hitting $287 per thousand board feet in August 2000, the lowest monthly average since October 1992. In July, *Random Lengths* noted that lumber traders attributed the weak market to overproduction and reported that some mills were cutting back production.[89] In September of 2000, the Index moved upward to $291. By January 2001, major home center retailers were reportedly purchasing #2 lumber in lieu of #3 and #4.[90] In mid-2001, an unusual price relationship occurred as the price of Western SPF (std. & btr. 2x4s) delivered to the U.S.

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[85] "Buying Enthusiasm Strong in January," *Crow's*, Jan. 15, 1999, p. 1.

[86] Shawn Church, "Solid Wood Leads the Forest Products Earnings Recovery," *Yardstick*, Eugene, OR, Random Lengths Publications, Inc., May 1999, p. 1.

[87] The Framing Lumber Composite Price Index is a composite measure of framing lumber prices across all species and regions. See, tables V-1 and V-2, pp. 23-26

[88] A comparison of pricing data for Eastern SPF lumber in Toronto to prices in the Great Lakes area shows that the SLA's constraints on the volume of trade resulted in higher prices for Eastern SPF lumber in the Great Lakes area during the SLA than in the absence of the SLA. For example, prior to the SLA, Eastern SPF lumber in Toronto was only about $20 less (in U.S. dollars) than the price for delivered Eastern SPF in the Great Lakes area of the United States; the average difference in 1999 with the SLA in effect was $91 less in Toronto. *Letter of National Association of Home Builders ("NAHB") to the U.S. Trade Representative ("USTR")* at 6 and Figure 1 (comparison is based on *Random Lengths* pricing data). Moreover, a review of the raw pricing data without adjustment for delivery costs shows that the effects on prices of the constraints on supply during the SLA were not apparent both prior to and after the SLA. *See Random Lengths 2002 Yearbook.*

[89] *Yardstick*, Eugene, OR, Random Lengths Publications, Inc., July 2000.

[90] "Shifting Market Demands, Imports Alter Domestic Lumber Picture," *Crow's*, Jan. 19, 2001, p. 1.

Midwest rose above the price of Western SPF (#2 & btr. J-grade 2x4s) delivered to Japan, thereby creating an additional incentive for Canadian mills to shift production from the Japanese market to the U.S. market.[91]

[91] "U.S. Rally Puts Std & Btr 2x4 at Premium to J-grade," *International*, Eugene, OR, Random Lengths Publications, Inc., Vol. 34, No. 11, May 30, 2001, p. 1.

U.S. AND CANADIAN PRODUCER COMMENTS REGARDING SUPPLY, DEMAND AND BUSINESS PLANNING

U.S. PRODUCERS

U.S. producers were asked to respond to the following questions concerning their perceptions (as of April 30, 2002) of supply and demand in the softwood lumber market in the United States:

> Please discuss any changes your firm anticipated (as of April 30, 2002) in the **supply** of U.S.-produced softwood lumber in the U.S. market in the future, identifying the time periods involved and the factors that you believe would be responsible for such changes.
>
> Please discuss any changes your firm anticipated (as of April 30, 2002) in the **demand** for softwood lumber in the U.S. market in the future, identifying the time periods involved and the factors that you believe would be responsible for such changes.

In addition to responding to these questions, U.S. producers were asked to provide copies of their company's business plan (if one existed) for 2002 that had been formulated and disseminated prior to the end of April 2002. Those producers responding affirmatively were asked to include their firm's projections regarding their U.S. production, U.S. production capacity, and supply and demand forecasts for the U.S. market for 2002 and 2003.

Fifty-five U.S. producers provided responses for this report; these producers accounted for 63.3 percent of 2001 production and 59.5 percent of January-March 2002 production. Of the 55 responding firms, 49 firms (accounting for 58.3 percent of 2001 reported production) supported the petition, while *** (accounting for *** percent of reported production) opposed the petition, and *** firms (accounting for *** percent of 2001 reported production) did not commit to a position. The response of each firm providing comments follows under the headings "Supply," "Demand," and "Business Plan." Only a limited number (13) of firms reported operating with a business plan. The shorter business plan comments appear in the individual firm writeups, while the more lengthy business plan documents are presented in appendix F. Absence of the "business plan" heading in the individual firm writeups means that the firm in question does not operate with a business plan. In addition to the foregoing information,

the following information is provided in the writeups: position on the petition, mill location(s) by state, and the share of the firm's total 2001 production of softwood lumber.

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"Demand--***"

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Supply--"***"

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Supply--"***"

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Supply--"***"

Demand--"***"

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Supply (continued)–"***"

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Demand--"***"

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Supply--"***"

Demand--"***"

Business plan--***

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Supply--"***"

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***--Continued

Demand--"***"

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Supply--"***"

Demand--"***"

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Supply--"***"

Demand--"***"

Business plan--***"

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Supply--"***"

Demand--"***"

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Supply--"***

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Supply (continued)–"***"

Demand–"***"

Business plan–***

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Supply–***

Demand–***

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Supply–"***"

Demand–"***"

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Supply--"***"

Demand--"***"

Business plan--***

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Supply--"***"

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Supply--"***"

Demand--"***"

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Supply--"***"

***–Continued

Demand--"***"

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Supply–"***"

Demand--"***"

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Supply–"***"

Demand–"***"

Business plan–***

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Supply--"***"

***–Continued

Demand--"***"

Business plan–***

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Supply--"***"

Demand--"***"

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Supply--"***"

Demand--"***"

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Supply--"***"

Demand--"***"

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Supply–"***

***--Continued

Supply (continued)--"***"

Demand--"***"

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Supply--"***"

Demand--"***"

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Supply--"***"

Demand--"***"

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Supply--"***"

Demand--"***

***–Continued

Demand (continued)–"***"

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Supply–"***"

Demand--"***"

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Supply--"***"

Demand--"***"

Business plan–***"

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Supply–"***"

Demand–"***"

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Supply--"***"

***–Continued

Demand--"***"

Business plan--"***"

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Supply--"***"

Demand--"***"

Business plan--"***"

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Supply--"***"

Demand--"***"

U.S. producer questionnaire recipients who have not provided questionnaire responses are listed below:

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CANADIAN PRODUCERS

Canadian producers were asked to respond to the following questions concerning their perceptions (as of April 30, 2002) of supply and demand in the softwood lumber market in the United States:

> Please discuss any changes your firm anticipated (as of April 30, 2002) in the **supply** of Canadian-produced softwood lumber in the U.S. market in the future, identifying the time periods involved and the factors that you believe would be responsible for such changes.
>
> Please discuss any changes your firm anticipated (as of April 30, 2002) in the **demand** for softwood lumber in the U.S. market in the future, identifying the time periods involved and the factors that you believe would be responsible for such changes.

In addition to responding to these questions, Canadian producers were asked to provide copies of their company's business plan (if one existed) for 2002 that had been formulated and disseminated prior to the end of April 2002. Those producers responding affirmatively were asked to include their firm's projections regarding their Canadian production, Canadian production capacity, export shipments to the U.S. market, shipments to non-U.S. markets, and supply and demand forecasts for the U.S. market for 2002 and 2003.

The response of each firm providing comments follows under the headings "Supply," "Demand," and "Business Plan." Only a limited number (three) of firms reported operating with a business plan. The shorter business plan comments appear in the individual firm writeups, while the more lengthy business plans are presented in appendix F. Absence of the "business plan" heading in the individual firm writeups means that the firm in question does not operate with a business plan. As noted earlier in the report, only six of the Canadian producers responded to the Commission's questionnaire. The six producers accounted for 20.1 percent of Canadian production in January-March 2002.

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Supply–"***"

Demand--"***"

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Supply--"***"

Demand--"***

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Supply--"***"

Demand--"***"

***–Continued

Business plan–"***"

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Supply--"***"

Demand–"***"

Business plan–"***" The excerpt is presented in Appendix F.

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Supply--"***"

Demand--"***"

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Supply--"***"

Demand–"***"

***–Continued

Business plan–"***"

Canadian producer questionnaire recipients who have not provided questionnaire responses are listed below. Of these firms, six (***) advised the Commission directly and seven (***) firms advised by counsel that they would not be responding.

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APPENDIX A

FEDERAL REGISTER NOTICES

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 701–TA–414 and 731–TA–928 (Section 129 Consistency Determination)]

Softwood Lumber From Canada

AGENCY: United States International Trade Commission.

ACTION: Institution of a proceeding under section 129(a)(4) of the Uruguay Round Agreements Act (URAA) (19 U.S.C. 3538(a)(4)).

SUMMARY: The Commission hereby gives notice that it has instituted this proceeding following receipt on July 27, 2004, of a request from the United States Trade Representative (USTR) for a determination under section 129(a)(4) of the URAA that would render the Commission's action in connection with Investigations Nos. 701–TA–414 and 731–TA–928 not inconsistent with the findings of the dispute settlement panel of the World Trade Organization (WTO) in its report entitled, "United States—Investigation of the International Trade Commission in Softwood Lumber From Canada," WT/DS277/R. A schedule for this proceeding will be established and announced at a later date. For further information concerning the conduct of this proceeding and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subpart A (19 CFR part 207).

EFFECTIVE DATE: August 5, 2004.

FOR FURTHER INFORMATION CONTACT: Jim McClure (202–205–3191), Office of Investigations, or Robin L. Turner (202–205–3103), Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record of investigations Nos. 701–TA–414 and 731–TA–928 may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov*.

SUPPLEMENTARY INFORMATION:

Background. On May 16, 2002, the Commission determined that an industry in the United States is threatened with material injury by reason of imports from Canada of softwood lumber found to be subsidized and sold in the United States at less than fair value (LTFV) (investigations Nos. 701–TA–414 and 731–TA–928, *Softwood Lumber from Canada*, USITC Pub. 3509 (May 2002). The Government of Canada subsequently requested review under the WTO *Understanding on Rules and Procedures Governing the Settlement of Disputes*. A WTO dispute settlement panel issued its final report, and found, inter alia, that action by the Commission in connection with its *Softwood Lumber* investigations under Title VII of the Tariff Act of 1930, ITC Investigations Nos. 701–TA–414 and 731–TA–928, is not in conformity with the obligations of the United States under the WTO *Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994* and the WTO *Agreement on Subsidies and Countervailing Measures*. The panel's findings in this regard are set out in paragraphs 7.87 to 7.96 and 7.122 of the panel report. Its conclusions based on these findings are set out in paragraphs 8.1 and 8.2 of the report. The panel report was adopted by the WTO Dispute Settlement Body on April 26, 2004. The USTR transmitted his request for this determination following receipt from the Commission on July 14, 2004, of an advisory report under section 129(a)(1) stating that the Commission has concluded that Title VII of the Tariff Act of 1930 permits it to take steps in connection with its action in *Softwood Lumber from Canada*, Investigations Nos. 701–TA–414 and 731–TA–928, that would render its action in that proceeding not inconsistent with the findings of the dispute settlement panel.

Participation in the investigation and public service list. Only those persons who were interested parties to the original investigations (*i.e.*, persons listed on the Commission Secretary's service list) may participate in this proceeding. Such persons wishing to participate in this proceeding as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's rules, no later than 21 days after publication of this notice in the Federal Register. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to this proceeding.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and APO service list. Pursuant to § 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in this proceeding available to authorized applicants under the APO issued in this proceeding, provided that the application is made no later than 21 days after publication of this notice in the Federal Register. Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to this proceeding. Parties that received BPI under the APO in the original investigations that are also subject to the APO in the related NAFTA proceeding must file a new application to receive any information obtained and released during this proceeding. Pursuant to § 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in the original investigations and in this proceeding available to additional authorized applicants, that are not subject to the APO in the related NAFTA proceeding (*i.e.*, returned or destroyed all BPI received under the APO in the original investigations) or not covered under the original APO, provided that an application is made in this proceeding. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Issued: July 30, 2004.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 04–17865 Filed 8–4–04; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–414 and 731–TA–928 (Section 129 Consistency Determination)]

Softwood Lumber From Canada

AGENCY: International Trade Commission.

ACTION: Scheduling of a proceeding under section 129(a)(4) of the Uruguay Round Agreements Act (URAA) (19 U.S.C. 3538(a)(4)).

SUMMARY: The Commission hereby gives notice of the scheduling of this proceeding following receipt on July 27, 2004, of a request from the United States Trade Representative (USTR) for a determination under section 129(a)(4) of the URAA that would render the Commission's action in connection with Investigations Nos. 701–TA–414 and 731–TA–928 not inconsistent with the findings of the dispute settlement panel of the World Trade Organization (WTO) in its report entitled, "United States—Investigation of the International Trade Commission in Softwood Lumber From Canada," WT/DS277/R. A notice of institution for this proceeding was issued on July 30, 2004 (69 FR 47461, Aug. 5, 2004).

For further information concerning the conduct of this proceeding and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

EFFECTIVE DATE: August 20, 2004.

FOR FURTHER INFORMATION CONTACT: Jim McClure (202–205–3191), Office of Investigations, or Robin L. Turner (202–205–3103), Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for

this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov*.

SUPPLEMENTARY INFORMATION:

Background.—On May 16, 2002, the Commission determined that an industry in the United States is threatened with material injury by reason of imports from Canada of softwood lumber found to be subsidized and sold in the United States at less than fair value (LTFV) (investigations Nos. 701–TA–414 and 731–TA–928, *Softwood Lumber from Canada*, USITC Pub. 3509 (May 2002). The Government of Canada subsequently requested review under the WTO *Understanding on Rules and Procedures Governing the Settlement of Disputes*. A WTO dispute settlement panel issued its final report, and found, inter alia, that action by the Commission in connection with its Softwood Lumber investigation under Title VII of the Tariff Act of 1930, ITC Investigation Nos. 701–TA–414 and 731–TA–928, is not in conformity with the obligations of the United States under the WTO *Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994* and the WTO *Agreement on Subsidies and Countervailing Measures*. The panel's findings in this regard are set out in paragraphs 7.87 to 7.96 and 7.122 of the panel report. Its conclusions based on these findings are set out in paragraphs 8.1 and 8.2 of the report. The panel report was adopted by the WTO Dispute Settlement Body on April 26, 2004. The USTR transmitted his request for this determination following receipt from the Commission on July 14, 2004, of an advisory report under section 129(a)(1) stating that the Commission has concluded that Title VII of the Tariff Act of 1930 permits it to take steps in connection with its action in *Softwood Lumber from Canada*, Investigations Nos. 701–TA–414 and 731–TA–928, that would render its action in that proceeding not inconsistent with the findings of the dispute settlement panel.

Participation in this proceeding.—Only those persons who were interested parties to the original investigation (*i.e.*, persons listed on the Commission Secretary's service list) may participate in this proceeding. See the Commission's notice of institution of this proceeding for information regarding participation and the limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) (69 FR 47461, Aug. 5, 2004).

Limitations on the scope of this proceeding.—This proceeding is being conducted in order for the Commission to make a determination that would render its action in *Softwood Lumber from Canada*, Investigations Nos. 701–TA–414 and 731–TA–928, not inconsistent with the findings of the WTO dispute settlement panel. Thus, this proceeding only involves issues related to the WTO dispute settlement findings and does not involve issues that were not in dispute in the WTO proceeding or on which the WTO dispute settlement panel found the United States in conformity with its obligations under the WTO. (The panel's findings are set out in paragraphs 7.87 to 7.96 and 7.122 of the panel report. Its conclusions based on these findings are set out in paragraphs 8.1 and 8.2 of the report.) Therefore, this proceeding will not involve any issue relating to the Commission's definitions of the domestic like product and domestic industry (including related parties), and the Commission's findings regarding the Maritime Provinces, effects of the subsidies or dumping, consideration of the nature of the subsidy and its likely trade effects, and cross-cumulation. Any material in the interested parties' oral or written submissions that addresses any of these excluded issues will be disregarded.

Staff report.—The prehearing staff report in this proceeding will be placed in the nonpublic record on September 30, and a public version will be issued thereafter, pursuant to section 207.22 of the Commission's rules.

Hearing.—The Commission will hold a hearing in connection with this proceeding beginning at 9:30 a.m. on October 13, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before October 6. All parties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on October 8, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), and 207.24 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 days prior to the date of the hearing.

Written submissions.—Each party who is an interested party shall submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.23 of the Commission's rules and shall be limited to no more than fifty (50) double-spaced and single-sided pages of textual material; the deadline for filing is October 6. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.25 of the Commission's rules. The deadline for filing posthearing briefs is October 20; witness testimony must be filed no later than three days before the hearing. On October 29, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before November 1, but such final comments must not contain new factual information and must otherwise comply with section 207.30 of the Commission's rules. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002).

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: This investigation is being conducted under authority of title VII of the Tariff Act of 1930 and section 129 of the URAA.

Issued: August 23, 2004.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 04–19521 Filed 8–25–04; 8:45 am]

BILLING CODE 7020–02–P

APPENDIX B

CALENDAR OF PUBLIC HEARING

CALENDAR OF PUBLIC HEARING

Those listed below appeared as witnesses at the United States International Trade Commission's hearing:

Subject:	Softwood Lumber from Canada
Inv. No.:	701-TA-414 and 731-TA-928 (Section 129 Consistency Determination)
Date and Time:	October 13, 2004 - 9:30 a.m.

Sessions were held in connection with these investigations in the Main Hearing Room, 500 E Street, SW, Washington, D.C.

Domestic Industry Witnesses:

Dewey Ballantine LLP
Washington, D.C.
on behalf of

Coalition for Fair Lumber Imports Executive Committee

Rusty Wood, President, Tolleson Lumber Company; *and* Chairman, Coalition for Fair Lumber Imports
Duane Vaagen, President, Vaagen Brothers Lumber Inc.
William Mulligan, Chief Executive Officer, Three Rivers Timber, Inc.
Brenda Elliott, Vice President, Sales, Temple-Inland Inc.
Mike Pieti, Executive Secretary-Treasurer, Western Council of Industrial Workers, Affiliated with the United Brotherhood of Carpenters
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Canadian Government Witnesses:

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on behalf of

The Government of Canada

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APPENDIX C

SUMMARY DATA

Table C-1
Softwood lumber: Summary data concerning the U.S. market, 1999-2001

(Quantity=*mmbf*; value=*1,000,000 dollars*; unit values, unit labor costs, and unit expenses are *per mbf*; and period changes=*percent*, except where noted)

Item	Calendar year			Period changes		
	1999	2000	2001	1999-2001	1999-2000	2000-2001
U.S. consumption quantity:						
Amount	54,095	53,777	53,894	-0.4	-0.6	0.2
Producers' share[1]	65.0	64.4	63.1	-1.9	-0.7	-1.2
Importers' share:[1]						
Canada	33.2	33.6	34.3	1.1	0.3	0.7
Other sources	1.7	2.1	2.6	0.8	0.3	0.5
Total	35.0	35.6	36.9	1.9	0.7	1.2
U.S. consumption value:						
Amount	21,706	17,808	17,194	-20.8	-18.0	-3.4
Producers' share[1]	64.1	60.7	60.2	-3.9	-3.4	-0.5
Importers' share:[1]						
Canada	32.8	35.3	34.8	2.0	2.5	-0.5
Other sources	3.1	4.0	5.0	1.9	0.9	1.0
Total	35.9	39.3	39.8	3.9	3.4	0.5
U.S. imports[2] from–						
Canada:						
Quantity	17,983	18,052	18,483	2.8	0.4	2.4
Value	7,116	6,280	5,980	-16.0	-11.8	-4.8
Unit value	$395.72	$347.89	$323.57	-18.2	-12.1	-7.0
Other sources:						
Quantity	937	1,116	1,378	47.0	19.1	23.4
Value	667	710	859	28.8	6.4	21.1
Unit value	$712.22	$635.84	$623.60	-12.4	-10.7	-1.9
All sources:						
Quantity	18,920	19,168	19,860	5.0	1.3	3.6
Value	7,784	6,990	6,840	-12.1	-10.2	-2.1
Unit value	$411.39	$364.66	$344.38	-16.3	-11.4	-5.6
U.S. producers'[3]–						
Capacity quantity	39,800	40,100	40,040	0.6	0.8	-0.1
Production quantity	36,606	35,965	34,996	-4.4	-1.8	-2.7
Capacity utilization[1]	92.0	89.7	87.4	-4.6	-2.3	-2.3
U.S. shipments:						
Quantity	35,175	34,610	34,034	-3.2	-1.6	-1.7
Value	13,922	10,818	10,355	-25.6	-22.3	-4.3
Unit value	$395.79	$312.57	$304.25	-23.1	-21.0	-2.7

Table continued on next page.

(Quantity=*mmbf*; value=*1,000,000 dollars*; unit values, unit labor costs, and unit expenses are *per mbf*; and period changes=*percent*, except where noted)

Item	Calendar year			Period changes		
	1999	2000	2001	1999-2001	1999-2000	2000-2001
U.S. producers[4]– Capacity quantity	22,847	24,233	24,709	8.1	6.1	2.0
Production quantity	21,758	21,981	22,163	1.9	1.0	0.8
Capacity utilization[1]	92.8	88.5	86.1	-6.6	-4.3	-2.3
U.S. shipments: Quantity	21,504	21,774	22,301	3.7	1.3	2.4
Value	8,948	7,862	7,758	-13.3	-12.1	-1.3
Unit value	$416.13	$361.07	$347.86	-16.4	-13.2	-3.7
Export shipments: Quantity	295	289	231	-21.9	-2.1	-20.2
Value	159	155	115	-27.7	-2.2	-26.1
Unit value	$537.03	$536.65	$496.93	-7.5	-0.1	-7.4
Ending inventory quantity	1,382	1,543	1,467	6.2	11.7	-4.9
Inventories/total shipments[1]	6.3	7.0	6.5	0.2	0.7	-0.5
Production workers	29,607	29,573	29,082	-1.8	-0.1	-1.7
Hours worked (*1,000 hours*)	68,578	69,735	66,013	-3.7	1.7	-5.3
Wages paid (*1,000 dollars*)	1,038,566	1,079,375	1,030,426	-0.8	3.9	-4.5
Hourly wages	$15.14	$15.48	$15.61	3.1	2.2	0.8
Productivity (*mbf per 1,000 hours*)	307.3	305.7	320.9	4.4	-0.5	5.0
Unit labor costs	$49.29	$50.62	$48.64	-1.3	2.7	-3.9
Net sales: Quantity	21,208	21,442	21,460	1.2	1.1	0.1
Value	8,833	7,763	7,392	-16.3	-12.1	-4.8
Unit value	$416.48	$362.05	$344.46	-17.3	-13.1	-4.9
COGS	7,261	7,286	6,968	-4.0	0.3	-4.4
Gross profit or (loss)	1,571	477	424	-73.0	-69.6	-11.1
SG&A expenses	311	338	332	6.6	8.6	-1.8
Operating income or (loss)	1,260	140	93	-92.7	-88.9	-33.7
Capital expenditures	327	474	253	-22.5	44.9	-46.5
Unit COGS	$342.39	$339.79	$324.69	-5.2	-0.8	-4.4
Unit SG&A expenses	$14.67	$15.75	$15.45	5.4	7.4	-1.9
Unit operating income or (loss)	$59.42	$6.51	$4.32	-92.7	-89.0	-33.7
COGS/sales[1]	82.2	93.9	94.3	12.1	11.6	0.4
Operating income or (loss)/sales[1]	14.3	1.8	1.3	-13.0	-12.5	-0.5

[1] "Reported data" are in percent and "period changes" are in percentage points.
[2] Compiled from official Commerce statistics.
[3] Compiled from softwood lumber industry data.
[4] Compiled from data submitted in response to Commission questionnaires.
[5] Undefined.

Note.–Financial data are reported on a fiscal year basis and may not necessarily be comparable to data reported on a calendar year basis. Because of rounding, figures may not add to the totals shown. Unit values and shares are calculated from the unrounded figures.

Source: Compiled from data submitted in response to Commission questionnaires, industry data, and from official Commerce statistics.

Table C-1B (129)
Softwood lumber: Summary data concerning the U.S. market, January-March 2000-02
(Quantity=mmbf; value=1,000,000 dollars; unit values, unit labor costs, and unit expenses are per mbf; and period changes=percent, except where noted)

Item	Reported data			Period changes		
	January-March			January-March		
	2000	2001	2002	2000-02	2000-01	2001-02
U.S. consumption quantity:						
Amount	14,011	12,473	13,682	-2.3	-11.0	9.7
Producers' share[1]	66.2	64.6	62.3	-3.9	-1.6	-2.3
Importers' share:[1]						
Canada	31.9	33.2	34.7	2.8	1.3	1.5
Other sources	1.9	2.2	3.0	1.1	0.3	0.8
Total	33.8	35.4	37.7	3.9	1.6	2.3
U.S. consumption value:						
Amount	5,406	3,613	4,417	-18.3	-33.2	22.2
Producers' share[1]	64.6	61.0	60.0	-4.6	-3.6	-1.0
Importers' share:[1]						
Canada	32.0	34.3	34.9	2.9	2.3	0.6
Other sources	3.4	4.8	5.1	1.7	1.3	0.4
Total	35.4	39.0	40.0	4.6	3.6	1.0
U.S. imports[2] from--						
Canada:						
Quantity	4,467	4,141	4,745	6.2	-7.3	14.6
Value	1,731	1,238	1,542	-10.9	-28.5	24.6
Unit value	$387.40	$299.04	$325.00	-16.1	-22.8	8.7
Other sources:						
Quantity	269	277	416	54.6	2.9	50.2
Value	186	172	227	21.9	-7.5	31.8
Unit value	$690.56	$620.64	$544.55	-21.1	-10.1	-12.3
All sources:						
Quantity	4,736	4,418	5,161	9.0	-6.7	16.8
Value	1,916	1,410	1,769	-7.7	-26.4	25.4
Unit value	$404.63	$319.21	$342.70	-15.3	-21.1	7.4
U.S. producers[3]--						
Capacity quantity	10,030	10,013	9,988	-0.4	-0.2	-0.2
Production quantity	9,636	8,334	8,744	-9.3	-13.5	4.9
Capacity utilization[1]	96.1	83.2	87.5	-8.5	-12.8	4.3
U.S. shipments:						
Quantity	9,275	8,055	8,521	-8.1	-13.2	5.8
Value	3,490	2,203	2,648	-24.1	-36.9	20.2
Unit value	$376.28	$273.49	$310.76	-17.4	-27.3	13.6

Table continued on next page.

(Quantity=mmbf; value=1,000,000 dollars; unit values, unit labor costs, and unit expenses are per mbf; and period changes=percent, except where noted)

Item	Reported data			Period changes		
	January-March			January-March		
	2000	2001	2002	2000-02	2000-01	2001-02
U.S. producers[4]–						
Capacity quantity	5,556	5,855	5,903	6.3	5.4	0.8
Production quantity	5,130	4,808	5,204	1.4	-6.3	8.2
Capacity utilization[1]	88.4	78.3	84.1	-4.3	-10.0	5.7
U.S. shipments:						
Quantity	4,958	4,720	5,033	1.5	-4.8	6.6
Value	1,973	1,500	1,703	-13.7	-24.0	13.6
Unit value	$398.01	$317.73	$338.45	-15.0	-20.2	6.5
Export shipments:						
Quantity	74	59	44	-41.1	-20.3	-26.1
Value	40	31	21	-48.5	-24.3	-31.9
Unit value	$544	$517	$476	-12.6	-5.1	-7.9
Ending inventory quantity	1,192	1,273	1,312	10.1	6.8	3.0
Inventories/total shipments[1]	-0.1	-0.1	-0.1	0.0	0.0	-0.0
Production workers	21,632	20,526	20,653	-4.5	-5.1	0.6
Hours worked (1,000 hours)	12,787	11,125	11,590	-9.4	-13.0	4.2
Wages paid (1,000 dollars)	205,716	189,869	202,146	-1.7	-7.7	6.5
Hourly wages	$16.09	$17.07	$17.44	8.4	6.1	2.2
Productivity (mbf per 1,000 hours)	337.1	355.2	372.5	10.5	5.4	4.9
Unit labor costs	$47.73	$48.05	$46.83	-1.9	0.7	-2.5
Net sales:						
Quantity	5,031	4,779	5,076	0.9	-5.0	6.2
Value	2,002	1,523	1,717	-14.2	-23.9	12.7
Unit value	$398	$319	$338	-15.0	-19.9	6.1
COGS	1,735	1,479	1,527	-12.0	-14.8	3.2
Gross profit or (loss)	266	44	191	-28.4	-83.5	334.1
SG&A expenses	82	86	86	4.2	4.8	-0.6
Operating income or (loss)	184	(43)	105	-43.1	(5)	(5)
Capital expenditures	70	60	28	-60.1	-13.7	-53.8
Unit COGS	$345	$310	$301	-12.8	-10.3	-2.8
Unit SG&A expenses	$16	$18	$17	3.2	10.3	-6.4
Unit operating income or (loss)	$37	$(9)	$21	-43.6	(5)	(5)
COGS/sales[1]	86.7	97.1	88.9	2.2	10.4	-8.2
Operating income or (loss)/sales[1]	9.2	-2.8	6.1	-3.1	-12.0	8.9

[1] "Reported data" are in percent and "period changes" are in percentage points.
[2] Compiled from official Commerce statistics.
[3] Compiled from softwood lumber industry data.
[4] Compiled from data submitted in response to Commission questionnaires.
[5] Undefined.

Note.–Financial data are reported on a fiscal year basis and may not necessarily be comparable to data reported on a calendar year basis. Because of rounding, figures may not add to the totals shown. Unit values and shares are calculated from the unrounded figures.

Source: Compiled from data submitted in response to Commission questionnaires, industry data, and from official Commerce statistics.

APPENDIX D

DATA FROM U.S. PRODUCERS PROVIDING USEABLE FINANCIAL DATA IN BOTH THE UNDERLYING TITLE VII INVESTIGATIONS AND THE SECTION 129 PROCEEDING

This appendix presents operating data for the U.S. industry producing softwood lumber that has been revised to align the firms providing useable financial data for both the underlying Title VII investigations and the section 129 consistency proceeding. Revisions to the data essentially involve deleting the data of firms that did not provide useable financial data in both instances. For example, 73 firms provided usable financial data in the underlying investigations while only 56 firms provided such data in the section 129 consistency proceeding. Therefore, to conform the database of the underlying title VII investigations to that of the section 129 database financial data from nonresponding firms in the 129 proceeding was removed from the underlying title VII database. One firm, which had provided useable financial data in the underlying investigations as ***, reported as *** in the section 129 proceeding, so its data were retained in both instances. The data of two firms were eliminated from the section 129 proceeding, ***, because these firms did not provide useable financial data in the underlying investigations. Hence, the data presented are consistent between the title VII and section 129 investigations and provide information from 54 firms.

Table D-1
Softwood lumber: Restated results of operations of U.S. producers, fiscal years 1999-2001

Item	Fiscal year		
	1999	2000	2001
	Quantity (*mbf*)		
Trade sales	17,341,135	17,783,950	17,728,868
Internal consumption	975,352	874,122	697,628
Related company transfers	497,210	520,849	684,498
Total net sales	18,813,697	19,178,921	19,110,993
	Value (*$1,000*)		
Trade sales	7,109,179	6,285,890	5,957,780
Internal consumption	453,751	370,345	300,503
Related company transfers	205,727	191,629	228,710
Total net sales	7,768,657	6,847,864	6,486,993
Cost of goods sold	6,309,673	6,388,632	6,052,994
Gross profit	1,458,984	459,232	434,000
SG&A expenses	271,087	295,854	290,834
Operating income or (loss)	1,187,897	163,378	143,166
Interest expense	48,734	60,803	54,684
Other expense	24,994	19,326	32,843
Other income items	39,808	25,797	31,328
Net income or (loss)	1,153,977	109,045	86,967
Depreciation/amortization	251,560	269,322	267,340
Cash flow	1,405,537	378,367	354,307

Table continued on following page.

Table D-1--Continued
Softwood lumber: Restated results of operations of U.S. producers, fiscal years 1999-2001

Item	Fiscal year		
	1999	2000	2001
	Ratio to net sales (*percent*)		
Cost of goods sold	81.2	93.3	93.3
Gross profit	18.8	6.7	6.7
SG&A expenses	3.5	4.3	4.5
Operating income or (loss)	15.3	2.4	2.2
Net income or (loss)	14.9	1.6	1.3
	Unit value (*per mbf*)		
Trade sales	409.96	353.46	336.05
Internal consumption	465.22	423.68	430.75
Related company transfers	413.76	367.92	334.13
Total net sales	412.93	357.05	339.44
Cost of goods sold	335.38	333.11	316.73
Gross profit	77.55	23.94	22.71
SG&A expenses	14.41	15.43	15.22
Operating income or (loss)	63.14	8.52	7.49
Net income or (loss)	61.34	5.69	4.55
	Number of firms reporting		
Net losses	3	35	32
Data	54	54	54

Note.–Net sales values, other income, and raw materials were adjusted by the value of revenues reported from the sale of by-products, as noted earlier.

Source: Compiled from data submitted in response to Commission questionnaires.

Table D-1B (129)
Softwood lumber: Restated results of operations of U.S. producers, January-March 2000-02

Item	January-March		
	2000	2001	2002
	Quantity (*mbf*)		
Trade sales	4,568,171	4,202,066	4,471,816
Internal consumption	188,405	181,098	179,826
Related company transfers	137,261	163,147	196,200
Total net sales	4,893,838	4,546,311	4,847,842
	Value (*$1,000*)		
Trade sales	1,798,707	1,317,588	1,488,927
Internal consumption	88,075	70,955	76,135
Related company transfers	56,060	54,683	66,901
Total net sales	1,942,842	1,443,227	1,631,963
Cost of goods sold	1,682,027	1,403,396	1,446,892
Gross profit	260,815	39,831	185,070
SG&A expenses	80,625	83,860	83,482
Operating income or (loss)	180,190	(44,030)	101,588
Interest expense	26,768	27,949	22,757
Other expense	6,661	7,285	5,649
Other income items	9,800	6,815	7,451
Net income or (loss)	156,561	(72,450)	80,634
Depreciation/amortization	62,728	65,339	65,352
Cash flow	219,290	(7,111)	145,986

Table continued on following page.

Table D-1B (129)--Continued
Softwood lumber: Restated results of operations of U.S. producers, January-March, 2000-02

Item	January-March		
	2000	2001	2002
	Ratio to net sales (*percent*)		
Cost of goods sold	86.6	97.2	88.7
Gross profit	13.4	2.8	11.3
SG&A expenses	4.2	5.8	5.1
Operating income or (loss)	9.3	(3.1)	6.2
Net income or (loss)	8.1	(5.0)	4.9
	Unit value (*per mbf*)		
Trade sales	393.75	313.56	332.96
Internal consumption	467.48	391.81	423.38
Related company transfers	408.42	335.18	340.98
Total net sales	397.00	317.45	336.64
Cost of goods sold	343.70	308.69	298.46
Gross profit	53.29	8.76	38.18
SG&A expenses	16.47	18.45	17.22
Operating income or (loss)	36.82	(9.68)	20.96
Net income or (loss)	31.99	(15.94)	16.63
	Number of firms reporting		
Net losses	17	42	20
Data	53	54	54

Note.–Net sales values, other income, and raw materials were adjusted by the value of revenues reported from the sale of by-products. ***

Source: Compiled from data submitted in response to Commission questionnaires.

Table D-2
Softwood lumber: Restated per-unit values of cost of goods sold and average by-product revenues of U.S. producers, fiscal years 1999-2001

Item	Fiscal year		
	1999	2000	2001
	Unit value *(per mbf)*		
Cost of goods sold:			
Raw materials	226.34	221.07	201.75
Direct labor	45.39	45.52	43.76
Other factory costs	63.65	66.52	71.21
Total	335.38	333.11	316.73
Average by-product revenue	41.29	39.73	39.06

Note.–Net sales values, other income, and raw materials were adjusted for the sale of by-products as described earlier. Average by-product revenue is the sum of all by-product revenues divided by total net sales quantity. *** combined labor costs and factory overhead together in reporting factory overhead.

Source: Compiled from data submitted in response to Commission questionnaires.

Table D-2B- (129)
Softwood lumber: Restated per-unit values of cost of goods sold and average by-product revenues of U.S. producers, January-March 2000-02

Item	January-March		
	2000	2001	2002
	Unit value *(per mbf)*		
Cost of goods sold:			
Raw materials	237.32	194.88	196.61
Direct labor	44.43	43.28	43.77
Other factory costs	61.95	70.53	58.08
Total	343.70	308.69	298.46
Average by-product revenue	37.13	37.17	32.12

Note.–Net sales values, other income, and raw materials were adjusted for the sale of by-products as described earlier. Average by-product revenue is the sum of all by-product revenues divided by total net sales quantity.

Source: Compiled from data submitted in response to Commission questionnaires.

Table D-3
Softwood lumber: Restated variance analysis for operations of U.S. producers, fiscal years 1999-2001

Item	Fiscal years		
	1999-2001	1999-2000	2000-2001
	Value (*$1,000*)		
Trade sales:			
Price variance	(1,310,354)	(1,004,826)	(308,640)
Volume variance	158,955	181,537	(19,470)
Trade sales variance	(1,151,399)	(823,289)	(328,110)
Internal consumption:			
Price variance	(24,046)	(36,312)	4,934
Volume variance	(129,202)	(47,094)	(74,776)
Internal consumption variance	(153,248)	(83,406)	(69,842)
Related company transfers:			
Price variance	(54,510)	(23,879)	(23,128)
Volume variance	77,493	9,781	60,209
Transfers variance	22,983	(14,098)	37,081
Total sales:			
Price variance	(1,404,425)	(1,071,604)	(336,617)
Volume variance	122,761	150,810	(24,254)
Total sales variance	(1,281,664)	(920,793)	(360,870)
Cost of sales:			
Cost variance	356,386	43,529	313,011
Volume variance	(99,706)	(122,488)	22,627
Total cost variance	256,680	(78,959)	335,639
Gross profit variance	(1,024,984)	(999,752)	(25,232)
SG&A expenses:			
Expense variance	(15,464)	(19,505)	3,972
Volume variance	(4,284)	(5,263)	1,048
Total SG&A variance	(19,747)	(24,767)	5,020
Operating income variance	(1,044,732)	(1,024,520)	(20,212)
Summarized as:			
Price variance	(1,404,425)	(1,071,604)	(336,617)
Net cost/expense variance	340,922	24,024	316,983
Net volume variance	18,771	23,060	(579)

Note.–Unfavorable variances are shown in parentheses; all others are favorable. Data were adjusted as described earlier, and are consistent with those in table ??-1.

Source: Compiled from data submitted in response to Commission questionnaires.

Table D-3B (129)
Softwood lumber: Restated variance analysis of U.S. producers' operations, January-March 2000-02

Item	January-March		
	2000-02	2000-01	2001-02
	Value (*$1,000*)		
Trade sales:			
Price variance	(271,840)	(336,965)	86,757
Volume variance	(37,940)	(144,153)	84,582
Trade sales variance	(309,780)	(481,118)	171,339
Internal consumption:			
Price variance	(7,930)	(13,704)	5,678
Volume variance	(4,011)	(3,416)	(499)
Internal consumption variance	(11,941)	(17,120)	5,179
Related company transfers:			
Price variance	(13,231)	(11,949)	1,139
Volume variance	24,072	10,572	11,079
Transfers variance	10,841	(1,377)	12,218
Total sales:			
Price variance	(292,619)	(361,648)	93,015
Volume variance	(18,260)	(137,967)	95,721
Total sales variance	(310,879)	(499,615)	188,736
Cost of sales:			
Cost variance	219,326	159,185	49,583
Volume variance	15,809	119,446	(93,079)
Total cost variance	235,135	278,631	(43,496)
Gross profit variance	(75,745)	(220,984)	145,240
SG&A expenses:			
Expense variance	(3,615)	(8,961)	5,940
Volume variance	758	5,725	(5,562)
Total SG&A variance	(2,857)	(3,235)	378
Operating income variance	(78,601)	(224,220)	145,618
Summarized as:			
Price variance	(292,619)	(361,648)	93,015
Net cost/expense variance	215,711	150,224	55,523
Net volume variance	(1,694)	(12,796)	(2,920)

Note.–Unfavorable variances are shown in parentheses; all others are favorable. Data were adjusted as described earlier, and are consistent with those in table ??-1B (129).

Source: Compiled from data submitted in response to Commission questionnaires.

APPENDIX E

REVIEW OF MARKET CONDITIONS DURING 1994-98

Review of Market Conditions During 1994-98

The material in this section was prepared by USITC staff and relies on third-party published analyses covering 1994-98.

Consumption

In 1994, softwood lumber usage resulting from new home construction, the principal demand driver for softwood lumber,[1] accounted for 35 percent of the total U.S. demand.[2] [3] With respect to housing demand, 1994 was a watershed year as a long-term upward trend in the U.S. market for housing began. Despite the fact that average mortgage rates increased by over 2 percentage points in 1994 and averaged 9.2 percent in December,[4] fair weather sustained demand. Housing starts totaled 1.46 million for the entire year and finished December at a seasonally adjusted pace of 1.53 million,[5] far above the annual average during 1990-93 (1.17 million housing starts). Softwood lumber consumption increased to 47.9 billion board feet, its highest level in the early 1990's. December 1994 marked the peak in U.S. mortgage rates, which subsequently began a gradual decline that continued through 1998.

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[1] North American softwoods are broadly categorized by species and geographic origin. Southern yellow pine (SYP) is produced in the southeastern United States and comprises about 25 percent of the lumber used in house construction. There are ten different species of southern yellow pines (*Pinus spp*) with similar wood characteristics, the most important of which are loblolly pine, slash pine, and longleaf pine. Due to the strength of SYP, it is especially suited to the manufacture of trusses, rafters, and floors and has about 40 percent of the market for these end uses. Douglas fir and hem-fir (a mix of Douglas fir, Hemlock, and any of the true firs) are produced in the Pacific Northwest and coastal British Columbia, Spruce-pine-fir (SPF) is a mix of any species of spruce (except Sitka), lodgepole pine, and any of the true firs and is generally produced in inland Canada. SPF comprises 38 percent of the lumber used in housing construction, and Douglas fir comprises 35 percent. Darin Lowder and Will Biddle, "How Much Lumber in a House?"*Housing Economics*, Apr. 1997, p. 9.

[2] Darin Lowder and Will Biddle, "How Much Lumber in a House?"*Housing Economics*, Apr. 1997, p. 8.

[3] The next largest end use, residential repair and remodeling, accounted for 30 percent of total consumption in 1994. The other main use for softwood lumber is for material handling (e.g., containers, pallets, and skids.) Ironically, at the outset of the upward trend in housing demand, it was speculated that the U.S. market for softwood lumber for repair and remodeling might soon exceed that for new home construction. USDA Forest Service - Forest Products Laboratory, *Wood Products Used for Residential Repair and Remodeling in the United States, 1991*, Resource Bulletin FPL-RB-19, (Madison, WI), 1993, p. 1, and *1998 Lumber and Panel North American Factbook*, Miller Freeman, 1998, p. 3.

[4] 30-year, fixed-rate mortgages averaged 7.07 percent in January 1994 and increased steadily to 9.20 percent in December 1994.

[5] "Housing Maintains Strong Pace," *Crow's Market Report*, (Jan. 20, 1995), p. 1.

Of the demand attributable to new housing, single-family home construction accounted for the largest part (87 percent); the balance resulted from multi-family home construction. According to National Association of Home Builders (NAHB) statistics, the size of the average single-family home in the United States gradually increased over the 25 years prior to 1994,[6] which resulted in lumber usage per home increasing from 10.3 thousand board feet per home in 1968 to 13.4 thousand board feet in 1994, a compound annual increase of about 1 percent.[7]

In 1995, weather had the opposite effect as heavy rains in the West and South and heavy snow in the Northern states had a restraining effect on housing demand in the first half of that year.[8] There were 1.35 million housing starts, and softwood lumber consumption fell 1 percent to 47.2 billion board feet. However, mortgage rates declined as rapidly as they had increased the year before.[9] In 1996, housing starts finished the year at 1.48 million housing starts, and remained at that level in 1997.[10] Consumption was 49.1 and 50.9 billion board feet in 1996 and 1997, respectively. In 1996 and 1997, demand was strong for SYP as a result of heavy demand for outdoor decking lumber and low grades (#3 and #4).[11] Demand for low grades of SYP was reportedly influenced by the perception that Canadian producers were not using their quota under the SLA to ship low grades to the United States.[12] A decrease in production of wide dimension lumber in the Northwest resulted from smaller logs, competition from

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[6] The average size of U.S. single-family homes increased at a compound annual growth rate of 1.6 percent per year from 1,392 square feet in 1968 to 2,100 square feet in 1994. Darin Lowder and Will Biddle, "How Much Lumber in a House?"*Housing Economics*, Apr. 1997, p. 8.

[7] Darin Lowder and Will Biddle, "How Much Lumber in a House?"*Housing Economics*, Apr. 1997, p. 8.

[8] *1995 Yearbook Forest Product Market Prices and Statistics*, Eugene, OR, Random Lengths Publications, Inc., p. 202.

[9] The average 30-year, fixed rate mortgage was 7.2 percent in December and averaged 7.9 percent for the entire year.

[10] Mortgage rates averaged 7.8 percent in 1996 and 7.6 percent in 1997.

[11] "Market Shifts Bring Southern Pine Into Focus," *Crow's Market Report*, (July 18, 1997), p. 1.

[12] "Market Shifts Bring Southern Pine Into Focus," *Crow's Market Report*, (July 18, 1997), p. 1.

engineered wood products (EWPs), and southern lumber in certain markets.[13] In 1998, demand for housing remained strong as interest rates continued to slip; there were 1.62 million housing starts for the year, a 10 percent increase. U.S. consumption of softwood lumber in 1998 was 52.1 billion board feet or 9 percent higher than in 1994. According to the Western Wood Products Association (WWPA), in 1998, 41 percent of softwood lumber was consumed in the construction of new homes (compared with 35 percent in 1994), 28 percent was used in repair and remodeling, 9 percent for materials handling, and 8 percent for all other uses.[14]

Production

In February 1994, an injunction against U.S. Forest Service (USFS) timber sales in the Northwest was lifted after 3 years.[15] However, the new USFS forest plan for the Northwest that was adopted that year de-emphasized timber production and made permanent the reduced Federal timber harvests that initially resulted from the injunction.[16] The Western industry was limited in its ability to increase production and thus, began losing market share. The U.S. West share of North American softwood lumber production was 36 percent in 1990 but dropped to 27 percent in 1999.[17] In contrast, production of softwood lumber in the U.S. South increased substantially from 22 percent in 1990 to 26 percent in 1999 of North American production.[18]

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[13] *Western Lumber Facts*, (Jan. 1997), p. 1.

[14] *1999 Statistical Yearbook of the Western Lumber Industry*, Portland, OR, Western Wood Products Association, 1999, p. 32.

[15] The injunction had been issued by U.S. District Judge William L. Dwyer after his ruling that the proposed USFS plan to protect the Northern Spotted Owl was inadequate and in violation of environmental laws. U.S. International Trade Commission, *Softwood Lumber from Canada - Determination of the Commission in the Investigation No. 701-TA-312 (Final) Under Section 703(a) of the Tariff Act of 1930, Together with the Information Obtained in the Investigation*, USITC Publication 2530, 1992, p. A-16.

[16] *1997 Yearbook Forest Product Market Prices and Statistics*, Eugene, OR, Random Lengths Publications, Inc., p. 203.

[17] Jon Anderson, "Regional Production Shares Shift Dramatically in the '90s," *Yardstick*, Eugene, OR, Random Lengths Publications, Inc., Dec. 1999, p. 1.

[18] Jon Anderson, "Regional Production Shares Shift Dramatically in the '90s," *Yardstick*, Eugene, OR, Random Lengths Publications, Inc., Dec. 1999, p. 1.

U.S. softwood lumber production in 1994 was 33.7 billion board feet but fell to 31.8 billion board feet in 1995 as adverse weather affected demand. In February 1995, it was noted that, for West Coast lumber, the supply was simply greater than demand.[19] Lumber producers reacted to the long- term contraction of Federal timber supply and began to look for other supplies.[20] Imports met part of the need, as did alternate species within the United States.[21] U.S. softwood lumber production in 1996 was 32.9 billion board feet. Excess supply of residual wood chips, which began in the fall of 1995, caused some curtailments in lumber production during the first quarter of 1996. However, western lumber production nevertheless increased 6.2 percent, and southern producers set record production levels. U.S. production in 1997 was 34.7 billion board feet. The reaction to shifting supplies continued; industry sources indicated that some U.S. firms began to relocate to Canada to be closer to sources of raw materials.[22] The disruption of rail service following the acquisition of the Southern Pacific Railroad by the Union Pacific Railroad (UP) spread from the Southwest throughout the United States and had a large impact on the forest products industry, which depends heavily on rail transportation. Production curtailments occurred as UP struggled to move loaded cars and supply empty ones.[23] Nonetheless, U.S. softwood lumber production remained at 34.7 billion board feet in 1998. The rail crisis continued in the west, and U.S.-based Georgia Pacific Corp. announced that it would sell or close most of its western millwork and distribution facilities as a result of the drop in Federal timber supplies. *Crow's Market Report* warned that North American producers were overproducing traditional wood products for the U.S. market.[24]

During 1994-98, estimated U.S. softwood sawmill capacity showed an overall increase of 2.5

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[19] "National Lumber Markets," *Crow's Market Report*, (Feb. 3, 1995), p. 2.

[20] "Southern Pine Timber Getting Pricier," *Crow's Market Report*, (Jan. 27, 1995), p. 1.

[21] "Southern Pine Timber Getting Pricier," *Crow's Market Report*, (Jan. 27, 1995), p. 1.

[22] "Question: Is the Canadian Lumber Quota Effective?," *Crow's Market Report*, (Mar. 7, 1997), p. 1.

[23] *1997 Yearbook Forest Product Market Prices and Statistics*, Eugene, OR, Random Lengths Publications, Inc., p. 204.

[24] "Traditional Markets are Being Tested," *Crow's Market Report*, (May 1, 1998), p. 1.

billion board feet, or 6.5 percent. However, regional capacity estimates reflect the shift of capacity to the east as the U.S. industry reacted to the changes in fiber supply. Capacity in the U.S. West (Coast and Inland) expanded 530 million board feet or 3.0 percent while capacity in the Southern region expanded 1.7 billion board feet, or 10 percent. USDA Forest Service data indicate that during 1996-98, 37 U.S. sawmills with a combined capacity of 1.2 billion board feet were permanently closed; 89 percent of the closures were in the West.[25] According to *Crow's Market Report* in March 1999, the 43 North American mills that were closed between 1996 and 1999 had a combined capacity of 2.9 billion board feet and were mostly in the western United States or British Columbia. During the same period, however, 14 plants with a combined capacity of 1.5 billion board feet were constructed, most on the eastern half of the continent.[26]

Exports

During 1994-1998, U.S. softwood lumber exports continued a decline that had begun in 1989. U.S. exports were 2.2 billion board feet in 1994 but declined 42 percent to 1.8 billion board feet in 1998. In 1997, shipments to the Far East declined significantly; in particular, exports to Japan, long an important market for North American (U.S. and Canadian) lumber, fell 26 percent.[27] The decline was attributed to (1) a weakening yen, (2) a 25 percent drop in housing starts, (3) a trend toward concrete condominiums and apartments and away from higher-value single-family homes,[28] and ($) increased

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[25] Henry Spelter, *Sawmill Closures, Openings and Net Capacity Changes in the Softwood Lumber Sector, 1996-2003*, USDA Forest Service-Forest Products Laboratory, Research Paper FPL-RP-603, (Madison, WI), Apr. 2002, p.1.

[26] "Regional Changes in Lumber Production Reveal Pattern Shifts, " *Crow's Market Report*, (Mar. 5, 1999), p. 1.

[27] Japan is the second largest market for wood housing in the world behind the United States. The United States accounts for 57 percent of the top 14 markets, Japan accounts for 21 percent, and Canada, the third largest market accounts for 5 percent. "U.S. & Japan Housing Still the Two Largest Markets for Structural Lumber. *Wood Markets*, Vol. 6, No. 5, June/July 2001, p. 1.

[28] The depressed economic conditions in Japan reportedly pushed home buyers toward less expensive concrete condominiums and apartments at the expense of higher-value, single-family homes that require far more wood. "Second Half Looks Challenging for North American Exporters," *Export*, Eugene, OR, Random Lengths Publications, Inc., Vol 33, No. 17 (Aug. 23, 2000), p. 2.

imports from Europe.[29] Other factors contributing to the slide in exports were (1) the strength of the U.S. dollar, (2) trends in European countries (e.g., Germany, France) toward supplying more of their needs with domestic production,[30] and (3) U.S. producers foregoing export markets due to the reduction in the U.S. supply of the large-diameter logs that yielded the higher-value products favored by offshore customers.[31]

Imports

During 1994-98, total U.S. imports of softwood lumber increased by 13.8 percent from 16.4 billion board feet in 1994 to 18.7 billion board feet in 1998. By far, Canada remained the largest supplier of softwood lumber to the U.S. market, accounting for over 93 percent of imports in each year during 1997-2001. With the promulgation of the SLA in April 1996, Canada placed a quota on U.S. imports from four Canadian provinces in return for a U.S. agreement not to take official action against softwood lumber imports.[32] While U.S. timber supplies were in part filled by non-Canadian imports, in spite of the SLA, U.S. imports of Canadian softwood lumber nevertheless increased by 12 percent during 1994-98.[33]

In 1997, U.S. imports from Canada lagged early in the year and were 1 percent less than in 1996. Though anticipated, volatility caused by the end of the first year of the SLA did not materialize due in part to healthy inventories in Canada and the United States, and in part to the sinking Japanese economy. Some Canadian mills started to ship pre-drilled studs as a "re-manufactured" product (exempt from the

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[29] *Western Lumber Facts*, (Jan. 1998), p. 1.

[30] "Steady Growth to Continue in Europe; Australia Running Hot," *Export*, Eugene, OR, Random Lengths Publications, Inc., Vol 33, No. 2 (Jan. 19, 2000), p. 1.

[31] "Export Market Offering U.S. Mills Few Opportunities," *Export*, Eugene, OR, Random Lengths Publications, Inc., Vol 33, No. 15 (July 26, 2000), p. 1.

[32] U.S. International Trade Commission, *The Year in Trade, 47th report*, 1995, USITC publication 2971, Aug. 1996.

[33] There are studies in the existing record (conducted outside the context of this proceeding) that appraise or quantify the magnitude or impact of the SLA (See, e.g., Zhang, Daowei, "Welfare Impacts of the 1996 United States-Canada Softwood Lumber (trade) Agreement," *Canadian Journal of Forest Research*, Vol 31 at 1958-1967 (2001) (in Petitioners' Prehearing Brief, Vol. II at Exh. 16); and R&S Consulting, "West Central B.C. Mountain Pine Beetle Strategic Business Recommendations Report," prepared for the Province of British Columbia Ministry of Forests, at 18 (Sept. 2001) in Petitioners' Prehearing Brief, Vol. II at Exh. 72.

quota), a change initially permitted by the initial U.S. Customs ruling in March 1997.[34] Compared with 1996 shipments, 1997 shipments of pre-drilled studs increased by approximately 290 million board feet.[35] During 1997, the U.S. supply of industrial and low grade lumber was very tight as Canadian producers proved unwilling to ship low grade material against the quota.[36] Some U.S. lumber re-manufacturers had begun to import raw materials, and by 1997, Radiata Pine grown in Chile had become a source of lumber for the U.S. molding and millwork industry.[37] Molding and millwork account for approximately 13 percent of the lumber used in the manufacture of housing in the United States.[38] Due to lower lumber prices, 71 percent less wood was shipped under the higher export fee provision of the SLA than in 1996.[39] It was reported that lower prices for Canadian lumber intensified the ongoing dispute over alleged Canadian stumpage subsidies.[40] In 1998, U.S. Customs overturned its earlier decision and ruled that pre-drilled studs counted toward the SLA quota.[41]

U.S. imports of Canadian softwood lumber during 1994-98 were in part influenced by Canadian offshore exports. From 1994 to 1996, Canadian offshore imports increased by 8.7 percent to a maximum for the period of 3.4 billion board feet. However, western Canadian lumber producers were reportedly particularly hard hit by the Asian crisis,[42] and Canadian offshore exports subsequently declined by 38

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[34] *Random Lengths*, "U.S.-Canada Trade Dispute Timeline," found at http://www.randomlengths.com/newtimeline.html and downloaded on October 19, 2000.

[35] "Pre-Drilled Studs Are Not Penny Ante Stuff," *Crow's Market Report*, (Mar 27, 1998), p. 1.

[36] "Where have all the Low Grades Gone?," *Crow's Market Report*, (Feb. 7, 1997), p. 1.

[37] "Moulding and Millwork Industry Defines Globalization," *Crow's Market Report*, (Apr. 11, 1997), p. 1.

[38] Darin Lowder and Will Biddle, "How Much Lumber in a House?"*Housing Economics*, Apr. 1997, p. 8.

[39] *1998 Yearbook Forest Product Market Prices and Statistics*, Eugene, OR, Random Lengths Publications, Inc., 1999, p. 206.

[40] *1995 Yearbook Forest Product Market Prices and Statistics*, Eugene, OR, Random Lengths Publications, Inc., p. 202.

[41] *Random Lengths*, "U.S.-Canada Trade Dispute Timeline," found at http://www.randomlengths.com/newtimeline.html and downloaded on October 19, 2000.

[42] Shawn Church, "Solid Wood Leads the Forest Products Earnings Recover," *Yardstick*, Eugene, OR, Random Lengths Publications, Inc., May 1999, p. 1.

percent to 2.1 billion board feet in 1998,[43] redirecting an additional 1.2 billion board feet of softwood lumber towards the North American market.

As in the United States, production shifted from West to East in Canada during 1990-99. The British Columbia share of North American softwood lumber production was 24 percent in 1990 but dropped to 21 percent in 1999.[44] In contrast, production of softwood lumber in Eastern Canada (Ontario, Quebec, and the Maritimes) increased from 15 percent in 1990 to 23 percent in 1999 of North American production.[45]

Price

During 1994-98, the U.S. price of softwood lumber, as measured by the *Random Lengths* Framing Lumber Composite Price Index (Index),[46] spanned almost two full price cycles reaching over $500 per thousand board feet and sinking below $300 per thousand board feet. The Index was a record $519 per thousand board feet during the first week of January 1994 but generally declined through mid-1995. Increasing lumber supply driven by demand for by-product wood chips in the pulp and paper markets through the first half of 1995 reportedly caused prices for lumber to falter in April,[47] and the Index dipped to $279 per thousand board feet in June. A heavy hurricane season caused a slight rebound by the end of 1995. With the strong demand for housing, lumber prices generally increased in 1996 but surged in the fall. The Index peaked for the year in November at $480 per thousand board feet before

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[43] *2001 Yearbook Forest Product Market Prices and Statistics*, Eugene, OR, Random Lengths Publications, Inc., p. 287.

[44] Jon Anderson, "Regional Production Shares Shift Dramatically in the '90s," *Yardstick*, Eugene, OR, Random Lengths Publications, Inc., Dec. 1999, p. 1.

[45] Jon Anderson, "Regional Production Shares Shift Dramatically in the '90s," *Yardstick*, Eugene, OR, Random Lengths Publications, Inc., Dec. 1999, p. 1.

[46] The Framing Lumber Composite Price Index is a composite measure of framing lumber prices across all species and regions. See, tables V-1 and V-2, pp. 23-26.

[47] *1995 Yearbook Forest Product Market Prices and Statistics*, Eugene, OR, Random Lengths Publications, Inc., p. 202.

finishing the year at $423 per thousand board feet.[48] In 1997, the impact of reduced Federal supplies of Western Red Cedar (used especially for shingles and siding) was felt. Western Red Cedar prices climbed higher as producers used up their existing inventories.[49] However, framing lumber prices declined throughout the year; price weakness was attributed to the recurring problems of excess supply, soft export markets, and a slight slip in housing starts.[50] The Index started the year at $435 per thousand board feet, began a 14 week decline in June, and finished the year at $364 per thousand board feet.[51] In 1998, U.S. Ponderosa pine boards reached their lowest price in four years reflecting increased European board imports and a generally strong supply. Board prices dropped as much as $200 per thousand board feet.[52] Though housing starts remained strong, strong production and weak exports held lumber prices in check. In February 1998, the composite index was $381 per thousand board feet, fell to $311 per thousand board feet in June, but rose to end the year at $357 per thousand board feet.[53] Damage from Hurricane George increased demand for building materials helping firm up prices for SYP in 1998.

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[48] *1997 Yearbook Forest Product Market Prices and Statistics*, Eugene, OR, Random Lengths Publications, Inc., p. 205.

[49] "Transition in Cedar Accelerates," *Crow's Market Report*, (Jan. 24, 1997), p. 1.

[50] "Lumber Producers Struggle With Tough Markets," *Crow's Market Report*, (Sept. 26, 1997), p. 1.

[51] *1998 Yearbook Forest Product Market Prices and Statistics*, Eugene, OR, Random Lengths Publications, Inc., 1999, p. 206.

[52] "Housing is Strong; Why are Wood Products Weak," *Crow's Market Report*, (May 22, 1998), p. 1.

[53] *1999 Yearbook Forest Product Market Prices and Statistics*, Eugene, OR, Random Lengths Publications, Inc., 2000, p. 209.

APPENDIX F

DEMAND FORECASTS

Demand Forecasts

Available information from questionnaire respondents in the original investigations indicated that overall demand for softwood lumber was expected to remain fairly constant. For example, most producers and importers, in response to Commission questionnaires, indicated that they believed overall demand would remain relatively unchanged until the second half of 2002 or the beginning of 2003, and then would begin to increase as the U.S. economy rebounded from recession.[1]

Information is also on the record from independent sources on demand forecasts also indicates that demand was expected to remain fairly stable or was projected to increase slightly. One study, "*Lumber Commentary*", is a publication of Resource Information Systems, Inc (RISI) and it provides economic analysis of the North American lumber markets.[2] In its report, RISI noted that "Demand, while improving seasonally, will continue to fall below year ago levels in the second quarter (2002) as end-use markets claw their way out of recession." RISI further stated that "the growth in consumption will be tepid, however, just 1 percent in the U.S. and 2 percent in Canada." Moreover, according to RISI, "slower growth in end-use activity in early 2003 will moderate growth in softwood lumber consumption in the first quarter of next year (2003)." Data presented by RISI on North American softwood lumber demand and capacity on a quarterly basis are presented in table 1, while the same data on an annual basis are presented in table 2. As the forecast data in the table show, there was some predicted increase in U.S. consumption of softwood lumber from the first quarter of 2002 through the fourth quarter of 2002; however, U.S. consumption for softwood lumber in first quarter in 2003 was forecasted to then decline back close to the level of first quarter 2002.

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[1] *Softwood Lumber from Canada*, USITC Pub. 3509 (May 2002), pp. II-3-4.

[2] This study was provided in the original investigations in Petitioners' Posthearing Brief, Vol. II, Exh. 28.

Table 1
Softwood lumber: Forecast data for demand and capacity in the North American market, by quarter, fourth quarter 2001 to first quarter 2003

Period	U.S. consumption	Canadian consumption	Offshore exports	Offshore imports	Total demand	North American capacity
	Billion board feet					
2001:						
Oct.-Dec.	12.6	1.8	0.9	0.4	14.9	18.2
2002:						
Jan.-Mar.	11.3	1.6	0.7	0.4	13.2	18.2
Apr.-June	14.4	1.8	0.6	0.4	16.4	18.2
July-Sept.	14.7	1.9	0.7	0.4	16.9	18.1
Oct.-Dec.	13.4	1.9	0.7	0.5	15.5	18.1
2003:						
Jan.-Mar.	11.6	1.7	0.6	0.4	13.6	18.1

Source: *Lumber Commentary*, Resource Information Systems, Inc., Mar. 2002, as presented in Petitioners' Posthearing Brief, Vol. II, Exh. 28, p. 5.

Table 2
Softwood lumber: Forecast data for demand and capacity in the North American market, by year, 2001 to 2003

Period	U.S. consumption	Canadian consumption	Offshore exports	Offshore imports	Total demand	North American capacity
	Billion board feet					
2001	53.2	7.1	2.8	1.4	61.7	72.9
2002	53.7	7.2	2.7	1.6	62	72.6
2003	56	7.6	2.6	1.9	64.3	72.6

Source: *Lumber Commentary*, Resource Information Systems, Inc., Mar. 2002, as presented in Petitioners' Posthearing Brief, Vol. II, Exh. 28, p. 5.

RISI also published information on forecasts for end-use markets for softwood lumber. The principal end use market for softwood lumber is residential construction. Forecasts for housing starts published by RISI are presented in table 3. As the table shows, forecasts by RISI indicate that while housing starts were higher in January 2002 as compared with December 2001, they were estimated to fall slightly from that high in January 2002.

Table 3
Softwood lumber: Forecasts of housing starts and single family home starts, by month, November 2001-April 2002

Indicator	History			Estimates/forecasts		
	November 2001	December 2001	January 2002	February 2002	March 2002	April 2002
	millions, SAAR					
Housing starts	1.62	1.58	1.68	1.65	1.62	1.64
Single-family starts	1.24	1.3	1.35	1.33	1.29	1.3

Source: *Lumber Commentary*, Resource Information Systems, Inc., Mar. 2002, as presented in Petitioners' Posthearing Brief, Vol. II, Exh. 28, p. 2.

RISI also presented data on forecasts for housing starts on a quarterly and annual basis. Table 4 presents these data. RISI noted that it "expects starts to {be} 1.72 million units in the fourth quarter {of 2002}. However, higher interest rates in the second half of 2002 combined with pause in income growth in early 2003 will put downward pressure on housing markets in the first quarter of 2003."

Table 4
Softwood lumber: Forecasts of housing starts and single family home starts, by month, November 2001-April 2002

Item	Quarterly data						Annual data		
	Q4 2001	Q1 2002	Q2 2002	Q3 2002	Q4 2002	Q1 2003	2001	2002	2003
Housing starts	1.57	1.65	1.66	1.69	1.72	1.67	1.61	1.68	1.71

Source: *Lumber Commentary*, Resource Information Systems, Inc., Mar. 2002, as presented in Petitioners' Posthearing Brief, Vol. II, Exh. 28, p. 3.

Information on demand forecasts was also presented by Canadian respondents based on a publication of Clear Vision Associates.[3] Table 5 presents data in the Clear Vision report on North American Softwood forecasted lumber demand.

Table 5
Softwood lumber: Demand for North American softwood lumber, by source, by year, 1999-2002

Year	U.S.	Canadian	Offshore	Total
	billion board feet			
1999	54.3	8.4	3.6	66.3
2000	53.9	8.3	3.4	65.5
2001	53.6	7.5	2.7	63.8
2002	55.6	8	2.9	66.5
2003	58.2	8.5	2.9	69.6

Source: *Timber & Wood Products Industry Outlook*, Clear Vision Associates, Mar. 2002, as presented in Canadian Respondents prehearing brief.

In addition to demand forecasts, Clear Vision also published forecasts on housing starts data. These data, along with data on forecasts of real residential construction expenditures, are presented in table 6.[4]

Table 6
Softwood lumber: Forecasts of housing starts and single family home starts, by month, November 2001-April 2002

Period	Housing starts	Residential construction expenditures
	million SAAR	*billion*
1998	1.62	298
1999	1.64	317
2000	1.57	325
2001	1.6	331
2002	1.65	339
2003	1.75	365

Source: *Timber & Wood Products Industry Outlook*, Clear Vision Associates, Mar. 2002, as presented in Canadian Respondents prehearing brief.

[3] *Timber & Wood Products Industry Outlook*, Mar. 2002, Clear Vision Associates, as presented in Prehearing brief of the Canadian Lumber Trade Alliance, Vol. 3.

[4] See Prehearing brief of the Canadian Lumber Trade Alliance, Vol. 3.

APPENDIX G

BUSINESS PLAN DOCUMENTS OF
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