

FTA Chapter Nineteen — Summary of U.S. Cases

Twenty-five cases have been filed reviewing U.S. decisions. Of these, three panels rendered final decisions, and 10 cases were completed (One of the completed cases was appealed to an Extraordinary Challenge Committee (ECC)); three were consolidated; six were terminated; eight are currently active (Replacement Parts, 2 Live Swine, 2 Softwood Lumber and 3 Magnesium);

Binational panels affirmed U.S. agencies' decisions in 4 cases:

Replacement Parts (Scope Determination and AD cases);

New Steel Rails (AD and Injury).

Binational panels affirmed in part and remanded* in part decisions in 5 cases :

In Red Raspberries (dumping), the agency's decision was affirmed against one exporter and remanded for reconsideration for two others. After two remands, the agency eliminated duties for the two exporters.

In Pork (CVD), the panel remanded twice to the agency, which reduced the overall duty from C\$0.08 to \$0.03/kg.

In New Steel Rail (CVD), the agency reduced the overall CVD deposit rate from 112.34 per cent to 94.57 per cent ad valorem.

In Replacement Parts (dumping), the agency's decision was challenged by both the Canadian manufacturer and the original U.S. petitioner. For the third time, the panel remanded in part to the agency. The determination on remand was filed November 27, 1992.

In Live Swine four(CVD), the panel remanded in part twice to the agency for a reconsideration of government programs. The determination on remand was filed November 19, 1992, and it has since been referred to an ECC.

In Live Swine five(CVD), the panel has remanded once, so far, to the agency.

Upon remand by the Binational Panel, the U.S. agency reversed its decision in one case:

In Pork (Injury), the panel remanded the agency's determination twice. The United States appealed the second panel decision to an ECC. The ECC dismissed the request for failure to meet the standards of an extraordinary challenge set forth under the FTA article 1904.13 and affirmed the panel decision. Due to the reversal of the injury determination, no CVD on Pork was applied.

* remand — to send back to the original tribunal for reconsideration on the basis of the decision of a superior court or panel.