

countervailable subsidies to softwood lumber imported from Canada. The overall country-wide subsidy rate was reduced to 6.51 per cent *ad valorem* (stumpage at 2.91 per cent plus log export controls at 3.60 per cent). The DOC also excluded 15 companies from the investigation.

On June 25, 1992, the ITC, in a four-to-two vote, determined that imports of Canadian lumber materially injured U.S. lumber producers. This was the last of four decisions in the U.S. CVD investigation.

FTA SUBSIDY PANEL

On May 28, 1992, the Government of Canada, the provincial governments and the Canadian industry appealed the final determination of subsidy by the DOC to a binding binational review panel under Chapter 19 of the FTA. The panel reported its findings on May 6, 1993, unanimously instructing the DOC to re-examine its determinations on virtually all of the key issues in the case, reflecting in large part the arguments made by the Canadian government, provincial governments and industry.

On September 17, 1993, the DOC responded to the FTA panel with a new subsidy determination, reaffirming its original conclusion. The new determination, in fact, sought to increase the subsidy rate from 6.51 per cent to 11.54 per cent. However, the panel reviewed the DOC's conclusions and ruled that the DOC, under U.S. trade law, should not have found a countervailable subsidy on either provincial stumpage programs or British Columbia log export restrictions. Thus, the 11.54 per cent subsidy rate alleged by the DOC on September 17, 1993 did not have any impact on Canadian exporters of softwood lumber to the United States.

On January 6, 1994, the DOC accepted the December 17, 1993 ruling by the FTA Subsidy Panel.

On February 23, 1994, the FTA Subsidy Panel affirmed the DOC's decision. As a result, on March 7, the FTA binational panel secretariat issued a Notice of Final Panel Action, a statement that is issued by the binational secretariat when a panel ruling has been adopted. From the date that the Notice of Final Panel Action was issued, the FTA rules provided for a 30-day period in which an Extraordinary Challenge Committee could be requested either by Canada or the United States. The USTR requested the establishment of an extraordinary challenge committee on April 6, 1994. On August 3, 1994, the extraordinary challenge committee upheld the ruling of the FTA Subsidy Panel. On August 16, 1994, the DOC published a notice to revoke the order and terminate collection of the duties. The notice did, however, limit the refund of countervailing duties collected on entries made on or after March 17, 1994, the date of publication of the FTA Subsidy Panel decision. On December 15, 1994, the DOC announced that it will refund the countervailing duties collected prior to March 17, 1994.

FTA INJURY PANEL