BEFORE THE

WORLD TRADE ORGANIZATION

United States – Investigation of the International Trade Commission in Softwood Lumber from Canada

Recourse to Article 21.5 of the DSU by Canada

(WT/DS277)

COMMENTS OF THE UNITED STATES ON CANADA'S JULY 11, 2005 RESPONSES TO PANEL QUESTIONS

July 18, 2005

1. In this submission, the United States comments on certain statements made by Canada in its July 11, 2005 responses to the questions from the Panel following the substantive meeting with the parties. The United States is mindful of the narrow scope of the Panel's invitation to comment and, therefore, responds to the extent necessary to address new factual data and arguments raised by Canada or to clarify issues that Canada has confused in its July 11, 2005 responses. There are numerous other statements in Canada's July 11, 2005 responses with which the United States disagrees. However, in general, the United States has already addressed the substance of those statements in its prior submissions.

2. In its response to Question 1, Canada mischaracterizes the original panel's findings and how they relate to the measure the United States took to come into compliance with its obligations under the covered agreements ("Section 129 Determination"). Canada incorrectly suggests that the problem that the original panel found with the ITC's original determination concerned the evidence itself, as opposed to the evidence in light of the ITC's reasoning and the explanation set forth in that determination.[1] Based on this incorrect assumption, Canada suggests that only a negative determination could bring the United States into compliance with the covered agreements. But, the original panel made clear that its concerns related to the evidence relied on "in light of the totality of the factors considered and the reasoning in the USITC's determination."[2] The original panel did not express a view about the evidence relied on *per se*, separate from the reasoning that the ITC applied in drawing conclusions from that

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[1]*See* Canada's Responses to Questions to the Parties, *United States - Investigation of the International Trade Commission in Softwood Lumber from Canada, Recourse to Article 21.5 of the DSU by Canada* (WT/DS277), para. 1 (July 11, 2005) ("Canada Responses").

[2]Panel Report, *United States - Investigation of the International Trade Commission in Softwood Lumber from Canada*, WT/DS277/R, adopted April 26, 2004, para. 7.96 ("Panel Report"); *see also id.*, paras. 7.89 and 7.94.

evidence and the explanation it provided of its reasoning. Rather, it took evidence, reasoning, and explanation together as a package and expressed a view on the conclusions reached by the ITC based on that combination of evidence, reasoning, and explanation. Accordingly, the measure taken to comply is a new determination based on a combination of the original and additional evidence and a more detailed and thorough explanation of the reasoning applied to draw conclusions based on that evidence.

3. In addition to mischaracterizing the original panel's findings, Canada's response to Question 1 contains two important factual inaccuracies that should be corrected. First, Canada states incorrectly that the "USITC proceeded to dismiss virtually all of the new evidence."[3] As delineated in the response of the United States to Question 14, the ITC addressed and in many cases relied on additional evidence obtained in the Section 129 proceeding. Second, the examples discussed by Canada in paragraphs 3 and 4 of its Responses (*i.e.*, trends in 1994-1996 and export projections) not only ignore the ITC's thorough analysis, but also present a selective view of the evidence. For instance, Canada's assertion that export "projections were completely consistent with the historical averages for the Canadian industry as a whole"[4] ignores an important piece of evidence – Canadian producers' projected increases in Canadian production of 8.9 percent from 2001 to 2003. Canadian producers had historically exported about 60 to 65 percent of their production to the U.S. market. Thus, based on experience, 60 to 65 percent of this projected 8.9 percent additional production would be exported to the U.S. market, which

[3]Canada Responses, para. 2.

[4]Canada Responses, para. 4, n. 6.

would result in a corresponding increase in subject imports. Yet, according to the export projections, only 20 percent of the projected additional production would be exported to the U.S. market, far below the historical levels. Contrary to Canada's contention, exporters' projections did *not* reflect that the historical level (60-65 percent) of this projected additional production would be exported to the U.S. market.

4. With respect to the ITC's reference to trends in 1994-1996, the original panel had found that "[t]here is no *discussion* in the USITC's [original] determination" of market conditions during the 1994-96 period to support drawing inferences about likely future import volume.[5] In its new determination, the ITC provided such a discussion, relying primarily on evidence from the original record not previously discussed.[6] Canada objects to the sufficiency of this discussion, and the United States has already responded to those objections.[7] But Canada does not, and cannot, show why the ITC could not, in principle, respond to the Panel's concern about the absence of any discussion of an issue in the original determination by providing a responsive discussion in its new determination.

5. With respect to Canada's response to Question 2, it must be noted as a threshold matter that the questions of whether, and to what extent, the Section 129 Determination differs from the original determination, and whether the ITC has provided any explanation of any such differences, is of no relevance in determining whether the Section 129 Determination itself is a determination that could have been reached by an unbiased and objective decision maker.

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[5]Panel Report, para. 7.94 (emphasis added).

[6]Section 129 Determination at 30-31 (Exhibit US-1).

[7]U.S. Second Written Submission, paras. 44-46.

Moreover, Canada's assertion that the Commission "made 'new' findings on key issues without acknowledging or explaining its departure from its prior conclusions"[8] is incorrect. What Canada describes as shifts in conclusions are not shifts at all. Rather, as the United States has previously explained, Canada has mischaracterized the ITC's analysis in the original determination, the Section 129 Determination, or both and then asserted the existence of a "shift" or change.[9]

6. In its response to Question 3, Canada repeats many of its mischaracterizations regarding the ITC's analysis and selectively presents particular pieces of record evidence. The United States has addressed these mischaracterizations in prior submissions.[10] Here, the United States offers several points of clarification. First, the ITC not only considered the subject imports' market share in addition to the absolute volume of subject imports, but it found that the market share and increases in such market share were significant.[11] Second, even if increases in the subject imports' market share were "well within the historical range," as Canada alleges,[12] such market share already was at a level found by the ITC to be injurious if combined with price and impact effects. Third, while Canada refers to Slide 2 of its Oral Statement, it ignores the evidence summarized in that slide of the steady increase in the market share of subject imports from December 2001 to the end of the period examined, reaching a level of 37 percent in March

[8]Canada Responses, para. 6.

[9]*See* U.S. Second Written Submission, paras. 1-4.

[10]*See, e.g.*, U.S. Second Written Submission, paras. 17-48.

[11]Section 129 Determination at 22-23 (Exhibit US-1).

[12]Canada Responses, para. 11.

2002 – a level substantially higher than the 33 to 34 percent market share held by subject imports during the earlier part of the period of investigation. Finally, the ITC's analysis of the pattern of increases in subject imports toward the end of the period examined clearly did not focus only on the April to August 2001 period, as Canada contends.[13] Rather, it looked at the entire last year of the period of investigation, including the segments from April to August 2001, from April to December 2001, the first quarter of 2002, and monthly import data.[14]

7. In its response to Question 4, Canada incorrectly suggests that some form of comparison between import prices and domestic prices (such as evidence of price underselling, evidence that import prices are falling faster than domestic prices, or evidence of lost sales or revenues by the domestic industry) is necessary to show that 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.[15] Canada's response mischaracterizes the requirements under the *Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994* ("*AD Agreement*") and the *Agreement on Subsidies and Countervailing Measures* ("*SCM Agreement*"). Those agreements require the investigating authority to consider "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."[16] They do not specify any type of evidence that must be relied on to support a finding with respect to this factor. In particular, they

[13]Canada Responses, para. 12.

[14]Section 129 Determination at 20-23 and 28-30 (Exhibit US-1).

[15]Canada Responses, paras. 13 and 16.

[16]*AD Agreement*, Art. 3.7(iii); *SCM Agreement*, Art. 15.7(iv).

do not require the investigating authority to consider price underselling in the context of a threat analysis. Moreover, Canada ignores the fact that, during the Section 129 proceeding, "[a]ll parties to the investigations agreed that making direct cross-species price comparisons in order to assess underselling was inappropriate."[17]

8. Canada has suggested categories of evidence that, in its view, might be more informative regarding price effects than the evidence actually relied on by the ITC.[18] The ITC relied on published U.S. and Canadian lumber price series, evidence of substitutability of U.S. and Canadian lumber, and evidence of cross-species price effects to determine that subject imports were entering at prices that were likely to have a significant depressing or suppressing effect on domestic prices.[19] Canada has not shown that any of the types of evidence that it has suggested as more informative would have undermined the ITC's likely price effects findings.

9. Additionally, Canada's contention that price declines do not correlate to "any change in the market role of Canadian imports" rests on its flawed premises that the ITC found the subject imports' market share to be non-injurious and that there were no price effects during the period of investigation.[20] But, as clearly set forth in the Section 129 Determination, the ITC found that the subject imports' market share and increases in such market share were significant,[21] and that

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[17]Section 129 Determination at 47 (Exhibit US-1).

[18]Canada Responses, para. 16.

[19]Section 129 Determination at 41-54 (Exhibit US-1).

[20]Canada Responses, paras. 14-15.

[21]Section 129 Determination at 20-23 (Exhibit US-1).

subject imports had some price effects during the period of investigation.[22] Moreover, the substantial price declines in 2000 and again in the third and fourth quarters of 2001 did not drive subject imports from the U.S. market. To the contrary, both the absolute volume and the U.S. market share of subject imports increased during the period examined.

10. In response to Question 5, Canada incorrectly asserts that it is "indisputably the case here" that "other known factors do in fact exist."[23] This is *not* indisputably the case. As discussed in the Section 129 Determination, the ITC conducted a thorough analysis of the factors alleged to be "other known factors."[24] Based on the evidence in the record, it found that none of these alleged other factors constituted "other known factors."[25] Put another way, other "known" factors "had effectively been found *not* to exist."[26] Having made these findings, the ITC had no basis to undertake a further examination to ensure that injury from them is not attributed to subject imports. This approach was consistent with the approach the Appellate Body found to be permissible under the covered agreements in *EC - Pipe*.[27]

11. The Appellate Body in *EC - Pipe* equated the identification of an alleged other factor as an "other known factor" with a finding that such a factor "existed." If an alleged other factor

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[22]Section 129 Determination at 14-15 and 46 (Exhibit US-1).

[23]Canada Responses, para. 17.

[24]Section 129 Determination at 68-85 (Exhibit US-1).

[25]Section 129 Determination at 68-85 (Exhibit US-1).

[26]AB Report, *European Communities - Anti-Dumping Duties on Malleable Cast Iron Tube or Pipe Fitting from Brazil*, WT/DS219/AB/R, adopted Aug. 18, 2003, para. 178 (emphasis in original).

[27]AB Report, *EC - Pipe*, para. 178.

was found "to be 'minimal', the factor claimed . . . to be 'injuring the domestic industry' had effectively been found *not* to exist. As such, there was no 'factor' . . . to 'examine' further pursuant to Article 3.5. . . . [and] was not a 'known factor[] other than the dumped imports which at the same time [was] injuring the domestic industry.'"[28] The Appellate Body in *EC - Pipe* also quoted from the panel report in that dispute in stating that an alleged factor could be known to the investigating authority in the context of the dumping and injury analysis, but "would not be a 'known' causal factor, that is, a factor that the European Communities was aware would possibly be causing injury to the domestic industry."[29]

12. In *US - Steel Safeguards*,[30] the Appellate Body clarified its finding from *EC - Pipe* that only a factor that is alleged to be an other factor and that is found "to exist" – *i.e.*, only an other

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[28]AB Report, *EC - Pipe*, 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.
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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."

[29]AB Report, *EC - Pipe*, para. 178, n. 213. The same rationale would apply to an alleged other factor that may exist, but would not be deemed for purposes of requiring further Article 3.5 analysis to "exist" as an other "known" factor.

[30]AB Report, *United States - Definitive Safeguard Measures on Imports of Certain Steel Products*, WT/DS248/AB/R, WT/DS249/AB/R, WT/DS251/AB/R, WT/DS252/AB/R, WT/DS253/AB/R, WT/DS254/AB/R, WT/DS258/AB/R, WT/DS259/AB/R, adopted Dec. 10, 2003.

"known" factor – must be taken into account in a non-attribution analysis.[31] Canada, however, takes the discussion in *US - Steel Safeguards* out of context and effectively suggests that the Appellate Body in that dispute reached a finding contrary to its finding in *EC - Pipe*.[32] The Appellate Body did no such thing. This is clear when the discussion in *US - Steel Safeguards* is placed in context, as follows:

> 491. Lastly, it may be useful to refer to our finding in *EC – Tube or Pipe Fittings* in respect of the relevance of factors that "had effectively been found not to exist". In that case, the competent authority had found, contrary to the submissions of the exporters, that the difference in costs of production between the imported product and the domestic product was virtually non-existent and thus did not constitute a "factor other than dumped imports" causing injury to the domestic industry under Article 3.5 of the *Anti-Dumping Agreement*. Consequently, we found that there was no reason for the investigating authority to undertake the analysis of whether the alleged "other factor" had any *effect* on the domestic industry under Article 3.5 because the alleged "other factor" had effectively been found *not* to exist". In other words, we did not rule that minimal (or not significant) factors need not be considered by the competent authorities in conducting non-attribution analyses. Rather, we ruled that only factors that have been found to exist need be taken into account in the non-attribution analysis.[33]

13. Moreover, in *US - Steel Safeguards*, where the facts were similar to the situation before the original panel in this proceeding,[34] the issue was whether the investigating authority had failed to provide a reasoned and adequate explanation to show it had considered alleged other

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[31]AB Report, *US - Steel Safeguards*, para. 491.

[32]Canada Responses, paras. 17 and 18.

[33]AB Report, *US - Steel Safeguards*, para. 491. Contrary to other allegations by Canada, the Appellate Body in *US - Steel Safeguards* did not indicate that a collective analysis of other known factors was required or even the norm. *Id.*, para. 490; *see also*, AB Report, *EC - Pipe*, para. 182.

[34]*See* Panel Report, para. 7.134.

factors.[35] By contrast, in its Section 129 Determination, the ITC provided a detailed, well-reasoned analysis and explanation of how it considered alleged other factors and determined that "these alleged other factors are not known or causal factors in the context of our threat analysis."[36]

14. With respect to Question 6, the United States refers the Panel to the Answers of the United States to the Panel's Questions, at paragraph 2.[37] In its response to that question, Canada stated that "the USITC's proffered percentage increase from the beginning to the end of the three-year POI as the appropriate measure of the rate of increase does not provide a reasonable basis to predict trends over a shorter timeframe."[38] Canada thus continues to assert that the ITC's analysis turned on a single fact. That assertion ignores the ITC's thorough and multifaceted analysis of the volume of subject imports. It is Canada that has focussed on a single simple average by year for the 1999-2001 period (1.4 percent), which masks the pattern of significant increases in subject imports toward the end of the period examined – increases of 2.4 percent from 2000 to 2001 (as contrasted to 0.4 percent for 1999-2000), 4.9 percent when April to December 2001 is compared to the corresponding period in 2000, and 14.6 percent when the first quarter of 2002 is compared to the first quarter of 2001.

15. In response to Question 7, Canada states, "That third country imports had a higher

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[35]AB Report, *US - Steel Safeguards*, para. 475.

[36]Section 129 Determination at 68; *Id*. at 68-85 (Exhibit US-1).

[37]Answers of the United States to the Panel's Questions, *United States - Investigation of the International Trade Commission in Softwood Lumber from Canada, Recourse to Article 21.5 of the DSU by Canada* (WT/DS277), paras. 2-3 (July 11, 2005) ("US Answers").

[38]Canada Responses, para. 19.

average AUV means only that they tended to compete with U.S. lumber and subject imports with higher AUVs."[39] Canada thus appears to concede the proposition referred to in the Panel's question – that is, the proposition that "this difference in average unit values suggests that the third country imports do not compete in terms of price, and that the effect of the volume of those imports is affected by this difference."

16. Additionally, Canada's response to Question 7 erroneously attempts to cast doubt on the substitutability between Canadian imports and the U.S. domestic product.[40] As discussed in prior U.S. submissions and in the ITC's Section 129 Determination, there is direct competition between subject imports and the domestic product.[41] Indeed, Canada has conceded that it is uncontested that subject imports and domestic softwood lumber are interchangeable.[42] Moreover, the ITC found that the evidence (including evidence provided by purchasers and home builders) demonstrated that Canadian spruce-pine-fir (SPF), which accounted for more than 85 percent of Canadian product imported into the United States, and U.S. Southern Yellow Pine (SYP), which accounted for about 45 percent of U.S. production, compete and are substitutable.[43] In addition, Canada exports Douglas fir, hem-fir, western red cedar, and a few

[39]Canada Responses, para. 24.

[40]Canada Responses, para. 25.

[41]*See* U.S. Second Written Submission, paras. 73-76; Section 129 Determination at 49-53 (Exhibit US-1).

[42]Canada First Written Submission, para. 105.

[43]Section 129 Determination at 49-53 and Exhibit 2 (*citing* Original Hearing Transcript at 185-190 and 204-209) (Exhibit US-1).

other products, all of which also are produced in the United States.[44]

17. In response to Question 8, Canada, like the United States,[45] refers the Panel to the recent Appellate Body report in *US - DRAMS*. The United States notes that, in doing so, Canada emphasizes certain aspects of the Appellate Body report over others. For example, Canada stresses the Appellate Body's acknowledgment that in reviewing an investigating authority's determination, a panel may examine individual pieces of evidence separately before examining them together in their totality.[46] The United States does not disagree with that proposition. However, as the United States observed in its Answers to the Panel's Questions, it is critical to an objective assessment that the Panel look at individual pieces of evidence in context, as they relate to other pieces of evidence and to the determination as a whole.[47]

18. In its response to Question 9, Canada repeats its assertion that "U.S. production increas[ed] while Canadian production continued to decline."[48] But, Canada's narrow focus on the incremental change from the first quarter of 2001 to the first quarter of 2002 fails to take account of the context of that moment in time, let alone the context of the totality of the

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[44]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 (Exhibit CDA-2).

[45]*See* U.S. Answers, paras. 3-9.

[46]Canada Responses, para. 32.

[47]*See* U.S. Answers, paras. 4-5.

[48]Canada Responses, para. 41.

evidence. Changes in Canadian production are not necessarily probative of Canadian export behavior. Canadian producers apparently made some adjustments to production (*e.g*, Canadian production was reduced by 2.6 percent between the first quarter of 2001 and the first quarter of 2002) to account for the 23 percent decline in Canadian demand.[49] But, rather than further reduce production to keep pace with home market demand, Canadian producers increased exports to the U.S. market by 14.6 percent, which substantially outpaced increases in U.S. apparent consumption. Similarly, from 2000 to 2001, Canadian producers increased exports to the U.S. market, even though Canadian production declined. On the other hand, while U.S. production increased by 4.9 percent in the first quarter of 2002 compared with the first quarter of 2001, U.S. apparent consumption increased by an even greater percentage – 9.7 percent. Moreover, U.S. production in the first quarter of 2002 was 9.3 percent lower than in the first quarter of 2000.[50]

19. In short, although Canadian overall *production* declined in the first quarter of 2002 compared with the first quarter of 2001, the volume and market share of subject imports increased. Thus, Canadian producers' impact on supply in the U.S. market, which is the relevant question for purposes of the ITC threat analysis, did not diminish but accelerated at the end of the period examined.

20. Moreover, Canada's repeated reference to percentage changes, particularly regarding

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[49]*See* Section 129 Determination at 70-72 (Exhibit US-1); Section 129 Report at Tables VII-1B, VII-7B and C-1B (Exhibit US-5).

[50]*See* Section 129 Determination at 69-70 (Exhibit US-1); Section 129 Report at Tables III-6B and C-1B (Exhibit US-5).

Canadian and U.S. production, provides a misleading view of the evidence. A review of absolute production volume data shows that U.S. production steadily declined from a peak of 36,606 mmbf in 1999, to 35, 965 mmbf in 2000, and to 34,579 mmbf in 2001, for a total decline from 1999 to 2001 of 2,027 mmbf or 5.5 percent.[51] Canadian production fluctuated from 30,891 mmbf in 1999, to 31,874 mmbf in 2000, to 30,527 mmbf in 2001, for a total decline from 1999 to 2001 of 364 mmbf or 1.2 percent.[52]

21. In responding to Question 10, Canada agrees with the Appellate Body's statement in *US - Lamb Meat* that "information from the end of the POI is not to be considered in isolation from data from the entire POI."[53] Nevertheless, Canada proceeds to erroneously assert that the "key longer-term data in this case, indicating subject import's stable market share, does not support an affirmative determination."[54] As discussed in prior U.S. submissions, contrary to Canada's assertion, the ITC did not find market share to be the key to its negative present injury determination. Nor did it find that the absolute volume of subject imports was non-injurious. The ITC considered the totality of the evidence, including trends regarding all of the evidence at the end of the period examined and did not use data from earlier in the period to "mask[] data from the last year of the POI."[55] Moreover, the ITC considered all of the data and fully

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[51]*See* Section 129 Determination at 69-70 (Exhibit US-1); INV-BB-138 at Tables III-6 and IV-2 (Exhibit US-5).

[52]*See* Section 129 Determination at 31-36 and 70-72 (Exhibit US-1); Section 129 Report at Tables VII-1(revised data) (Exhibit US-5).

[53]Canada Responses, para. 45.

[54]Canada Responses, para. 45.

[55]Canada Responses, para. 47.

explained its reasoning regarding each of the issues listed in paragraph 47 of Canada's response to Question 10, but not in isolation, nor simply in terms of incremental changes. Specifically, in its Section 129 Determination, the ITC addressed: (1) the U.S. industry's financial performance from 1999 to 2001 and in the first quarter of 2002;[56] (2) U.S. production, as discussed in paragraphs 18 and 20, above;[57] (3) Canadian production, as discussed in paragraphs 18 and 20, above;[58] (4) U.S. demand;[59] (5) softwood lumber prices;[60] and (6) Canadian market share, as discussed in paragraph 6 above.[61]

22. With respect to Canada's response to Question 11, the United States simply notes that, for the reasons set forth in the submissions of the United States in this proceeding, Canada has not demonstrated that the Section 129 Determination is unobjective or inadequately reasoned.

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[56]Section 129 Determination at 56-63 (Exhibit US-1). In its analysis, the ITC recognized that: (1) a single quarter is not necessarily an accurate indicator of the industry's annual performance; (2) the domestic industry's financial performance improved to some degree in the first quarter of 2002 compared with the first quarter of 2001, but was less favorable when compared with the first quarter of 2000; and (3) the improvements were a result of increases in consumption, which the evidence demonstrated were not likely to be sustained. *Id*. at 62-63.

[57]Section 129 Determination at 68-72 (Exhibit US-1).

[58]Section 129 Determination at 31-40 and 70-72 (Exhibit US-1).

[59]Section 129 Determination at 75-80 (Exhibit US-1).

[60]Section 129 Determination at 41-46 (Exhibit US-1).

[61]Section 129 Determination at 20-23 and 75-76 (Exhibit US-1). Contrary to Canada's contention, the ITC found that the market share and increases in market share of subject imports were significant. Subject imports' share of the U.S. market increased from 33.2 percent in 1999, to 34.3 percent in 2000, and was 34.7 percent in the first quarter of 2002. Section 129 Report at Tables C-1 and C-1B (Exhibit US-5). Moreover, according to Canada's Slide 2 of its Oral Statement, the market share of subject imports increased steadily from December 2001 to the end of the period examined, reaching a level of 37 percent in March 2002.

The United States does not believe that Canada has presented an alternative interpretation of the information on the record, because the interpretation set forth in its arguments is not supported by the information on the record. Canada has mischaracterized the ITC's analysis and findings and referred to the evidence selectively, in ways it believes will support its arguments. To constitute an alternative interpretation, Canada's view of the evidence would have to constitute an equally plausible interpretation supported by the evidence, which it does not. Of course, even if the Panel were to find that what Canada has provided *is* an alternative interpretation of the information on the record before the ITC, that would not be a basis for overturning the Section 129 Determination under the applicable standard of review.[62]

[62]*See* Panel Report, paras. 7.15-7.18.