



## COALITION FOR FAIR LUMBER IMPORTS

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### U.S. LUMBER INDUSTRY CHALLENGING THE CONSTITUTIONALITY OF NAFTA DISPUTE SETTLEMENT SYSTEM

WASHINGTON, DC—Steve Swanson, Chairman of the Coalition for Fair Lumber Imports, announced today that the U.S. lumber industry is challenging the constitutionality of a dispute settlement system under the North American Free Trade Agreement, commonly referred to as Chapter 19. The Chapter 19 system allows bi-national panels of individuals to make binding decisions about application of U.S. law to U.S. unfair trade findings contrary to due process and other constitutional requirements.

“The Constitution does not permit these panels to be the final arbiter of whether U.S. law provides for relief from unfair subsidies and dumping for U.S. producers and workers,” said Swanson. “The challenge is against the Chapter 19 dispute mechanism, not the NAFTA as a whole.”

United States courts ordinarily decide appeals of findings that imports are subsidized or dumped. NAFTA Chapter 19 made findings regarding Canadian and Mexican imports appealable only to panels of individuals, some of whom are not U.S. citizens and none of whom is accountable within the U.S. government. Nothing like Chapter 19 has been included in other trade agreements, including DR-CAFTA. When the Congress first considered Chapter 19 in 1988, the U.S. Justice Department warned that the Chapter 19 system would be unconstitutional.

The U.S. government has repeatedly found that Canadian lumber imports are subsidized and dumped and threaten injury to the U.S. lumber industry. The World Trade Organization has approved these findings, and countervailing (anti-subsidy) and antidumping duties have been imposed on Canadian lumber imports since 2002. But a NAFTA dispute panel has exceeded its authority by directing the U.S. International Trade Commission to reverse a finding that unfair imports threaten the U.S. lumber industry. The U.S. government requested that one panelist be removed because of a conflict of interest, but he stayed on the panel.

“As NAFTA panels threaten to subvert application of the trade laws to unfair lumber imports, we must enforce our constitutional right to due process and accountable decision-making,” explained Swanson. “If Canadian lumber subsidies and dumping are not fully addressed, the unfair imports will result in scores of sawmill closures, cause thousands of job losses, and undermine millions of family timberland owners.”

Swanson concluded, “All that the U.S. industry has ever requested is an end to Canadian lumber subsidies and dumping through open and competitive timber and log markets. The U.S. industry vigorously supports the U.S. government’s pursuit of free trade principles and a negotiated settlement based on reasonable Canadian commitments to timber policy reform. Until then, we will defend our rights to relief under U.S. law.”

The Coalition’s filing of this case comports with statutory requirements that it be initiated within 30 days of the end of a Chapter 19 proceeding.