

Larry E. Craig
United States Senator
520 Hart Senate Office Bldg.
Washington, D.C. 20510

Mike Crapo
United States Senator
239 Dirksen Senate Office Bldg.
Washington, D.C. 20510



Mike Simpson
Member of Congress
1339 Longworth House Office Bldg.
Washington, D.C. 20515

C.L. "Butch" Otter
Member of Congress
1711 Longworth House Office Bldg.
Washington, D.C. 20515

*accepted by office
Chairman of office
10/13/04 ma*

SUBMITTED TO THE U.S. INTERNATIONAL TRADE COMMISSION

October 13, 2004

2004 OCT 13 AM 8:32

OFFICE OF THE CLERK
U.S. INTERNATIONAL TRADE COMMISSION

Mr. Chairman and Members of the Commission, we are submitting testimony to urge you to come to the only reasonable conclusion in this proceeding: The U.S. lumber industry was and is threatened with material injury by reason of subsidized and dumped imports from Canada. The antidumping and countervailing duty orders on softwood lumber imports from Canada have provided critical protection from this threat of injury to workers in the Idaho lumber industry and those dependent on that industry. They must not again be victimized by unfairly traded imports.

The Commission complied with the NAFTA panel order to reverse its affirmative threat of injury determination. But in doing so, the Commission emphasized in its opinion that the NAFTA panel throughout this proceeding can be described as "overstepping its authority, violating the NAFTA, seriously departing from fundamental rules of procedure, and committing legal error." We concur that the integrity of the NAFTA panel system has been put into serious doubt as a result of the recent panel decision in the softwood lumber case. When NAFTA panels prevent appropriate enforcement of the U.S. trade laws, the public will cease supporting our participation in NAFTA. It is simply

unacceptable for a NAFTA panel to dictate the outcome of an investigation to any U.S. court or agency. That is not the purpose of a NAFTA panel. Such authority was not granted by the U.S. Congress to the NAFTA, the WTO, or any other foreign organization. We are confident that the Administration will pursue an Extraordinary Challenge Committee appeal in order to restore the rights of the American industry and its workers.

In this proceeding, however, you are addressing the report of the WTO panel. Unlike the NAFTA panel, the WTO panel has not improperly attempted to dictate to you the outcome of your deliberations. The WTO panel has asked questions about the evidence and reasoning that support your threat determination. If your investigation enables you to answer those questions – and we have no doubt that it will – then we urge you to provide those answers as clearly as you possibly can. In this way, there will be no doubt whatsoever that, as a matter of U.S. law and our international obligations, your determination of threat of material injury is completely justified.

We agree that free trade can and does bring enormous benefits to the United States and to the world – conditioned, of course, on free trade being fair. Since it sometimes is not, it is fundamental that our fair trade laws are enforced. Continued support for free trade initiatives such as the WTO and the NAFTA rests upon the promise of full enforcement of our U.S. trade laws. If you do not vigorously enforce these laws, the pressure to consider other remedies –

remedies that may not be consistent with free trade principles -- will continue to grow. American industries and workers must be able to rely on the promises made to them by the Congress that unfair trade practices will not be tolerated. When international dispute settlement panels are permitted to interfere improperly with the enforcement of U.S. law -- as we firmly believe the NAFTA panel, at least, has done in this case -- confidence is lost not only in the dispute settlement system but in trade agreements generally.

A great number of our Idaho constituents either have forestry-related jobs or work for businesses that are dependent on the lumber industry. We can assure you that our industry can compete fairly with the imports on the basis of quality, price, and value. However, when Canadian lumber is sold at artificially deflated prices, the livelihoods of those workers and their families are unfairly jeopardized.

Before the current antidumping and countervailing duty orders were put in place, imports were wreaking havoc on the domestic industry. The Softwood Lumber Agreement helped to control Canadian lumber imports to a certain degree, but the flood of imports that we saw in the Spring of 2001 when the SLA expired and again when a duty-free window opened up just before your vote in 2002 caused a great deal of damage to the industry. If unfair imports were left permanently unchecked, the devastation would have been severe. The Commission and the Commerce Department did the right thing by determining

that relief was justified.

The facts in this case are clear: the Canadian governments' policy of heavily subsidizing its lumber industry has encouraged excess lumber production and dumping in the United States. To protect Canadian jobs, Canadian provinces sell timber to mills for a fraction of market value and mandate timber harvesting and processing regardless of market conditions. The net effect of these policies is excessive lumber production levels that are not supported by market demand. Canadian mills have turned to the open U.S. market to sell their overproduction, dumping their product at unfair price levels. This behavior has caused widespread U.S. injury, forcing many mills to shut down or curtail production. Canadian lumber companies have a vast production overcapacity and have repeatedly demonstrated a propensity to dump their products into the U.S. market. The orders must remain in effect in order to avoid America perpetually being the dumping ground of unfairly traded Canadian lumber.

Free trade must be fair trade. If U.S. law is not enforced to ensure fair trade in Canadian lumber, the people of Idaho and affected workers throughout the country will demand a response from Congress. We urge you to come to the only correct conclusion in these proceedings: the domestic industry was and still is vulnerable to injury caused by unfairly traded softwood lumber from Canada. The antidumping and countervailing duty orders must remain in place to protect

10/12/04 TUE 16:59 FAX 2022280353

SEN. MIKE CRAPO

☐ 006

against renewed surges of unfairly traded lumber imports - - surges that would endanger our domestic lumber industry and American workers.