

WORLD TRADE ORGANIZATION

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UNITED STATES – INVESTIGATION OF THE INTERNATIONAL TRADE COMMISSION IN SOFTWOOD LUMBER FROM CANADA

Recourse to Article 21.5 of the DSU by Canada

Request for the Establishment of a Panel

The following communication, dated 14 February 2005, from the delegation of Canada to the Chairperson of the Dispute Settlement Body, is circulated pursuant to Article 21.5 of the DSU.

On 26 April 2004, the Dispute Settlement Body ("DSB") adopted the Panel report in *United States – Investigation of the International Trade Commission in Softwood Lumber from Canada*.¹ The Panel found that the US International Trade Commission's ("USITC") threat of injury determination in *Softwood Lumber from Canada*², was not consistent with the *Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994* ("

Finally, the Panel found that in the absence of a WTO-consistent causation finding, it was not necessary or appropriate to make findings with respect to whether the ITC attributed the injuries caused by other factors to the allegedly dumped and subsidized imports. In view of the fundamental significance of the non-attribution requirement and to give guidance should the issue arise in implementation, however, the Panel set out its serious concerns on this issue. The Panel concluded that given the overall absence of discussion of other factors potentially causing injury in the future, the Panel would conclude that the ITC determination is not consistent with the obligation in

Canada considers that the United States has failed to implement the DSB's recommendations