

Recommendations Chapter 5

Recommendation 1. Transparent Antidumping Laws

The goal for Canada is to develop more transparent, tighter anti-dumping procedures and to require others to do likewise. The convergence of procedures used by the NAFTA partners in the administration of their anti-dumping laws, particularly the methods used to calculate dumping would be a useful first step. (In high technology products, the measurement of production costs is especially hazardous because of the global character of the firms involved and because any estimate of cost is extremely sensitive to the scale of production and learning over time.) The application of anti-dumping should be based on average variable costs whenever the constructed value method is used. Over time, filters to gauge predatory intent and to screen out non-predatory commercial behaviour should be introduced.

Recommendation 2. Competition Policy and U.S. Anti-trust

Any modification of existing competition policy should be non-discriminatory with respect to ownership of investments (i.e., provide national treatment). One Canadian objective is to modify U.S. anti-trust policy which encourages technology consortia that discriminate in favour of joint venture production facilities located in the U.S.. Moreover, U.S. legislation reducing potential anti-trust penalties with regards to certain consortia, but which requires every person who controls any part of such a joint-venture to be a U.S. citizen or a foreign person from a country whose domestic laws accord at least the same level of anti-trust treatment, should be repealed.

Recommendation 3. Administrative Approach vs Active Judicial Challenge

Canadian competition law should continue to give priority to efficiency enhancing inter-firm collaboration and stability in the application of the regulatory framework. We support the broadly administrative approach followed in Canada, particularly for the NAFTA area, to prevent restrictive business practices and enhance market integration. A better understanding of the European model would also be useful should NAFTA-EU talks on liberalized trade eventually come to fruition.