

military spending, this rate is lower than that prevailing in the United States.⁴³ It is true, however, that Canada has traditionally been more inclined to accept government intervention in the economy, while the United States has *claimed* at least to rely more on market mechanisms. In addition, Canadian subsidies tend to be quite evident, and therefore easy for American competitors to identify and condemn, while measures to provide assistance in the United States are more opaque. For instance, most assistance in Canada takes the form of direct subsidies or capital participation, while American subsidies largely take the form of tax breaks, low-interest loans, loan guarantees and public procurement, particularly in the latter case in regard to defence industries.

Finally, the GATT agreement includes a provision that now limits the applicability of definitive countervailing duties to five years (sunset), instead of the more than ten years that were often the case, unless it can be established that the subsidy and the injury will continue or will re-occur if the duties are removed (Article 21).

In regard to *other major changes* to the multilateral rules on subsidies, the Final Act of the Uruguay Round basically repeats the provisions that already existed in regard to the concept of "injury" and its connection to subsidization.⁴⁴ On the other hand, the dispute settlement mechanism, to which the NAFTA parties still have recourse, has proved more expeditious since 1989, as a result of the changes made after the midway review of the Uruguay Round, and has been strengthened by a provision in the Final Act requiring trade panel reports to be adopted no longer only if there is a consensus in favour of adopting them but unless there is a consensus in favour of not adopting them (reverse consensus).⁴⁵ The procedure should no longer be capable of being blocked by one or a few countries, which are generally the parties to a dispute whose arguments are rejected in the trade panel report.

Under the new provisions of the GATT agreement, many of the countervailing duty investigations conducted in the United States over the last few years against Canada could not have been initiated. In addition, the multilateral negotiations have appreciably improved Canada's ability to counter harassment or the abuse of trade

⁴³ See: Bence and Smith, "Subsidies and the Trade Laws"; James D. Gaisford and Donald L. McLachlan, "Domestic Subsidies and Countervail: The Treacherous Ground of the Level Playing Field," *Journal of World Trade* XXIV, no. 4 (August 1990), pp. 55-77.

⁴⁴ See Articles 11 and 15 of the Agreement on Subsidies.

⁴⁵ "Memorandum of agreement on dispute settlement" (MTN/FA II-A2), especially Article 16.