

X. INTELLECTUAL PROPERTY

Section 337 of the Tariff Act

Under Section 337 of the U.S. Tariff Act of 1930, imported products that allegedly violate United States intellectual property rights can be barred from entry into the United States. Section 337 gives the U.S. intellectual property owners a major advantage over foreign competitors. Applied as a border measure, it provides a more effective remedy against alleged violators than do U.S. domestic courts. Foreign firms, under this measure, may face expensive litigation and the threat of harassment. This legislation has been ruled by a GATT panel to be in contravention of the GATT. The United States has thus far refused to implement remedial legislation.

Copyright and Trade Mark Infringement

U.S. Customs may detain goods for up to 30 days for laboratory examination to determine their compatibility with registered U.S. copyrights and trade marks. Until Customs determines whether an infringement exists, the importer cannot dispute the charge. The procedure can result in lost sales for Canadian exporters and considerable inconvenience for their U.S. customers.

Patents: Critical Date

In determining the person entitled to a patent, where there are conflicting claims, the United States favours the American inventor over the foreign inventor. This occurs as a result of the United States giving preference to inventors who have first demonstrated the practical applicability of the invention ("reduction to practice"). Under Section 104 of the U.S. patent law, foreigners are granted patents on the date of filing, whereas U.S. residents' patents are dated from the moment of invention.

XI. TAX MEASURES

Non-Resident Corporations

The U.S. has enacted various tax measures applicable to non-resident corporations conducting business in the United States. These measures deter Canadian life insurance