

## 6.3 EMERGING PROBLEMS

### 6.3.1 Regional Development

It has been suggested that Canadian programmes designed to foster regional economic development could be threatened by U.S. trade remedy actions and that Chapter 18 review will not be able to prevent this from happening.

Canada and the United States each have a large number of programmes, provisions, and regulations which, while having other stated purposes, also have regional economic effects<sup>144</sup>. Both countries agreed in the FTA negotiations that regional economic development programmes are permissible, but have reserved the right to institute tariffs and other measures against exports to off-set any benefit conferred by such programmes.

Complaints and actions against these practices should serve, over time, to increase the transparency of their effects on exports to the other country. However, successful countervail duty actions against established programmes which may not be regarded as subsidies by the recipients, and which may have been established for powerful domestic reasons, will also generate bad feelings and tensions between the affected segments of the populations of both countries.

It is important to remember in this regard that the dispute settlement mechanisms (DSMs) do not change existing rules and practices or domestic trade remedy law, but only ensure the proper application of them. If the various U.S. trade courts find Canadian regional development programmes to be countervailable<sup>145</sup>, then CVDs will be imposed. The value of the DSMs lie not in assuring market access, but in slowing a further erosion of access through the review of new laws and practices under Chapter 18, and through ensuring that proper research is done and full consideration given to each action through Chapter 19 reviews.<sup>146</sup>

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<sup>144</sup> These include, but are not limited to, Canada's unemployment assistance programmes, which provide greater benefits for seasonal workers, many of whom are concentrated in specific regions of Canada, and U.S. minority entitlement programmes and defence contracting practices.

<sup>145</sup> See Section 2.5.4 Super 301 above.

<sup>146</sup> As well, the Subsidies and Trade Remedies Working Group may make some progress towards raising the *de minimis* level of countervailable subsidies, which could reduce the threat to many programmes such as these since the absolute level of support provided is often thought to be quite small. See BENCE, J-F., & SMITH, M. 1989 Subsidies and the Trade Laws: The Canada-United States Dimension Ottawa: The Institute for Research on Public Policy. May.