

Anti-dumping and Countervailing Duties

The application of anti-dumping and countervailing duties on U.S. imports from Canada continues to be a concern for Canadian producers and exporters. In the last decade, the United States has initiated 25 anti-dumping and 13 countervailing duty investigations against Canada. On the dumping side, 12 of the investigations resulted in the application of anti-dumping duties, 12 were terminated and one other resulted in the conclusion of a suspension agreement. On the countervail side, 8 of the investigations resulted in the application of countervailing duties, 3 were terminated and 2 others were terminated by agreement.

U.S. trade remedy laws allow for the imposition of anti-dumping and countervailing duties on imports of dumped or subsidized goods respectively that cause or threaten injury to the domestic industry. U.S. industries seeking protection from import competition increasingly rely on trade remedy legislation. The U.S. system of law and practice also contains features that, in effect, allow U.S. producers to harass Canadian exports to the U.S. market. For an exporter, the defence of its interests before the United States government is both expensive and cumbersome.

The passage by the United States of the Uruguay Round Agreements Act and the entry into force of the Uruguay Round Agreements on January 1, 1995 resulted in a number of improvements with respect to the application of U.S. trade law. In addition, further to the deliberations of the Trade Remedy Working Groups established under the North American Free Trade Agreement, the NAFTA Parties have been pursuing a number of procedural changes which will make the application of trade remedy laws less burdensome on Canadian exporters. Furthermore, in the context of the Uruguay Round Agreements Act, Canada has made, and will continue to make representations regarding the development by the United States Administration of regulations with respect to the administration of U.S. trade law. Proposed regulations were published February 27, 1996.

Canada continues to hold the view that the use of trade remedy actions within a free trade area, as established by the North American Free Trade Agreement, is counter-productive and makes no commercial sense in an increasingly integrated North American market. The use of trade remedy actions is inconsistent with the objective of increasing the free flow of goods between all three countries. Canada will therefore continue to pursue its objective of fundamental reform of trade remedy laws within North America.

Some of the outstanding areas in U.S. legislation where Canada still has concerns are listed below.

Anti-Dumping

Anti-Circumvention

The United States Uruguay Round implementing legislation contains language which broadens the scope of the provision in the Omnibus Trade and Competitiveness Act of 1988 for the United States to take action against alleged circumvention of U.S. anti-dumping or countervailing duty orders. If circumvention is found, dumping or countervailing duties are applied without appropriate findings of