

SECURE ACCESS FOR GOODS AND SERVICES

One of the government's major objectives in entering the Canada-U.S. trade negotiations was to secure the present access that Canadian business have to the U.S. market. While many aspects of the agreement touch on this matter, the major factors are the provisions on dispute settlement (including anti-dumping, countervail and safeguards) and the new services code.

Dispute Settlement: Countervail, Anti-dumping, Emergency Measures

Under the FTA, specific provisions have been made for a consultation process which is designed to help resolve problems at an early stage. As well, binational panels composed of members from each country will be created to handle formal dispute resolution. These panels will have particularly important and binding roles in countervail, anti-dumping and emergency measures. The panels will prevent abuse of the system. In the past, Ontario producers have faced cases on softwood lumber, raspberries, hogs, flowers, construction castings and brass strips and brass sheet, shakes and shingles, and steel (stainless, alloy and carbon).

Producers in both countries will continue to have the right to seek redress from dumped or subsidized imports, but any relief granted will be subject to challenge and review by a binational panel which will have the right to determine whether the existing laws were applied correctly and fairly. Canadian producers who have in the past complained that political pressures in the United States have disposed U.S. officials to side with complainants will now be able to appeal to a bilateral tribunal. Findings by that tribunal will be promptly delivered and binding on both governments.

To ensure that any changes to existing law do not undermine the objectives of the new agreement, the two governments have agreed that changes in existing anti-dumping and countervailing duty legislation apply to each other only following consultation and if specifically provided for in the new legislation. Moreover, either government may ask a bilateral panel to review such changes in light of the object and purpose of the agreement and their rights and obligations under the GATT Anti-dumping and Subsidies Codes. Should a panel recommend modifications, the parties will consult to agree on such modifications. Failure to reach agreement gives the other party the right to take comparable legislative or equivalent executive action or terminate the agreement.