

"Over-ride" (Section 8)

Sub-section 8(1) of the implementing legislation was intended to catch any inconsistent provisions in other legislation. Sub-section 8(2) was intended to safeguard against the use of discretionary powers by federal officials in a manner inconsistent with the Free Trade Agreement.

Such an "over-ride" is not extra-ordinary. It appears in many federal statutes. But it is only one means for the government to meet its obligations under the Free Trade Agreement.

Another is to address any inconsistency that may arise by express legislative enactment and to use administrative means to control the exercise of discretionary powers. This is what will follow from the proposed deletion of section 8.

FTA opponents have improperly characterized section 8 as "quasi-constitutional", as placing in question an imaginative range of programs and policies set out in other legislation. That assertion can no longer be made.

Other Government Amendments

Ten other amendments have been proposed on behalf of the government. That relating to Section 58 (Retransmission Rights), like the water amendment, is proposed so that the implementing legislation more accurately reflects the agreement. The others remove inconsistencies between the English and French versions of the legislation.

Before turning to other proposed amendments, I would like to refer briefly to the "Baucus-Danforth" provisions in the U.S. implementing legislation.

"Baucus-Danforth"

When the "Baucus-Danforth" provision first appeared in drafts of the U.S. implementing legislation, there was concern that it would detract from the security of access achieved through various provisions of the FTA, particularly binding dispute settlement for countervail cases. These concerns were met through specific amendments to the draft provision, made in response to our representations.

The "Baucus-Danforth" provision, as it appears in the U.S. implementing legislation tabled in Congress on July 25, simply spells out a process for information gathering on subsidies. It does not create any new trade remedies under U.S. law. As well, it may apply to any country with which the U.S. enters a trade liberalization agreement after January 1, 1989.