



U.S. Fish and Wildlife Service Border Inspections

The U.S. Fish and Wildlife Service (FWS) inspects all imports of wildlife and wildlife products at the U.S. border to ensure U.S. compliance with its commitments as a signatory to the Convention on the International Trade in Endangered Species (CITES). Consumer products, such as fur coats and Native Canadian crafts, which utilize wildlife articles, are included in the inspection requirement.

Approximately two years ago, the FWS raised its per shipment inspection fee from US\$25 to US\$55. The Government has received a complaint that the fee adversely affects Canadian exports of low-value shipments. Another exporter has complained that FWS personnel are not available at certain ports at certain times. The FWS also charges the fee irrespective of whether it actually performs an inspection.

The FWS has recently proposed some limited exceptions from the fee. Canadian officials are pursuing changes to the benefit of Canadian exporters.

Intellectual Property

Under Section 337 of the United States Tariff Act of 1930, imported products that are alleged to infringe upon U.S. intellectual property (IP) rights can be barred from entering the United States by the U.S. International Trade Commission (ITC). Section 337 provisions contain more direct remedies against alleged infringers than those available in U.S. domestic courts, and the administrative procedures in the ITC can be more onerous. U.S.-based alleged infringers face proceedings only in the courts, whereas importers may face proceedings both in the courts and the ITC.

In 1989, a GATT panel found that Section 337 violated GATT obligations. The Uruguay Round implementing legislation has removed some of the inconsistencies with new WTO-TRIPs obligations, but Section 337 complaints are still being brought against Canadian companies, who thereby face additional procedural burdens in defending against allegations of IP infringements. The Government of Canada will monitor specific cases to determine what steps might be taken to ensure that Canadians are treated in accordance with U.S. international obligations.

Trade Remedies

Consistent with the Government's priority of resolving trade remedy issues with the United States, working groups on dumping and subsidies/countervailing duties were established under the North American Free Trade Agreement (NAFTA). The working groups were asked to seek solutions that would reduce the possibility of disputes concerning the issues of subsidy, dumping and the operation of trade remedy laws. Their report was released in March 1997. While the scope of Canadian efforts to achieve reform in these working groups was very broad, the final agreement focussed on procedural improvements respecting the conduct of anti-dumping and countervailing duty investigations. NAFTA Ministers also noted at that time that governments would continue to consult (under the provisions of NAFTA Chapter Nineteen) on issues related to trade remedies with the objective of promoting fair trade and reducing the possibility of disputes. Canada will continue to use this and other opportunities to pursue its agenda for trade remedy reform within the NAFTA trade area.

Moreover, Canadian officials will continue to monitor trade remedy developments in the United States to ensure that changes to U.S. trade law practice do not unduly harm Canadian exporters caught in U.S. trade remedy investigations and reviews. In this regard, Canada submitted, on three separate occasions, extensive comments on regulatory proposals by the U.S. Department of Commerce and the U.S. International Trade Commission regarding the conduct of anti-dumping and countervailing duty investigations and reviews. In the context of U.S. reviews, Canadian officials assisted Canadian producers of steel, brass, magnesium and live swine.

Electricity

The United States is moving rapidly toward increased competition in the electricity sector, creating new opportunities for Canadian utilities. As part of the deregulation of the wholesale sector, the U.S. Federal Energy Regulatory Commission (FERC) requires that Canadian utilities seeking maximum access to the U.S. market offer reciprocal access to their own transmission lines. The United States is also considering deregulation at the retail level and some legislative proposals include retail reciprocity requirements. There are initiatives to give FERC some oversight of transmission reliability standards which are