

Unfair Trade Laws

U.S. Countervailing-Duty Laws

Canada's practice of subsidizing its industries and the United States' adoption of retaliatory measures in the form of countervailing duties undoubtedly are the most important trade irritants between the two countries. Countervail is defined as a procedure by which an importing country levies duties to counteract the unfair trade practice of a foreign country subsidizing the exportation or production of a product. U.S. countervailing duty law dates back to 1890, and Article VI of the GATT authorizes countervailing duties. However, only since the United States enacted the Tokyo Round arrangements in the Trade Agreements Act of 1979 has it brought countervail cases in any numbers. Since the end of the Tokyo Round, the United States has been far and away the most active enforcer of domestic countervailing duties. Between 1980 and 1984, the United States initiated 123 actions, compared with 8 by Canada and Australia, 6 by the European Community, and 1 by Japan.²

The United States' greater emphasis on countervailing duty procedures reflects its philosophical commitment to free-market principles. It pioneered, both in its own trade legislation and in multilateral negotiations, the whole question of disciplining the use of subsidies and countervailing duties. It approached the Tokyo Round with the objective of persuading other countries to discipline their use of subsidies. Most of the other participants, however, viewed the use of subsidies -- with the exception of export subsidies -- as strictly a question of national or internal policy,³ and their objective was to have the United States adopt an injury test in its countervailing duty actions.