

A serious threat to predictability and security of access is the ease with which U.S. firms have availed themselves of trade remedies to prevent foreign competition in their domestic market. In recent years, actions taken under U.S. trade remedy laws against Canadian exports have had a detrimental impact on investment and employment in Canada, and have become a major irritant in Canada-U.S. relations. Measures covered under this umbrella in both Canada and the United States include anti-dumping and countervailing duties designed to respond to injurious dumping and subsidization, and "safeguard" actions against "fairly" traded but injurious imports.

The Free Trade Agreement will include provisions to prevent abuse of the system, thus allowing Canadian exporters to compete in the U.S. market on a more secure, predictable and equitable footing. More importantly, the two governments have agreed to negotiate a new and better regime to deal with problems of dumping and subsidization, thus eliminating the exposure of Canadian firms to the present U.S. system.

Trade Remedies and Dispute Settlement

The two governments have agreed to a unique dispute settlement mechanism that guarantees the impartial application of their respective anti-dumping and countervailing duty laws and other aspects of trade remedy law. Either government may seek a review of an anti-dumping or countervailing duty determination by a bilateral panel with binding powers. This will mean that 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 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