

CURRENT ISSUES

At the multilateral level, Canada is preparing for the upcoming WTO Seattle Ministerial Conference which will take place on November 30, 1999. The Seattle Ministerial Declaration is expected to launch the eighth round of multilateral trade negotiations, known as the "Millennium Round". This Round is expected to address trade liberalisation in those areas falling under the built-in agenda from the Uruguay Round: agriculture and services. Other possible issues for this new round will be determined in Seattle.

On a regional level, Canada is taking part in negotiations targeted to the creation of the Free Trade Area of the Americas (FTAA). By 2005, negotiators hope to secure a comprehensive agreement that results in free trade in goods and services throughout the Americas. Canada looks forward to concluding a free-trade agreement with the European Free Trade Association (EFTA) this year.

CANADIAN CASES IN INTERNATIONAL TRADE LAW

1. **WTO DISPUTES: CANADA AS COMPLAINANT**

a) *Australia – Measures Affecting the Importation of Salmon*

Canadian fresh, frozen and chilled salmonids have been denied entry to the Australian market since 1975, purportedly for animal health quarantine reasons. A WTO panel established in 1997 found Australia's ban inconsistent with several provisions of the SPS Agreement including Articles 5.1, 5.5 and 5.6. Canada cross-appealed on two issues. The Appellate Body issued its Report on October 20, 1998. Despite finding that the panel had misdefined the measure at issue, the Appellate Body upheld the panel's Article 5.1 findings on modified grounds. It also upheld the panel's Article 5.5 finding, but reversed the panel's Article 5.6 finding on the basis of its mis-definition of the measure. The Report reinforces Canada's panel victory and advances the interpretation of the SPS Agreement in areas such as risk assessment and appropriate levels of protection.

The Report was adopted at the November 6, 1998 DSB meeting. Canada and Australia were unable to agree on a "reasonable period of time" for Australia to implement and this issue went to arbitration under Article 21 of the DSU. The arbitrator's award was issued February 22, 1999. The arbitrator agreed with Canada that the "reasonable period of time" should not include the time to do new risk assessments and awarded Australia eight months to implement rather than the fifteen months it had sought. Australia had until July 6, 1999 to comply.

On July 19, 1999, Australia announced new fish import policies to bring its measures into compliance with the WTO rulings. Canada considers the new policies to be unnecessarily trade restrictive and not in compliance with the WTO rulings. On July 28, 1999, Canada requested authorization from the WTO Dispute Settlement Body (DSB) to retaliate. Australia challenged our request and a panel has been established to determine the consistency of the recent Australian measures. If the panel rules against Australia, an arbitrator will be asked to rule on the amount of retaliation Canada will be allowed to take. A final result is not expected until early 2000.