

Description of the U.S. System

12. The U.S. has in place a highly legalistic system for providing import relief, direct access to which is available to U.S. producers and labour. In addition, the threat of legislated trade restrictive action by Congress can be as damaging as legal action itself in terms of its impact on the investment climate in Canada and the level of exports to the USA.

13. The principal trade remedy legislation for providing relief from injurious fair import competition is contained in Sections 201-203 of the Trade Act of 1974 as amended. Additional relevant legislation includes Section 22 of the Agricultural Adjustment Act of 1933 as amended, the Meat Import Act of 1979, and Section 232 of the Trade Expansion Act of 1962 (national security). Moreover, there is a range of product/sector specific legislation providing authority to impose import restrictions, e.g. sugar (headnote authority for quotas), uranium (Atomic Energy Act) and steel (Steel Import Stabilization Act).

14. Section 201 provides for the initiation of an injury investigation by the USITC at the request of an industry, the Administration or the Congress. The USITC must determine whether imports have increased such as to be a substantial cause ("a cause which is important and not less than any other cause") or threat of serious injury to the U.S. industry producing a like or competitive product. The USITC has taken a relatively rigorous approach in Section 201 determinations resulting in a number of no-injury findings.

15. Since 1975, 53 investigations have been initiated of which 22 have resulted in no-injury determinations.

16. The USITC must submit its findings and, if affirmative, recommendations for import relief to the President, within six months of the date of commencement of the action. The President then has 60 days within which to accept, reject or modify the Commission's recommendations. Section 203 authorizes the President to provide import relief in the form of increased tariffs, tariff rate quotas, quantitative restrictions, orderly marketing arrangements or any combination of such actions. There are statutory limitations on the duration of import relief and provision for Congressional over-ride of Presidential action which differs from the USITC recommendation. Import restrictions can be imposed on a selective basis but as a practical matter have been applied by the U.S. on an MFN basis except in cases where the Administration has sought voluntary export restraints from foreign countries. The President is also required under s.202 to evaluate the extent to which adjustment assistance is available to workers and firms in the industry and may direct expeditious consideration of petitions for such assistance.