

the regulations provide an unfair competitive advantage to U.S. producers, and enable U.S. DSPs to acquire privileged information about their Canadian competitors. Canada has informed the Office of the U.S. Trade Representative of our view that the DSP system is inconsistent with U.S. obligations under NAFTA and the WTO agreements with respect to national treatment and conformity assessment procedures. Discussions with the U.S. government are ongoing in an effort to resolve this issue.

### **U.S. State Taxation Issues—Pennsylvania**

Canadian trucking companies and other entities face state taxation retroactive to 1992. Taxes will be assessed on the basis of business activity questionnaires prepared by the state. During 2002, in response to representations by the Consulate General in Buffalo and the Canadian Trucking Alliance, the state agreed to waive penalties and reduce retroactivity to 1997, or five years, for firms that voluntarily disclose their activity between September 1 and December 31, 2002. Questionnaires will be distributed early in 2003, including to some 700 Canadian firms already targeted to date.

Only income-based taxes are recognized by the Canada Customs and Revenue Agency as creditable against income tax in Canada. The imposition of taxes that are not based on income carries an element of double taxation that has a negative impact on Canadian companies with business in Pennsylvania. Moreover, Canada is also concerned over the retroactive imposition of taxes on a somewhat arbitrary basis, as there is evidence to suggest that the amount of tax claimed differs considerably among firms with roughly similar profiles and business volumes in the state.

Pennsylvania's Gross Receipts Tax was abolished in 1998, and the Capital Stock/Franchise Tax (called a "job killer" by a previous governor) is being phased out, but not until 2008 or 2009. Canada has made representations to the state that, in addition to our concerns above, the relatively small amount of tax claimed does not justify the significant administrative burden either for the state or for the firms involved. Canada will pursue the matter with the state's governor-elect early in the new year.

### **Marine Mammal Protection Act (MMPA)**

The U.S. Marine Mammal Protection Act of 1972 prevents the import of most marine mammal products into the U.S., including Canadian seal products. The Act provides for a waiver system that allows the import of marine mammal products for specific purposes if the harvesting will not disadvantage the affected species or stock. However, because the U.S. certified Canada under the Pelly Amendment in 1996, U.S. officials cannot consider any MMPA waiver request from Canada.

Sealing is a legitimate use of a renewable resource. The populations are stable and not endangered (there are an estimated 5.2 million harp seals and 460,000 hooded seals in Canada). Canada believes that the MMPA and the certification of Canada under the Pelly Amendment are inconsistent with U.S. international trade obligations. We have communicated our concerns to the U.S. Administration and will continue to address this ban over the long term.

## **OTHER ISSUES**

### **Customs and Administrative Procedures**

Much of the work on customs and administrative procedures has been carried out through the related initiatives of the 30-point action plan of the Smart Border Declaration. Both Canada and the United States recognize that public security and economic security are mutually reinforcing, and we are working together to ensure a secure border that will not negatively affect the flow of legitimate trade and travel.

Canada and the United States have agreed to align, to the maximum extent possible, their customs commercial procedures. Using risk management tools and in partnership with the private sector, the Free and Secure Trade program will expedite the clearance of low-risk cross-border shipments by reducing information requirements and establishing dedicated FAST lanes where possible. The program became operational at the end of 2002.

Beginning in March 2002, Canada and the United States began cooperating on a new program to identify and screen high-risk marine cargo before it arrives in either country. Canadian customs officers are working in Newark and Seattle-Tacoma to target