From a Canadian perspective, the best outcome of the negotiations would be agreement that neither side would in the future apply anti-dumping duties, coutervailing duties or safeguard measures on imports of goods and services from the other country; and it is assumed that proposals of this kind will be pursued in the negotiations. It may be unrealistic, however, to expect Congress to approve arrangements which, in effect, would exempt Canadian exports from U.S. trade remedy laws. On the Canadian side, as well, objections might well be raised against proposals to exempt U.S. exports from Canadian anti-dumping, countervailing duty and safeguards measures. Short of such exemptions, however, the agreement could include a variety of other provisions which would lessen the likelihood that these trade remedy systems would be applied to cross border trade.

For one thing, it may be supposed that under conditions of free trade opportunities for dumping would be reduced, and the threat of anti-dumping duties on cross-border trade would be correspondingly minimized. Also, under a new bilateral trade arrangement, it may be possible to reach understandings on the use of permitted subsidy programs on either side, so as to limit the use of countervailing measures. There may be other possibilities for agreeing on definitions of dumping and subsidies, and on interpretations of domestic law in these areas, including interpretations of injury to domestic producers, which would help to reduce bilateral problems and conflicts. It may be more difficult, however, to reduce by such means problems and conflicts arising from the use, or threat of use, of safeguard import measures under the existing legislation of either country. The existing bilateral "understanding" on the use by either country of safeguard measures affecting exports from the other is valuable in providing for advance consultations on the introduction of safeguard measures affecting cross-border trade and in clarifying each country's rights to compensation. It does not, however, limit the right of either country to apply safeguard measures to bilateral trade.

In addition, there are particular features of the existing import relief systems in both countries that might become subject to special rules under a future Canada-U.S. trade agreement. These are the requirements and procedures for the determination of injury to domestic producers. Under the GATT rules, anti-dumping and countervailing duties, as well as safeguard measures, may be applied only in circumstances where the imports of the product concerned are causing, or threaten to cause, injury to domestic producers. The relevant legislation in Canada and the United States sets out elaborate, but not identical, procedures for arriving at such determinations. On the U.S. side, this involves a process of public hearings and analysis by the quasi-independent International Trade Commission. In Canada, investigations into injury are conducted by the quasi-independent Canadian Import Tribunal and the Textile and Clothing Board or, in the case of safeguard measures, the government itself may in certain circumstances make its own determination as to whether domestic producers are being injured by imports.

On both sides, a positive determination of injury relating to dumped or subsidized imports leads automatically, with limited exceptions, to the application of anti-dumping duties or countervailing duties on the imported goods concerned. In the case of safeguard measures, however, the governments of both