

## **Section 301**

Section 301 of the Trade Act of 1974, amended through the Omnibus Trade and Competitiveness Act of 1988, is the principal instrument for redressing "unfair" trade practices of other countries. Section 301 empowers the United States Trade Representative (USTR) to determine whether other countries maintain "unjustifiable", "discriminatory" or "unreasonable" practices. It also provides authority for, and may require, unilateral retaliation by the USTR in order to improve access to foreign markets for United States goods, services and investment, and for the protection of intellectual property rights.

On March 3, 1994, the United States, by Executive Order, reinstated "Super 301" procedures which authorize the Administration to take retaliatory measures against priority barriers to U.S. exports if consultations with foreign countries fail to result in the removal of these barriers. The United States has indicated that matters covered by the GATT will be resolved through the GATT.

Use of the unilateral retaliatory measures without the authority of the GATT, as, for example, when the United States imposed a surtax on beer imports from Ontario and when it imposed duties on softwood lumber from Canada, undermines both the GATT rules and the GATT dispute settlement procedure.

## **III. EXTRATERRITORIAL LEGISLATION**

United States trade policy is supported by domestic legislation that can have an extraterritorial effect. Its existence outside of agreed multilateral or bilateral arrangements promotes uncertainty and instability in the international trading system.

The "Cuban Democracy Act" continues to apply to Canadian firms. Section 1706(a) (1) of the U.S. National Defense Authorization Act of 1993 (the "Cuban Democracy Act"), seeks to prevent U.S.-owned or controlled subsidiaries located in other countries from trading with Cuba. It would accomplish this objective by asserting jurisdiction over the conduct of corporations that are organized in foreign states and owned or controlled by U.S. citizens.

In addition, broad interpretation of U.S. anti-trust jurisdiction can inhibit trade and investment activity.