Antidumping and Countervailing Duty Procedures

Each country retains its right to apply its own trade laws with respect to antidumping and countervailing duties. This means, for example, that U.S. and Canadian producers maintain their right to obtain remedies against dumped or subsidized imports. As a result of the Agreement, however, either country will be able to seek review by a binational panel of the resulting decisions made by the national authorities in either country. The panel's decisions will be binding and will replace the current judicial review procedures in both countries.

The panel would determine whether existing national laws had been applied correctly in reviewing final antidumping and countervailing duty determinations. Panels can be formed at the request of either party. Besides bringing greater discipline to trade remedy laws, the dispute settlement mechanism will also provide for more expeditious review of a determination as compared to the present judicial systems. In addition, amendments to existing antidumping and countervailing duty laws will apply to the other country only if it is specifically named. Prior notification of such amendments must be given, and if they are deemed by either country to be contrary to the objectives of the Free Trade Agreement, a review by the binational panel may be requested.

The creation of a binational dispute settlement mechanism that brings greater discipline to the application of U.S. antidumping and countervailing duty laws is a major advance over the current system.

This is particularly important to Canadian manufacturers given the large volume of cases, especially on antidumping, that have been initiated over the past number of years with respect to goods traded between the two countries. This mechanism provides for the impartial application of each country's antidumping and countervailing duty laws.

No agreement was reached during the negotiations on rules and regulations on government subsidies and unfair pricing practices, despite strenuous efforts. The Agreement stipulates, however, that the two countries will establish a working group which will negotiate, no later than 1996, a substitute system of rules for dealing with government subsidies and unfair pricing practices.