

COUNTERVAILING DUTY LEGISLATION WILL APPLY TO EACH OTHER ONLY FOLLOWING CONSULTATION AND IF SPECIFICALLY PROVIDED FOR IN THE NEW LEGISLATION. MOREOVER -- AND THIS IS THE SECOND KEY ELEMENT OF THE MECHANISM -- EITHER GOVERNMENT MAY ASK A BILATERAL TRIBUNAL TO REVIEW SUCH CHANGES IN THE LIGHT OF THE OBJECT AND PURPOSE OF THE AGREEMENT AND THE PARTIES' RIGHTS AND OBLIGATIONS UNDER THE GATT.

TO ILLUSTRATE HOW THESE DISPUTE SETTLEMENT PROVISIONS WOULD WORK IN A SPECIFIC CASE, LET'S LOOK AT LAST YEAR'S COUNTERVAILING DUTY INVESTIGATION OF CANADIAN SOFTWOOD LUMBER. THE ESSENTIAL ISSUE IN THAT CASE WAS WHETHER THE STUMPAGE PRACTICES OF THE CANADIAN PROVINCES CONSTITUTED A COUNTERVAILABLE SUBSIDY UNDER U.S. TRADE LAW. IN 1983, THE COMMERCE DEPARTMENT HAD UNDERTAKEN A THOROUGH INVESTIGATION OF THE ISSUE AND HAD DECIDED THAT CANADIAN STUMPAGE WAS NOT A SUBSIDY. IN 1986, THE SAME COMMERCE DEPARTMENT, ADMINISTERING THE SAME STATUTE AND INVESTIGATING THE SAME FACTS, REVERSED ITSELF AND FOUND THAT CANADIAN STUMPAGE WAS A COUNTERVAILABLE SUBSIDY.

AS YOU WILL RECALL, THIS REVERSAL WAS GREETED WITH OUTRAGE IN CANADA. GOVERNMENT SPOKESMEN DESCRIBED