

Legislative Interference

There remains a potential for legislative interference with transnational contracts, which could impact negatively on Canadian exports. For example, in 1999, Canada opposed an amendment to a federal bankruptcy bill aimed at cancelling Hydro-Quebec's \$4-billion Vermont contract. Canada was successful in opposing this amendment, which could have set a dangerous precedent of legislative interference with transnational contracts. Canada will continue to monitor any similar actions in the U.S. Congress.

OTHER ISSUES

Customs and Administrative Procedures

Work continues between Canada and the United States on initiatives under the Shared Border Accord. Officials from both countries are actively engaged in promoting use of programs for low-risk travellers, simplifying the process for in-transit commercial goods, and exploring the use of technology and the possibility for joint inspection facilities. In November 2000, a harmonized pilot was launched to expedite transit for pre-approved, low risk travellers using the bridge connecting Sarnia, Ontario to Port Huron, Michigan. Features of the NEXUS program include common eligibility requirements, a joint enrolment process, single application form and participant card and similar sanctions. Within the Canada-U.S. Partnership (CUSP) high level dialogue is proceeding among governments, border communities and stakeholders toward establishing a common vision for border co-operation. In 2000, meetings of the CUSP were held in April in Niagara/Buffalo and in June in Vancouver. These CUSP consultations confirmed the three guiding principles of border co-operation which are: streamline and harmonize border policies and management; expand co-operation at and beyond the border and collaborate on common threats outside Canada and the United States. The CUSP will continue to meet in 2001.

Intellectual Property

Under Section 337 of the U.S. Tariff Act of 1930, imported products that are alleged to infringe upon U.S. intellectual property (IP) rights can be barred from entering the United States by the U.S.

International Trade Commission. Section 337 provisions contain more direct remedies against alleged infringers than those available in U.S. domestic courts, and the administrative procedures in the U.S. International Trade Commission can be more onerous. U.S.-based alleged infringers face proceedings only in the courts, whereas importers may face proceedings both in the courts and the U.S. International Trade Commission.

In 1989, a GATT panel found that Section 337 violated GATT obligations. The Uruguay Round implementing legislation has removed some of the inconsistencies with new WTO-TRIPs obligations, but Section 337 complaints are still being brought against Canadian companies, which thereby face additional procedural burdens in defending against allegations of intellectual property infringements. The Canadian government will continue to monitor closely specific cases, including potential international trade disputes on the matter, in order to determine what steps might be taken to ensure that Canadians are treated in accordance with U.S. international trade obligations.

Trade Remedies

The Canadian Government continues to monitor developments in the United States pertaining to trade remedies to ensure that any new rules, and the implementation of existing ones, conform with U.S. international trade obligations. Canada will continue to oppose legislation such as a provision of the Agricultural, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act of 2000 (the Byrd Amendment) which provides for the distribution of anti-dumping and countervailing duties to the domestic producers afforded import protection by such duties. Further, Canada made specific representations on Section 29 of the Crude Oil Windfall Tax Act of 1980 which directly subsidizes U.S. coal exports; on changes to the Russia/U.S. agreement suspending an anti-dumping duty order; on changes to the format for the questionnaire used by the U.S. Department of Commerce in its countervailing duty investigations; on the North Dakota Wheat Commission's petition for an investigation under Section 301 of the U.S. Trade Act of 1974, as amended, investigation regarding Canadian wheat marketing practices; as well as on several sunset review proceedings regarding anti-dumping and/or countervailing duty orders