

## **Executive Summary**

The exchange of goods and services between Canada and the United States represents the most important trade relationship between two sovereign states. Canada is heavily dependent on international trade, which accounts for almost 30 percent of its GDP. Nearly 80 percent of Canadian exports are shipped to our southern neighbour. Security of access to the American market is thus fundamental for Canadian interests.

Yet, protectionist pressures are ever present in the U.S., including through the imposition of countervailing duties against imported products which are subsidized or deemed to benefit from governmental aid. This alludes to the complex mechanism of American trade legislation, formulated by the U.S. Congress and applied by administrative agencies, and through which protectionist lobbying pressures are focused. The continuing vagueness of U.S. trade remedy legislation with regard to certain important concepts ("domestic industry"; "injury") should be stressed.

In the course of the 1980s, the United States initiated 14 countervailing duty investigations against Canadian imports, five of which led to the imposition of duties. Canada considers the possibility and the frequency of such remedies as harassment of its exports by U.S. authorities. This is also highly detrimental to Canadian interests in view of the resulting uncertainty and the unfavourable environment created for trade and investment.

It was largely to counter these problems that Canada concluded in 1987 a free trade agreement (FTA) with the United States. Although unable to secure the desired subsidies code which would have obviated the need for trade remedies, the Canadian government did obtain from the U.S. an undertaking to agree on such a code within five to seven years. This was accompanied by an interim solution whereby binational panels, with the power of binding decisions but without modifying national laws, would decide whether national authorities correctly applied national law when recommending the use of countervailing duties.

The panel mechanism, although a significant achievement, has not ended the harassment of Canadian exports. Of the six countervailing duty investigations conducted by U.S. authorities since the FTA came into force in 1989, three have involved important trade volumes and led to a decision to impose duties. Canada appealed to the panel mechanism in these three cases. Two of these disputes, concerning pork and softwood lumber, have been particularly long and serious, the American government having required the establishment of an Extraordinary Challenge Committee to review the decision of the panels.