

*Softwood Lumber*

ity of U.S. countervail duties are judged on the basis of GATT law.

In addition, FTA article 1902.2 permits the U.S. to change its countervailing duty without Canada's agreement. In contrast, again, GATT rights and obligations can only be changed by agreement among the countries that negotiated, of which of course Canada is one.

I understand that section 409 of the FTA establishes a new track for U.S. industry to petition for non-tariff measures to gain an advantage over Canadian exports.

• (2340 )

This can be used to nullify Canada's GATT rights relating to subsidies and countervail duties and is unique in that it applies only to Canada. The adverse implications for Canada can be illustrated by two examples.

First, section 409 nullifies the GATT injury tests and establishes a much softer alternative criteria for action against perceived subsidized Canadian exports. Second, GATT limits counter-subsidy action to a countervailing duty equal to the subsidy, but section 409 permits the use of a range of non-tariff measures that could provide much more protection than the duty equal to the subsidy.

In short, under the FTA, Canadian exporters, including softwood lumber producers, are much more vulnerable to U.S. harassment and restriction than they were under GATT. The longer term consequences to U.S. countervail laws could be very detrimental to Canada-U.S. trading relations.

We have heard much huffing and puffing from the Mulroney cabinet about going to the binational dispute panel under the FTA. They do not mention that other remedies must be exhausted first. More important, they do not say that the binational panel can only say if the U.S. applied its own law correctly.

If the U.S. loses the case as it did on the pork case, it can under section 409 of the U.S. implementing legislation simply change its law. It is worth noting here that it was the U.S. federal government itself that began the countervail action against our softwood lumbars last week, a very rare occurrence.

In short, Canadians should be very skeptical about our chances of winning before a binational panel four, five, six months from now or longer. Similarly, concerning the retaliation bluster against the U.S. from various cabinet ministers, do they know that under the FTA we can only have retaliation if we have a legal right to do so?

There is no right to do so until the binational panel first renders a decision, likely as I indicated, many months away. If Canada retaliates without a legal basis for doing so, the Americans can invoke other provisions of the free trade agreement against us. In short, they get the right to retaliate against us. As we all know, they have lots of guns in their arsenal.

It is very late, almost twelve o'clock. I understand that you will by unanimous agreement not be seeing the clock until all speakers have spoken. I understand that is the case.

In conclusion, the United States department of commerce has absolutely no grounds for its decision which is politically motivated, unjustified and hypocritical. It also seriously undermines the U.S. government's commitment to the *raison d'être* of the present Canada-U.S. free trade agreement.

I could not agree more with the words of our present Ambassador to the United States who has accused U.S. officials "of a tortured attempt to manipulate facts in order to obtain the pre-ordained result". I hope that our friends and trading partners south of the border will come to their senses before they wreak absolute havoc among literally hundreds of thousands of Canadian families.

[Translation]

**The Acting Speaker (Mr. DeBlois):** The hon. Parliamentary Secretary to Minister of Forestry rises on a point of order.

**Mr. Champagne (Champlain):** Yes, Mr. Speaker. Given the importance of the debate tonight and following discussions with my honorable colleagues from the Liberal Party and the New Democratic Party, if anyone wishes to rise after the scheduled time, I think there is unanimous consent to allow this.

**The Acting Speaker (Mr. DeBlois):** The honorable members have heard the honorable member's suggestion. Is there unanimous consent to go on past midnight,