

bilateral trade falls victim to disputes, but this fails to take into account the damage done as a result of the uncertainty surrounding trade and investment. Earlier this year, the Premier of Quebec attempted at the World Economic Forum in Davos, Switzerland to find partners in order to increase the capacity of Norsk Hydro Canada, a manufacturer of pure and alloyed magnesium, despite the antidumping and countervailing duties in the United States.²⁵

3. The Canadian Proposals at the GATT Multilateral Negotiations and in the Canada-U.S. Working Group

Insofar as the FTA provisions were concerned, the question of subsidies and countervailing duties was supposed to be addressed, first, within the multilateral GATT negotiations initiated in 1986 and, then, on the basis of these results, in subsequent bilateral negotiations.²⁶

After a mid-term review of the multilateral negotiations, conducted in Montréal in December 1988,²⁷ the Government of Canada submitted a proposal to the group negotiating subsidies in Geneva in June 1989. It contained the directions and provisions that Canada hoped to see adopted in its trade with the United States.²⁸ These proposals reflected the measures recommended within North America to reduce the scope of American trade remedy laws and practices.²⁹ Some people even thought that if these proposals were adopted by GATT, the objectives of the Canada-United States Working Group on subsidies would be met. The most significant of these proposals dealt with countervailing duties.

²⁵ *Le Presse*, January 29, 1994, pp. A1-2; *Le Devoir*, January 29, 1994, p. A6.

²⁶ Both the multilateral and bilateral strategies would be pursued simultaneously and were perceived by the government as complementary. See Canada, External Affairs, *Canadian Trade Negotiations* (Ottawa: Department of Supply and Services Canada, 1985) as well as an article by Germain A. Denis, the deputy head negotiator of the FTA, "Le Canada face aux négociations commerciales bilatérales et multilatérales," in *Un marché, deux sociétés? Part One: Libre-échange et autonomie politique*. Published under the direction of Christian Deblock and Maurice Couture, proceedings of the conference "Un marché, deux sociétés?", ACFAS congress, Université de Montréal, May 1986 (Montréal: ACFAS, 1987), pp. 57-62.

²⁷ In regard to subsidies, the Montréal Communiqué stated that the negotiations would proceed on the basis of a division of subsidies into three categories: prohibited subsidies, subsidies that were permitted but could prompt a response (a challenge before GATT or countervailing duties), and finally subsidies that could not prompt any response. See GATT, Doc. MTN.TNC/7(MIN) of December 9, 1988.

²⁸ Canadian proposal, GATT, Doc. MTN.GNG/NG10/W/25 of June 28, 1989. See as well Patrick J. McDonough, *Subsidies and Countervailing Measures* (Deventer: Kluwer, 1993), pp. 48-49.

²⁹ See Hart, *Canada-United States Working Group*, pp. 45-46. This mentions as well the main authors and works providing proposals to improve the trade remedy mechanism.