

Elements of the Canada-U.S. Free Trade Agreement

This section highlights the elements of the Agreement that are particularly important for Canadian minerals and metals trade.

Trade Remedies and Dispute Settlement

Creation of a unique dispute settlement mechanism that provides for the impartial application of U.S. antidumping and countervailing duty laws is important for Canada's minerals and metals industry. Canada may seek a review of an antidumping or countervailing duty determination by a bilateral panel with binding powers. This means that U.S. producers will continue to have the right to seek redress from dumped or subsidized imports, but any relief granted will be subject to challenge and review by a binational panel, which will have the right to determine whether the existing laws were applied correctly. As well as bringing greater discipline to U.S. trade remedy laws, it also promises a more expeditious examination than the present lengthy process through the U.S. court system. Findings by the tribunal will be binding.

During the course of negotiations on the Agreement, both countries devoted considerable attention to the matter of subsidy practices for the primary sector. Studies by both countries reveal that governments throughout the world, including the United States, commonly influence resource allocation in the primary sector, and that the mechanisms and reasons for achieving particular socioeconomic objectives vary widely. In Canada, as well as in some of the more remote parts of the United States, regional development has been frequently linked to mining and mineral processing. The Agreement does not inhibit Canada's right to support mineral development in all regions of the country.

No agreement was reached in the time available on new rules and disciplines affecting subsidies and unfair pricing practices. Nevertheless, the Agreement provides that the two governments will work toward establishing a new regime to address problems of subsidization and dumping, to come into effect no later than the end of the seventh year. The goal of any new regime will be to obviate the need for border remedies, which are now sanctioned by the GATT Subsidy and Countervail Code, by developing new rules on subsidy practices and relying on domestic competition law to cope with dumping.

In addition, other trade remedy legislation will be subject to the dispute settlement mechanism and in the case of safeguards, new restrictions have been imposed. For example, should global safeguards be taken by one country, the other country will be excluded unless imports from the latter are substantive and are causing significant injury. Even in the case where these two conditions are met and one country takes a safeguard action, the exports of the other country cannot be reduced below the volume over a representative period with an allowance for growth.

Tariffs and Rules of Origin

As explained in Appendix A, the Agreement provides that all bilateral tariffs will be removed either immediately on January 1, 1989, or phased out over five or 10 years. For specialty steels, removal begins on October 1, 1989. Appendix B summarizes tariffs for nonfuel minerals and metals and shows the phase-out periods. There are no bilateral tariffs on coal. For most minerals and metals, the tariff phase-out period is five years; for some the phase-out is immediate and for still others the period is 10 years.