

at the injury stage. In any event, because injury determinations are not primarily discretionary or legal in nature, it seems likely that the U.S. Government would object to this proposal.

3. Proposals Relating to Presidential Determination of Relief

The Presidential determination of relief is highly discretionary and subject to influence by a wide variety of political factors. Nonetheless, the FTA could provide guidelines for Presidential determinations involving Canadian exports. Setting forth such guidelines would not require an amendment to the U.S. statute.

Specifically, the FTA could include an "anti-sideswipe" provision encouraging the President to exclude Canadian exports from relief measures when the Canadian exports at issue are themselves not a substantial cause of the injury to the U.S. market. The U.S.-Israel FTA contains such a provision, which provides:

"3. When, in the view of the importing Party, the importation of a product from the other party is not a substantial cause of the serious injury or threat thereof . . . , the importing Party may except the product of the other Party from any import relief that may be imposed with respect to imports of that product from third countries, taking into account the objective of achieving bilateral free trade as embodied in this Agreement, the domestic laws and international