

## U.S. Unfair-Trade Legislation

In the absence of changes in Canadian trade policy, U.S. trade laws aimed at penalizing perceived unfair competition from exporters abroad -- known as "unfair trade laws" -- create pressures on Canadian policies. Complicating the picture is the fact that the United States tends unilaterally to define what constitutes "unfair trade". Given the current protectionist climate in Congress, it is no longer only unreasoned hysteria that makes one wonder how soon the United States will decide that Canada's unemployment assistance, health and welfare policies, or domestic regulatory policies are unfair trade practices and apply legal sanctions against them.

Subsidies and countervailing duties: The main policy instrument U.S. legislators employ to counteract perceived foreign subsidies is the application of countervailing duties. This is now one of the most contentious issues in Canadian-U.S. economic relations. The United States has developed a mechanism that investigates the subsidy practices of other countries and levies countervailing duties on imports to the extent of the subsidy when material injury -- or the threat of such injury -- to a U.S. domestic industry has been demonstrated. For the purpose of U.S. legal procedures, it does not matter whether the subsidies take the form of grants, low-interest loans, government equity infusions, tax incentives, or other measures. Since 75 percent of Canadian exports are shipped to the United States, U.S. countervailing practices have much greater significance for Canada than for other industrial countries.

The evolution of U.S. trade legislation and its interpretation by the courts over the last two decades has resulted in a broadening of the definition of subsidy in U.S. law. This was first illustrated by the Michelin