

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

This section highlights the elements of the Agreement that are particularly important for Canada's forest industry.

Dispute Settlement in Antidumping and Countervail Cases

The establishment of a binational dispute settlement mechanism for antidumping and countervail duty cases is particularly important to the forest products sector, given its fairly recent experiences with softwood lumber and the possibility that similar actions could be undertaken in the United States against other forest products. This mechanism provides for the impartial application of each country's anti-dumping and countervailing duty laws.

Each country continues its right to apply its own trade remedy laws. This means, for example, that both Canadian and U.S. producers will maintain their rights to obtain remedies from injury due to dumped or subsidized imports. As a result of this agreement, however, Canada will be able to seek a review of the resulting decisions by a binational panel with binding powers. Such a panel will determine whether the existing laws were applied correctly. Besides bringing greater discipline to U.S. trade remedy laws, this dispute settlement mechanism also provides for more expeditious review of a decision than is now available under our respective judicial systems. In addition, amendments to existing antidumping and countervail duty laws will apply to the other country only if specifically named; prior notification of such amendments must be given; and if such amendments are deemed by either country to be contrary to the objectives of the Free Trade Agreement or the GATT, a review by a dispute settlement panel may be requested.

The creation of a new dispute settlement mechanism that brings greater discipline to the application of U.S. antidumping and countervailing duty laws is a major advance over the current system and is of critical importance to Canada's forest industry. No agreement was reached during the negotiations on new rules and regulations on government subsidies and unfair pricing practices. In particular, the Agreement does not constrain Canada's rights to develop and maintain forestry resources in all regions of the country. The Agreement does stipulate that the two countries will establish a working group which will negotiate, within a maximum of seven years, a substitute system of rules for dealing with government subsidies and unfair pricing practices.

Although the Free Trade Agreement will not deal with previous countervailing duty issues in the forest sector such as the softwood lumber case, it will go a long way to ensure that these types of disputes are, in future, brought to a conclusion based on existing laws. A particular difficulty in the softwood lumber dispute was the new interpretations being given to alleged resource subsidies under U.S. trade laws. Canada could take such unilateral revisions in interpretation to a binding binational dispute settlement panel as a result of the Free Trade Agreement.

The Agreement will not alter the ability of Canadians to manage their forest resources.

Tariffs

The Agreement provides that all tariffs between Canada and the United States will be removed either immediately on January 1, 1989, or phased out over five or 10 years. Existing tariffs on most forest products will be eliminated in five equal annual steps.