

If industry in one jurisdiction is paying substantially less than the full local cost of publicly regulated inputs (water, for instance) that are environmentally sensitive from a more local viewpoint, and if foreign competitors are obliged to pay the full or proportionally closer to the full cost of the resource in a second country, then the latter faces a competitive and arguably an unfair disadvantage. If the below-cost practice in the first jurisdiction is applied generally and is not firm or industry specific, then it is not actionable under current international subsidy/countervail disciplines. And carefully defined disciplines in this area are a long-standing Canadian trade policy objective, in order to limit the scope for unilateral rule-making by major trading partners, including the U.S.

Nonetheless, a fresh look would be useful. Methodologies exist to measure the cost of local inputs such as water, or the handling of wastes. If a government consistently charges its non-household users less than the full cost of such inputs, there is a strong economic and environmental case that the difference between the price charged domestically and the real local cost represents a trade and investment distorting incentive that should be "countervailable" in another jurisdiction (or, put another way, subject to a TREES). In recognition of the local (rather than global) environmental impact, the use of a TREES could be conditioned, in order to ensure discipline in its use, on a given good being traded and causing injury to a competitor abroad, net of any short-fall between the price charged and the full cost of the same input in the import market for the producer of the like good.⁶⁶

The implications of this approach for Canada if extended to the pricing of all environmentally sensitive inputs (e.g., related to forestry management practices such as stumpage, and electrical utility rates) would require careful scrutiny. Moreover, the exception to the "general availability" rule should occur only when sound environmental practice is undermined (e.g., failure to charge full cost for environmentally sensitive inputs), not when an instrument is used to achieve better environmental performance (e.g., various general tax incentive programmes).

Finally, generally available, government-financed social programmes (e.g., the national health care system, unemployment insurance, etc.) must remain exempt from challenge, even if the general availability principle were changed in the case of

⁶⁶ It may be that the full internalization of environmental costs could lead to a higher price for the end product than would otherwise be the case. In addition to a realignment of trade patterns in favour of those who can produce efficiently at the higher level of internalization, this result could also lead to slower trade growth until innovation overtakes the cost of internalization through more efficient (and environmentally sound) production processes and distribution practices.