

contingent protection system has provided a system of private rights to domestic industries. Rights, once given, are very difficult to take away. The administration is not likely to surrender its GATT-approved escape valve for domestic protectionist pressures.

As an alternative to a blanket exemption of bilateral trade from the application of antidumping or countervailing duties, the Royal Commission on the Economic Union and Development Prospects for Canada proposes binational administration of these procedures for bilateral trade, with both countries retaining their own procedures for imports from third countries.<sup>34</sup> However, this proposal would have administrative costs and is unlikely to be acceptable to the U.S. Congress for the reasons cited above. Even if it is possible to negotiate binational administration of unfair trade remedies, key questions would remain about the criteria for application of these remedies.

It likely would be more fruitful for Canada to propose some specific, incremental changes to the current U.S. trade regulation system. Canadian negotiators should focus on features of U.S. trade laws that are particular irritants for Canadian business and government policymaking. The negotiators could seek clarification of the criteria for application of U.S. trade remedies as well as tighter standards of injury and causation in the U.S. law.

A high priority for Canada is to obtain greater precision and certainty for the definition of subsidy in U.S. countervailing duty law. In cases such as Swine and Pork, the application of this test appears arbitrary. More particularly, the definition is in a state of flux as a result of the Gibbons bill and other bills pending in Congress. Since it is difficult to repeal legislation, clarification of the administration's interpretation of the definition of subsidy could foreclose the Gibbons or similar bills. If the Gibbons bill passes in the House, it would be extremely difficult to overturn through bilateral or multilateral negotiations.