



News Release

Communiqué

ERRATUM

News release No. 118
(June 9, 1992)

CANADA - U.S. TRADE COMMISSION
MEETS IN WASHINGTON, D.C.

The last paragraph on page 2
should read:

"The Commission noted that, despite a global recession, bilateral merchandise and non-merchandise trade had increased to \$256.8 billion (US\$224.1 billion) in 1991, up \$12.8 billion (US\$11.2 billion -- using 1991 exchange rate) from the 1988 figure of \$244 billion (US\$198.2 billion)."

The Canadian dollar exchange rate in U.S. funds for 1988 was \$0.8124; the 1991 exchange rate was \$0.8728.

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RÉUNION À WASHINGTON DE LA
COMMISSION MIXTE DU COMMERCE
CANADO-AMÉRICAIN

Le dernier paragraphe qui
commence à la fin de la page 2
devrait se lire comme suit :

«La Commission a souligné que les échanges bilatéraux sont passés de 244 milliards de dollars canadiens (198,2 milliards de dollars américains) en 1988 à 256,8 milliards de dollars canadiens en 1991 (224,1 milliards de dollars américains), soit une augmentation de 12,8 milliards de dollars canadiens (11,2 milliards de dollars américains - en utilisant le taux de change de 1991), malgré la récession qui sévit dans le monde.»

Le taux de change du dollar canadien en argent américain était de 0.8124 dollar en 1988; en 1991, il était de 0.8728 dollar.



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June 9, 1992

CANADA-U.S. TRADE COMMISSION MEETS IN WASHINGTON, D.C.

The Honourable Michael Wilson, Minister of Industry, Science and Technology and Minister for International Trade, and United States Trade Representative Carla A. Hills met today in Washington, D.C. to review recent developments in the implementation of the Canada-U.S. Free Trade Agreement (FTA).

This is the sixth regular session of the Commission, which is chaired jointly by the trade ministers of the two nations. The Commission meets at least once a year to review progress and discuss FTA management issues.

Today's meeting came as a follow-up to the visit by Prime Minister Brian Mulroney to Washington on May 20, when it was agreed that both countries would increase efforts to manage current trade issues and avert future disputes.

Minister Wilson and Ambassador Hills reviewed the full range of issues currently on the bilateral trade agenda and discussed ways of making further progress toward resolving outstanding disputes. Both expressed desire to see the recognition of new plywood standards this fall. This would mean the two countries could implement tariff cuts on plywood, waferboard, oriented strand board and particle board by the end of 1992. In 1991, Canadian exports of plywood and related products amounted to \$177.6 million (US\$155 million).

Minister Wilson and Ambassador Hills also announced that a Chapter 18 dispute settlement panel, established to consider the treatment of interest costs under the rules of origin in the FTA, has delivered its final report.

The panel was established to resolve a dispute over the treatment of non-mortgage interest on production facilities and equipment in the value-added formula for determining the eligibility of

goods for preferential FTA tariff treatment. Specifically, the panel decided:

"*bona fide* interest payments on debt of any form, secured or unsecured, undertaken on arm's length terms in the ordinary course of business to finance the acquisition of fixed assets such as real property, a plant, and/or equipment used in the production of goods in the territory of the Party, and that are subject to a determination based on the criteria specified in FTA Annex 301.2, are includable in the 'direct cost of processing' or 'direct cost of assembling' set forth in Article 304 of the FTA."

The panel also found that the existing U.S. interpretation of the treatment of such interest costs is inconsistent with the provisions of the FTA.

The panel recommended that the parties resolve the dispute by the adoption of such regulations and internal administrative procedures as may be necessary to implement the panel's determination. The panel also suggested that the parties may wish to consider the adoption of regulations and procedures that would address the particular problems of establishing an objective, traceable connection between a loan and production assets, the scrutiny of intracorporate loans, and the ascertainment of ordinary business practices.

The FTA provides that the Commission has 30 days to consider the report and reach a mutually satisfactory resolution of the dispute.

The Commission noted that, despite a global recession, bilateral merchandise and non-merchandise trade had increased to \$256.8 billion (US\$244.1 billion) in 1991, up \$12.8 billion (US\$11.2 billion) from the 1988 figure of \$244 billion (US\$198.2 billion).

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For further information, media representatives may contact:

Media Relations Office
External Affairs and International Trade Canada
(613) 995-1874

NOTE TO MEDIA

The attached backgrounder provides information on the ruling of the Canada-U.S. binational panel on the treatment of non-mortgage interest in determining tariff treatment under the Canada-U.S. Free Trade Agreement.

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AVIS AUX MÉDIAS

Le document d'information ci-joint fournit des renseignements sur la décision du groupe spécial binational de l'ALE concernant le traitement des intérêts non hypothécaires dans la détermination de l'admissibilité au traitement tarifaire prévu dans l'ALE.

Pour de plus amples renseignements, les représentants des médias peuvent s'adresser au :

Service des relations avec
les médias
Affaires extérieures et
Commerce extérieur Canada
(613) 995-1874

BACKGROUND

Decision of the Panel

The Chapter 18 dispute settlement panel on the issue of the treatment of interest costs under the Canada-U.S. Free Trade Agreement (FTA) rules of origin has endorsed the position taken by Canada. The report states that all bona fide interest payments on debt of any form, undertaken to finance the acquisition of real property, a plant and/or equipment, are includable as eligible costs in the FTA content test.

The decision of the five-member panel was unanimous.

Background to the Issue

This issue concerns what sort of interest costs are includable as territorial content for the purposes of the territorial content requirement in the FTA rules of origin. The issue first arose in 1989, and discussions between Canadian and U.S. officials over the following year failed to resolve the question.

On May 22, 1991, the United States moved unilaterally to issue an administrative decision, ruling that only interest costs paid in connection with a mortgage on real estate used to produce goods in Canada or the United States would be considered eligible. This position was subsequently reflected in U.S. Customs regulations published on January 22, 1992.

Canada took the view that the text of the FTA contemplated, and common business practice suggested, that all interest costs that could reasonably be related to the acquisition of land, buildings or equipment used in the production of the goods are eligible.

After additional attempts to find a satisfactory resolution of the problem proved fruitless, Canada requested a dispute resolution panel on January 6, 1992.

Resolution of the Dispute

Under Chapter 18 of the FTA, the panel submits its report to the Trade Commission, which has 30 days to consider it and reach a mutually satisfactory resolution of the dispute. For Canada, a satisfactory resolution will include the withdrawal of the U.S. administrative decision on interest and appropriate revision to the U.S. Customs regulations, effective January 1, 1989.

Implications for the FTA

The panel report demonstrates that the FTA dispute settlement mechanism works and works well.

Impact on Canadian Exporters

This decision is a key one for CAMI, the General Motors/Suzuki joint venture located in Ingersoll, Ontario, and will help the company to qualify its products for FTA tariff treatment on export to the U.S. However, this decision does not mean that CAMI's vehicles will necessarily qualify for FTA tariff treatment. That will depend on the outcome of the current U.S. Customs FTA audit of CAMI's exports.

The issue is also an important step down the road toward a positive resolution of the Honda issue. The panel's comments on the meaning of the term 'direct cost of processing,' as it is defined in the FTA, addresses one of the issues that have arisen in the Honda audit. However, there are other major issues yet to be resolved in that case. Canada is pursuing those other issues with equal vigour in a separate Chapter 18 proceeding under the FTA.

The importance of the decision is not restricted to the auto sector. The provisions of the FTA rules of origin that were in dispute are of general application and apply to a broad range of industry sectors, not just the automotive sector. This is a significant decision, in terms of protecting the rights of Canadian exporters under the FTA.