

## TRADE POLICY DEVELOPMENTS

### THE URUGUAY ROUND OUTCOME REMAINS UNCLEAR

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When the major trading nations of the world signed the *Punta del Este Declaration* in 1986, launching the Uruguay Round negotiations, it was well understood that the Round would be the most ambitious and therefore the most difficult of the eight GATT Rounds. Nevertheless, the degree of difficulty and political acrimony that has plagued the Round in its final two months exceeds even what was predicted. To date, no progress has been made in the agriculture talks, and the services agreement suffered a serious set-back when the U.S. demanded the removal of a most-favoured nation (MFN) provision from the text. Because the United States, Australia, Canada and approximately 60 less developed countries consider the agriculture talks to be the key to the success of the Uruguay Round as a whole, it is becoming increasingly clear that the Round will fail unless significant intervention from the highest political levels occurs.

The continuing agriculture dispute that threatens the Round as a whole has essentially pitted the EC against the world. A vast majority of agricultural exporting countries favour extensive cuts in internal supports, import barriers and export subsidies. For example, the United States and the Cairns Group (a 14-member coalition of agricultural exporting countries including Australia, Argentina, Brazil, Canada, New Zealand, Chile, Colombia, Hungary, Indonesia, Malaysia, the Philippines, Thailand, Uruguay and Fiji) suggested a 75 percent reduction in internal supports and import barriers and a 90 percent reduction in export subsidies with only minor differences between them. Canada, in a split from the Cairns Group, submitted its own proposal of

a 50 percent cut in the internal supports and import barriers and a 100 percent cut in export subsidies. The EC submitted a proposal that was not even considered negotiable by the ambitious agriculture group, and has not budged from its plan since submitting it.

The EC plan would cap the reduction of farm supports at 30 percent over the ten-year period beginning in 1986, with no provision for lowering export subsidies. The EC forecasts a 22 percent drop in supports over the next six years as a result of the plan (i.e., after taking account of cuts since 1988), but the U.S. and Cairns Group countries charge that the total future cuts will fall between 10 and 15 percent.

The EC bases its proposal on an aggregate measure of support (AMS) system that reduces farm supports while ensuring comparability between support systems. The EC argues that its common Agriculture Policy is an integrated system of support in which all subsidies must come down equally. There, AMS lowers certain subsidies and production while raising others to "rebalance" the reductions as a whole.

A Cairns Group representative labelled the EC's plan as a "fundamental non-starter" while United States Representative Carla Hills attacked the plan for its complete failure to address export subsidies, which she considers to be the most damaging form of subsidization. She further criticized the EC's "rebalancing" proposal saying, "We can't tolerate rebalancing. I'm not in the business of creating trade barriers."

The services negotiations reached crisis status when the United States announced that it would not agree to an unconditional most-favoured nation (MFN) obligation in the services text. MFN would require that any benefits extended to one member of the GATT be extended to all members of the GATT. U.S. officials, who have been the target of intense lobbying by various domestic service sectors, have expressed fears that "free riders" would reap the benefits of a broad services

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pact without liberalizing their own markets. The U.S. plan would condition granting MFN status on market access standards. U.S. negotiators proposed the plan as a "cleaner" alternative to excluding numerous sectors from the final agreement. (The U.S. has sought to exclude the maritime, aviation and telecommunications sectors, while the EC has sought to exclude trucking, telecommunications and audiovisual services from the pact.) It appears that the United States stands alone on the MFN position but if MFN is not written into the text, the chance of a services agreement in the GATT is "very very small".

While the success of the services talks has not been linked to the success of the Round, failure in this area would deliver a sharp blow to the strength and credibility of the GATT. The failure to negotiate a services text would limit the GATT to trade in goods, thus omitting international rules for a large and growing area of trade.

The failure of the Uruguay Round could send world trade spiraling back into protectionism, with billions of dollars of increased trade lost. At the least, regional arrangements will become the focus of attention, with considerable trade distortion as a result. Heads of state will have to step in personally at the upcoming ministerial meeting to make the difficult policy decisions that will complete the Round and complement the GATT.

### U.S.-CANADA FREE TRADE AGREEMENT

#### Integral Horsepower Induction Motors From the U.S.

A bi-national panel initiated under chapter 19 of the *Canada-U.S. Free Trade Agreement* will review a Canadian International Trade Tribunal (CITT) finding of material injury by imports of integral horsepower induction motors from the United States. The CITT finding was originally made in 1983, but was continued in a ruling issued on October 20, 1990. The review was requested by Baldor Electric Co., Dryden Agencies Ltd., and Canadian Electro Drives Ltd. This is only the second request for a chapter 19 panel review of a Canadian decision (the first request was withdrawn).

### United States Trade Laws

#### U.S.-EC Meat Dispute

Recent meetings between United States and European Community officials have failed to resolve the growing dispute over the EC ban of U.S. pork imports. The dispute is the result of an EC decision to ban imports of pork products from nine U.S. slaughterhouses for failure to meet EC health standards. The EC has also announced that it will ban beef imports from these slaughterhouses beginning January 1, 1991. The EC imports approximately \$10 million per year of various meat products from the United States; pork product imports totaled approximately \$7.5 million from 1987 to 1989. The United States is considering retaliation against various EC exports (as it did to the tune of \$100 million when the EC banned U.S. exports of hormone treated beef) or specifically retaliating against EC meat exports.

#### Section 301 Copyright Complaint – Thailand

The Motion Picture Export Association, the Recording Industry Association of America and the International Intellectual Property Alliance jointly filed a section 301 complaint against Thailand for its failure to prosecute alleged audio and video pirates. The petition charged that 90 to 95 percent of the Thai market for U.S. video and audio recordings results from copyright piracy, costing the U.S. industry from \$70 million to \$100 million annually.

#### Antidumping Scope Determination of Portable Electric Typewriters from Japan – "Later-Developed Product"

The International Trade Administration (ITA) issued its final ruling that certain later-developed personal word processors (PWP) fall within the scope of the antidumping duty order on portable electric typewriters (PETs) from Japan. This is the first ruling under the 1988 *Trade Act* provision allowing the ITA to extend antidumping orders to "later-developed products". The ITA set seven criteria for determining whether or not a PWP falls within the same class or kind as PETs:

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- easily portable;
- electric;
- single, integrated unit;
- built-in keyboard;
- built-in printer;
- platen (roller); and
- only accommodates its own dedicated software.

### Silicon Metal from Brazil

The ITA has issued a preliminary determination that Brazilian income tax exemptions for export earnings and preferential rate export working capital confer only minimal benefits to producers and exporters of silicon metal. The ITA's final determination is due on February 4, 1991.

### Benzyl Paraben from Japan

The ITC has determined that imports of benzyl paraben from Japan are being sold at less than fair value in the United States. The final results show a dumping margin of 126 percent for Ueno Fine Chemicals Industry Ltd. and all others. The determination was based on best information available, since Ueno failed to respond to the ITA request for information.

## CANADIAN TRADE UPDATE

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### Effect of Liberalized Trade on the Canadian Agrifood Industry

The Competitiveness of the Major Canadian Food Processing Industries and their Ability to Respond to Changes Resulting from the FTA

Overall, Canadian food processing facilities, particularly those in canning, have higher production costs than those in the U.S. The

difference in processing competitiveness is attributable to a combination of higher raw product costs, higher can and packaging costs, smaller plant scale and, in some cases, outdated equipment. The plant scale differential is felt to be the most important in those product areas, such as ketchup and paste, which are high volume, mass production operations. In basic frozen and canned foods, (e.g., frozen vegetables), the Canadian scale of production is not as much of a drawback. The input cost differential is felt to be most critical in canning where some Canadian firms pay 10 to 15 percent more for cans.

In an increasingly liberalized trading environment, food processing firms will have to make substantial capital investments in their facilities. Smaller firms will be coming under competitive pressure, and the industry is likely to see a consolidation of production, particularly in canning.

Cans and other packaging materials are likely to become more competitively priced in Canada as the current tariffs, in the ten percent range, are removed.

Assuming that they are able to obtain raw ingredients at competitive prices, processors believe that they will be able to address both the processing and packaging cost gaps to a sufficient degree to remain competitive under liberalized trade with the U.S. Clearly, then, a critical factor to maintaining the competitiveness of the Canadian industry will be the ability to obtain agricultural inputs at competitive prices.

### Agricultural Input Costs

Raw agricultural commodities must be competitive for all processed food products losing their tariffs and other forms of protection. Otherwise the higher agricultural input costs will make it difficult for Canadian processing operations to compete against their U.S. counterparts.

A significant segment of Canada's food-processing industry using Canadian chicken, turkey, cheese, fruit and vegetables has indicated that it will be placed in an uncompetitive position once tariffs on processed foods from the United States are eliminated. Unlike other industrial

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sectors in Canada, food processors are obliged to purchase certain raw materials at prices determined under supply-management and marketing board systems rather than at prices established by the competitive forces of the marketplace.

Since food processors in the United States obtain their raw materials at prices which are not influenced by similar pricing and production systems, Canadian processors maintain that they will be at a competitive disadvantage in the manufacture of further processed products in a duty-free environment. Under the *FTA*, supply-management systems and marketing boards which influence the price of Canadian inputs, such as chicken, will remain in place.

The major elements of the *FTA* affecting the agricultural sector are as follows:

- Most agriculture and processed food tariffs will be removed in ten annual steps starting on January 1, 1989.
- In the case of fresh fruit and vegetables, a "snap-back" provision exists to reinstate tariffs on a temporary basis over the next twenty years should import prices fall below predetermined levels.
- Canadian import licences on U.S. wheat, oats, and barley and their products are to be removed once the level of U.S. government support for the respective grains is equal to or less than the level of government support in Canada.
- The *FTA* preserves Canada's agricultural policy instruments such as the establishment of supply-management mechanisms including import controls.
- Canada's global poultry imports quotas, expressed as a percentage of domestic production, will be increased to reflect actual imports over the last five years, as follows: chicken from 6.3 to 7.5 percent, and turkey from 2.0 to 3.5 percent.

Under the supply-management system, Canadian production of chicken, turkey, and milk is controlled through national production quotas administered by provincial agencies. The integrity of the system is preserved by limiting imports by means of the Import Control List (ICL). In the case of milk, imports are permitted only when there are proven shortages of supply. For

significant dairy products such as cheese, a global quota has been established which limits imports to predetermined levels.

The following paragraphs deal with the specific problems facing processors of poultry, dairy, fruit, vegetables, and wheat. Processed products that use supply-managed raw inputs (namely poultry and dairy) are examined first, then the problems facing processors who use fruit, vegetables and wheat.

### Poultry

#### Global Import Quotas Established for Chicken and Turkey

Within the poultry processing industries, it is necessary to distinguish between two levels of processed products, primary processed and further processed products. Primary processed products essentially contain a single primary ingredient. Examples include chicken nuggets and cut-up chicken. Further processed products are more highly formulated foods which add a number of ingredients to those that are regulated. Examples include frozen entrées and dinners which contain poultry.

Imports of primary processed products are restricted under the Import Control List, but imports of further processed products are not.

In effect, over 98 percent of domestic chickens and turkeys go into primary processed products such as whole and cut-up poultry, chicken fingers, and nuggets. The remainder (less than two percent) goes into further processed products such as chicken Kiev, frozen entrées, and TV dinners. These products are considered a growing sector of the market. Under the *FTA*, the duty on both primary and further processed products will be phased out over ten years. However, primary processors are somewhat more protected than further processors because imports of the primary processed product will continue to be included on the Import Control List and limited by global import quotas.

The greatest concern of further processors of poultry is their inability to obtain poultry at the same price as their U.S. competitors. Further processed poultry products cost substantially

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more to produce in Canada than equivalent U.S. goods. Poultry can represent from 40 to 60 percent of the direct product cost of frozen entrées, and up to 80 percent of the direct product costs in the case of chicken Kiev. On a five-year average, according to Agriculture Canada data, Canadian wholesale prices for chicken, as mentioned above, have been about 40 per cent higher than prices in the United States, while turkey prices have been 38 per cent higher. These cost disadvantages were previously offset by tariff protection of 17.5 per cent on frozen dinners and pies, and 12.5 per cent (to a maximum of 22 cents per kilogram) on chicken kiev. Processors fear that this price gap will prevent them from being competitive in a more liberalized trading environment.

Increases in import quotas for chicken and turkey were negotiated under the *FTA* and, in the allocation of these increases, the government granted further processors first priority. This will ease the access of further processors to competitively priced inputs, but it is a temporary solution. It does not address the concern of processors needing the long-term assurances of competitively priced supply.

### Dairy

The federal government has established a Dairy Task Force to look at the issues facing the dairy industry and make recommendations to the Minister of Agriculture on policies for the future. The Task Force is currently conducting regional hearings and is to report to the Minister in December 1990.

Supplies of all milk, including industrial milk, are controlled by a supply-management arrangement which includes quotas and import restrictions. This has been partly responsible for higher prices of cheese and other milk products in Canada than in the United States.

Canada has exercised control over the import of milk products since the 1950s. Annual quotas are established and import permits are issued for only a few products. For example, the annual quota for cheese was set at its present level of 20,411 metric tonnes in 1978.

Canada introduced global import quotas on ice cream and yogurt in 1989. Unlike the cheese

quota, which is fixed, these quotas change as the percentage of industrial milk production in Canada changes. The quotas for 1990 were 332 metric tonnes for yogurt and 347 metric tonnes for ice cream.

Article XI(2)(c)(i) of the *GATT* establishes the principles under which a country can protect its domestic industry through quantitative border restrictions. In 1989, a *GATT* panel found that the Canadian restrictions on ice cream and yogurt did not conform to this article. Canada has stated that it will examine ways of bringing these quotas into conformity with the *GATT* in light of the decisions taken in the Uruguay Round. Canada is seeking necessary amendments to strengthen and clarify article VI – with respect to what constitutes effective supply management and products eligible for import quota coverage.

For companies wishing to export cheese and other dairy products to Canada, obtaining quota is not an easy thing. In Canada, the right to import products subject to quota has been allocated to importers with a record of imports before the imposition of quota. The cheese quota is fully used and the quota allocation to importers has been largely unaltered since the quota was established.

### Price of Inputs Represents Serious Question for Dairy Processors

The existing pricing system presents particular problems for dairy ingredient users. Dairy inputs are important components for many food processors, but Canadian processors often pay more for such inputs than their counterparts in other countries because of the supply-management system. Products such as frozen pizza and other frozen foods, soup, cheesecake and bakery products etc. are becoming increasingly subject to price competition from imports as Canadian tariffs are phased out under the *FTA*. The removal of tariffs on further processed products containing significant quantities of dairy ingredients will accentuate the cost advantage for U.S. processors. As well, the Uruguay Round may result in increased access to Canadian markets for the rest of the world.

For example, Canadian frozen pizza manufacturers maintain that they will be at a

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significant cost disadvantage under the *FTA*, since tariffs will be eliminated over the next ten years on their products but they will continue to pay higher prices than their U.S. competitors for mozzarella cheese. Cheese accounts for an estimated 40 percent of the direct production cost of pizza, and the Canadian price for mozzarella cheese is currently some 30 percent higher than the U.S. price.

### Fruit and Vegetables

Canadian fruit and vegetable processors pay higher prices than processors in the United States for most fresh inputs.

Most fruit and vegetables in Canada are covered by provincial marketing boards which ensure the orderly sale of raw products on behalf of the producers. A minimum price is negotiated between a representative group of processors and growers.

Fruit and vegetable processors in Canada have been able to pass on the extra cost of inputs to consumers, since their products are protected by tariffs in the 10 to 15 percent range. However, once tariffs on processed products are phased out under the *FTA*, the processors will no longer be able to pass on this extra cost. If prices of raw product continue to be significantly above U.S. levels, the Canadian fruit and vegetable processing industry will be at a competitive disadvantage compared to the U.S. industry. This may lead to the closing or relocation of plants.

For example, in 1986, domestic negotiated prices for tomatoes averaged 25 per cent above their U.S. raw price equivalents, according to a study commissioned by nine major Canadian food processors.

Competitiveness for these processors in a more liberalized trading environment could be achieved by ensuring that processors have access to raw materials at North American equivalent prices. At the same time, more efficient plant operation by processors would also help their competitiveness. Canadian industry may have to rationalize production to achieve economies of scale where possible.

### Wheat

Biscuit manufacturers and pasta producers have expressed concern about the pricing practices of the Canadian Wheat Board. They have indicated that they are at a disadvantage compared to their U.S. competitors because of the lack of flexibility of the Canadian price-setting mechanism.

Prior to 1988, Canada had a two-price wheat policy under which Canadian flour millers, bakers, and other food processors paid a higher price for wheat used for domestic food processing. As of 1 August 1, 1988, the two-price system was eliminated in favour of a single price, established by the Canadian Wheat Board for a fixed time period of 60 or 90 days and based on prices in the U.S. commodity markets.

While Canadian food processors see establishing a single price for wheat as a positive step, they continue to have serious reservations about the mechanism the Canadian Wheat Board uses to set its price. This is because U.S. users can procure wheat at prices quoted on the U.S. commodity exchanges at the time of purchase. The result is that prices for wheat continue to be higher in Canada than in the United States. These higher prices for Canadian wheat have a direct impact on food processors with milling facilities and an indirect impact, through the price of flour, on those without their own milling facilities.

Initiatives are underway to consider the feasibility of adopting the daily price quotation on the U.S. commodity exchanges. These discussions are in anticipation of the removal of Canadian import controls on wheat, which could occur over the next two years. As indicated above, under the *FTA*, Canadian import licences on U.S. wheat, oats, and barley and their products are to be removed once the level of U.S. government support for the respective grains is equal to or less than the level of government support in Canada. Once the Canadian import controls are removed, the Wheat Board will set domestic daily prices based on the prices quoted on the U.S. commodity exchanges. Canadian users will then be able to buy wheat at the same cost as their U.S. competitors.

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**Agriculture and the GATT****Canada's Proposal**

The success or failure of this round of *GATT* negotiations will largely depend on whether an agreement can be reached among members on the thorny issue of agriculture. Canada, the United States and the EC have all submitted their offers on agriculture.

Canada made its offer to the *GATT* on October 15, 1990. It calls for a 100 percent elimination of export subsidies; a 50 percent reduction in trade-distorting internal subsidies (which could include grain subsidization programs); a one-third reduction in tariffs; the conversion of all import prohibitions (except import controls on supply-managed products) to tariff equivalents and reduction by 50 percent over 10 years; and a clarification of article XI of the *GATT*.

The purpose of the offer is not to stop governments from supporting agricultural production but to encourage them to provide support in a less trade-distorting way.

**100 Percent Reduction in Export Subsidies**

Under the Canadian offer, new government funded subsidies would be prohibited and all existing subsidies would be phased out over the transition period. Canada hopes to end the export subsidy war between the U.S. and the EEC, to allow farmers to compete fairly in the international markets. As long as the subsidy war exists, Canada is forced to subsidize grain exports in order to remain competitive in traditional markets. For example, in 1988, the federal government announced a \$1 billion program for grain producers to compensate for losses on the international market. The reality is that Canada is a major exporter of grains and cereal (85 percent of production) and cannot afford to finance a price war on the international market for grain.

Recently the United States announced a new export subsidies program which could adversely affect Canadian wheat exports. International prices of wheat have been dropping because of a number of events, including a bumper crop. The

U.S. Senate recently passed a bill regarding agricultural acreage reduction programs (ARPs) with an amendment which would allow the U.S. administration to subsidize U.S. wheat exports if competing countries don't have an acreage reduction program (which is designed to reduce production after a bumper crop year). Canada does not have an ARP and, therefore, could be the target for use of U.S. Export Enhancement Program (EEP) funds which subsidize U.S. wheat exports and lower global prices. The EEP was originally designed to discourage European Community export subsidies and has been repeatedly attacked by Canada and Australia, both major grain exporters without export programs.

Canada has condemned the use of the EEP against Canadian wheat exports as a violation of article 701 of the *FTA* which prohibits the use of export subsidies and article 701.4 which states that each country shall take into account the export interests of the other.

**Reduction of up to 50 Percent in Trade-distorting Internal Subsidies**

Canada's offer consists of a traffic-light approach toward internal subsidies. Green internal support programs would not be subject to reductions and non-green support programs would be subject to negotiated reductions (according to criteria to be determined). There are a number of Canadian programs for producers that will have to be put on the bargaining table to get improved access to world markets for Canadian farm products.

Canada intends to negotiate criteria defining green programs to include safety measures and support programs generally available to the agricultural sector such as farm income safety nets, crop insurance, disaster relief, farm credit and environment and conservation measures. These green internal support programs would be allowed and encouraged.

The non-green category could include the western grain subsidization program, western grain transportation subsidies, and Crow benefit. However, the programs which will fall within this category remain to be negotiated. Non-green category of measures would gradually be reduced

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by up to 50 percent for each commodity or commodity group over the ten-year transition period.

It is important to note that the offer is subject to Canada maintaining flexibility in terms of the precise mix of programs to be adjusted as a result of the negotiations. Canada retains the right to support agriculture in a non-trade-distorting way.

### One-Third Reduction in Normal Tariffs

Existing tariffs on agricultural products are to be reduced by one-third with no rate being higher than 20 percent at the end of the ten-year transition period.

All import prohibitions, variable import levies and other NTBs (except import controls on supply managed products such as turkey, eggs, chicken and dairy) would be converted to tariff equivalents which would be reduced over the transition period by 50 percent or to a ceiling rate of no higher than 20 percent, whichever is lower. These other measures are NTBs that are not consistent with the *GATT*, such as U.S. controls on sugar, EEC variable import levies and, in the case of Canada, import prohibitions on margarine and the import licensing system for wheat and barley products.

### Clarification of Article XI of the *GATT*

The Canadian offer requests clarification and strengthening of article XI of the *GATT* in respect of quantitative restrictions necessary for the enforcement of government measures which restrict domestic production.

Article XI allows countries to control imports in support of effective domestic production or marketing control programs for agriculture. Article XI provides that no prohibitions or restrictions (whether made through quotas or import licenses) shall be instituted on the importation of products. Paragraph 2(c) contains an exception for all import restrictions on any agricultural or fisheries product imported in any form necessary for the enforcement of governmental measures which operate to restrict the quantities of like domestic product allowed to be produced.

In early 1988, Canada set quotas for imports of ice cream and yogurt products by adding them to the Import Control List. Canada restricted a number of dairy products in conjunction with its domestic milk supply-management programme for raw milk. In December 1988, the U.S. requested that a *GATT* panel be established to examine whether Canada's requirement for import permits for ice cream and yogurt products was in violation of its obligations under article XI:1 of the *GATT*.

Canada maintained that the actions taken to place quantitative import restrictions on ice cream and yogurt were consistent with its obligations under article XI. The panel held that the Canadian restrictions were not consistent with the *GATT* provisions.

The panel found that ice cream and yogurt do not meet the requirements of article XI (2)(c)(i) for "like products in any form" to Canadian raw milk because they do not compete directly with raw milk, nor would their free importation render ineffective Canadian measures on raw milk production. The panel recommended that Canada terminate restrictions or bring them into conformity with *GATT*. Canada is waiting until the end of the Uruguay Round to decide whether to remove these food products from the Import Control List.

It was in response to the ice cream and yogurt decision that Canada tabled its proposal for clarifying the use of article XI(2)(c)(i) in respect of quantitative restrictions necessary to the enforcement of governmental measures which restrict domestic production or marketing of agricultural products.

Canada's proposal is to strengthen article XI through an interpretative note which would define the term "wholly or mainly" in determining the product coverage of controls on processed products. The potential product coverage for the application of import restrictions in terms of processed products would be determined by a requirement that the import restrictions be limited to those processed products which are made "wholly or mainly" from the fresh product under domestic supply control. "Wholly or mainly" would be defined by an agreed list of designated products and by a negotiated minimum percentage of the fresh product under domestic supply control, which Canada proposes should be 50 percent.

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### U.S. and EC Agricultural Proposals

On balance, the Canadian package offers a more ambitious approach to export subsidies while adopting a more protective stance on internal supports.

The U.S. offer calls for only a 90 percent reduction in export subsidies over ten years, but a 75 percent reduction in the most trade-distorting internal supports – those linked directly to the production or price of a specific commodity. Other supports would be cut by 30 percent.

The U.S. offer also adopts an ambitious approach to NTBs in agricultural trade, calling for their conversion to tariffs. Those tariffs and any of those already in place would be reduced on average by 75 percent over ten years.

The United States wants to curtail or eliminate the use of article XI. It is proposing to include article XI in the above-noted tariff proposal which would turn existing quantitative restrictions into tariff equivalents before phasing them out over time.

For any products now subject to non-tariff import barriers, a minimum access commitment would be set and then expanded by 75 percent over ten years using a tariff rate quota transition mechanism.

The EC offer is considerably more conservative than that of either Canada or the U.S. The offer finally tabled by the EC calls for a 30 percent reduction in farm subsidies over a ten-year period from 1986. Other agricultural exporting nations have criticized the EC offer as tepid, saying it amounts to another 15 percent reduction over the next six years.

The EC finally managed to get its offer on the table by promising France and Germany that the EC will cushion the impact of subsidy cuts on its ten million farmers.

### CANADA-U.S.-MEXICO FREE TRADE

On Monday, September 24, 1990, the Minister for International Trade advised the nation that Canada would be participating in trilateral free trade discussions with Mexico and the United States. The decision comes after months of consultations with the provinces, business and

labour representatives, and a series of studies which concluded that it would be in Canada's best interest to participate in the trade talks. The upcoming months will be devoted to deciding the scope, elements and procedures that will form the basis of subsequent negotiations to create a North American free trade market of over 350 million consumers.

Formalized trade with Mexico is not a new initiative for Canada. Over the last decade, Canada's trade with Mexico has grown and bilateral agreements have been concluded in several areas including customs administration, agriculture and livestock, forestry, environment, tourism and taxation. At present, Canada's exports to Mexico are largely composed of agricultural products (i.e., grains and oilseeds) and telecommunications and transportation equipment. Canadian imports from Mexico are mostly manufactured goods and agricultural products. Automotive goods, electronic equipment, appliances, office machines and data processing equipment account for over half of Mexican shipments to Canada.

There are several reasons behind Canada's decision to join the free trade discussions. First, Mexico has traditionally been a closed economy. However, the Salinas government has introduced numerous reforms to Mexico's trade, economic and investment policies. These reforms are geared towards liberalizing trade by removing restrictive government procurement policies and lowering trade barriers, and by creating an overall more favourable environment for foreign investment and imported goods. The move towards a free trade agreement is seen by the Mexican government as a powerful tool for modernizing its economy.

The Mexican economy is slowly beginning to open up to foreigners. For example, since joining the GATT in 1986, Mexican rates of import duty have fallen substantially. Direct foreign investment used to play a minor role in Mexican economic development, which was supported mainly by government borrowing. Now the government is encouraging foreign ownership in high-priority areas such as heavy machinery, high-tech and electronic equipment. However, certain activities continue to be reserved for Mexican investors such as ocean and air

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transportation, radio and television and most financial services, while other areas such as oil production remain subject to state control.

One government study has reported that Mexico has the potential to become an important export market for Canada in the future. Trade between the two countries is expected to reach five billion dollars in the 1990s. Of course, this is considerably less than Canada's current two-way trade with the United States in the amount of 200 billion dollars.

Canadian exporters are expected to gain from free trade with Mexico, particularly in the areas of telecommunications, environmental equipment and transportation. For example, Mexico has less than six million telephone lines serving a population of over 80 million. It has recently introduced a modernization program to double the number of telephone lines at a cost of over 12 billion dollars. Recent trade reforms have opened up the telecommunications market in Mexico to foreign companies, enabling Bell Canada to submit a bid to be part of this program.

The second reason behind Canada's decision to join the trilateral trade talks is the necessity for Canada to preserve and enhance its ability to compete and attract investment in the new North American market. Greater access to duty-free Mexican products will provide Canadian business with cheaper inputs, which will help improve Canada's export competitiveness. As well, Canada is more attractive to investors if it is part of a larger North American free trade market rather than a smaller Canada-U.S. market.

Third, Canada is a trading nation, and the most natural route for it to expand its trade flows is through the North American continent where transportation costs are relatively low and a communications infrastructure exists. As well, being part of a North American free trade zone will help Canada position itself better against the upcoming integration of the European Community in 1992.

A Canada-U.S.-Mexico free trade agreement could possibly cause some Canadian manufacturing facilities to relocate in Mexico, or could divert investment from Canada to Mexico by overseas or North American firms seeking to produce goods in North America. However, it is

important to remember that although wages may be lower in Mexico than in Canada, they are not always the decisive factor in locating manufacturing facilities. It is also necessary to consider other factors for which Mexico does not necessarily have a comparative advantage over Canada including labour productivity, the location of suppliers and markets, management and labour skills, and the quality of the telecommunications and transportation infrastructure. Nevertheless, the federal government has announced that there will be special protection for those labour intensive Canadian industries which could be adversely affected by an agreement, such as the Canadian footwear and iron and steel industries.

Low-cost Mexican labour is more readily available to American firms because of the close proximity of the two countries. For example, U.S. factories operating in a strip of land along the U.S.-Mexico border known as the *Mitiqua d'ora*, employ approximately 500,000 Mexican workers to produce inexpensive electronic goods, auto parts and other components with raw materials from the United States. These companies export finished goods back to the United States, and only the value added by the inexpensive Mexican labour is subject to U.S. tariffs.

It is also possible that a greater penetration of the United States market by Mexican goods could force American producers to increase exports to Canada. This in turn would put substantial pressure on Canadian producers to rationalize production and become more efficient in order to compete with the imported American products.

The negotiation strategies of the parties and target products will become clearer over the next few months as negotiations get underway. However, a few observations can be made at the outset. It is likely that Mexico will advocate the removal of all quantitative restrictions (i.e., tariffs and quotas) in Canada and the United States on those products where it has a comparative advantage, such as winter vegetables, steel and textiles. Canada and the United States may be reluctant to concede on these products as the domestic production of steel and textiles are politically sensitive issues for both countries. Mexico will also want services such as construction engineering to be included in any future agreement

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to be negotiated. Canada and the United States may be willing to include services in the agreement but it is highly unlikely that the United States will agree to have labour included as well.

### Canada U.S Trade Update

#### Supreme Court of Canada Upholds Corn Duty

In *Grain Corn from the United States*, the Canadian Import Tribunal found, on March 6, 1987, that the subsidizing of grain corn from the United States was causing and was likely to cause material injury to the production in Canada of like goods.

This finding has given rise to a number of appeals in the form of a public interest inquiry and appeals to the Federal Court of Appeal and the Supreme Court of Canada. However, in spite of the number of appeals, the decision remains intact.

The initial finding gave rise to the imposition of a countervailing duty on imports of grain corn from the U.S. of approximately CDN \$1.10 per bushel. Following the finding, the Tribunal, pursuant to the public interest provisions of the *Special Import Measures Act (SIMA)*, heard representations from a large number of parties including corn users and growers.

Following the public interest inquiry, the Tribunal issued the *Grain Corn Public Interest Report*, wherein it found that it was not in the public interest to impose countervailing duties in excess of 30 cents per bushel against subsidized imports of grain from the United States. The Tribunal reported that the imposition of the full amount of the duty, and its consequent impact on domestic corn prices, would have an adverse impact on Canadian corn producers in the form of reduced export sales, a loss of market share in the livestock feed industry to other coarse grain producers and a decline in sales to industrial users. Similarly, too high a level of duty was seen as increasing the risk for industrial users who rely on the Chicago Board of Trade's facilities for hedging risk in the commodity futures market.

The ultimate result was that on February 5, 1988, the Minister of State for Finance announced a reduction in the countervail duty on U.S. grain

imports from \$1.10 to 46 cents a bushel.

The finding of the Canadian Import Tribunal was later appealed to the Federal Court of Appeal which ruled that the Tribunal acted within its jurisdiction in determining that subsidized U.S. corn was a threat to Canadian production.

On November 8, 1990, the finding was further upheld on appeal to the Supreme Court of Canada. The Court held that, given the provision in the *SIMA* that the Tribunal's decisions are final and conclusive, the Court will only interfere with the Tribunal's ruling if it acted outside the scope of its mandate by reason of its conclusions being patently unreasonable. The Court found that the Tribunal acted within the scope of its mandate and made no error of law or fact which could warrant the Court's intervention. It was held not to be patently unreasonable for the Tribunal, in determining the existence of material injury under section 42 of the *SIMA*, to conclude that reliance should be placed on potential as well as actual imports. It was reasonable for the Tribunal to consider that the potential for increased imports properly formed part of the inquiry. In making this finding, the Court rejected the appellant's argument that a material injury finding must be met by an actual increase in imports.

In addition, the Court found that the Tribunal's conclusion that U.S. subsidization of imports had caused past, present, and future material injury to Canadian producers was not patently unreasonable. The Court found that there was evidence before the Tribunal to support its finding of a causal link between the U.S. price and the injury to the Canadian market. It was held to be not unreasonable for the Tribunal to infer, given the open nature of the Canadian market, that U.S. stocks not used for domestic consumption would have flowed into Canada in greater amounts.

#### Update on Binational Panel Reviews Under the FTA

Pending the development of a common substitute antidumping and countervailing duty regime, article 1904 of the *Free Trade Agreement* requires each party to replace domestic judicial review of final antidumping and countervailing determinations with binational panel reviews.

## CANADIAN COMPETITION POLICY RECORD

Panels have been criticized for not having any teeth and for not being what Canadians expected them to be when the *FTA* was signed. They are seen by some as having a very limited latitude to develop new trade law norms. They cannot correct inequities in either country's trade laws. As well, some have claimed initial suggestions that panels would be able to decide disputes on the basis of fairness and objectivity, and to develop a new kind of jurisprudence to shield Canadians from the rigours of U.S. trade laws, were simply not true.

Most of the criticism stems from the limited scope of review for panels. Exporters who feel aggrieved by a dumping or countervailing duty determination are not entitled to a new hearing before a bi-national panel. Rather, the panel will perform a judicial review function (based on the existing record) to determine whether the final determination was made in accordance with the laws of the importing country.

As well, panels are criticized for not having any teeth because they may not substitute their decisions for that of the relevant authority. They may only uphold a final determination, or remand it for action consistent with the laws of the importing country.

Given these restrictions, clearly the panels are not a panacea for Canadians facing U.S. trade actions. However, in spite of the criticisms, Canada has not done all that badly with them. Canadian exporters have been the primary users of the chapter 19 panel process. Of the 12 panels set up since 1989, ten have been initiated by Canadian complainants ( e.g., red raspberries, pork, new steel rails).

Canadians have had some successes before the panels. For example, in *Red Raspberries from Canada*, the ITA revised its dumping calculations to zero and minimal for two exporters and undertook to refund antidumping duties imposed on Canadian raspberries between June 1986 and June 1987.

With respect to *New Steel Rails*, even though one panel affirmed the ITC's material injury determination against subsidized exports of steel rails by Sydney Steel Corporation of N.S. and dumped steel rails by Algoma Steel Corporation, another panel did force the ITA to recalculate the

subsidy calculation, which had the effect of reducing the CVD rate from 112.34 percent to 94.75 percent *ad valorem*

In addition, one area where the panels have made an improvement is in the length of time between a request for review and a decision. Previously, judicial review or appeal proceedings in trade cases sometimes took years. Article 1904 contains specific time deadlines. A party must request a panel review of a determination within 30 days following the date of its publication. A final decision will be issued within 315 days of the date of which the request for the panel was made.

#### Binational Panel and GATT Panel Consider Fresh Chilled or Frozen Pork from Canada

In July 1989, the U.S. Department of Commerce (International Trade Administration (ITA)) imposed a countervailing duty on fresh, chilled and frozen pork from Canada.

The Canadian government, the Canadian Pork Council and others requested a review of the final countervailing determination against Canadian pork exports. The panel affirmed the ITA decision on the issue of whether it had properly applied Section 771B of the *Tariff Act* in counting subsidies to swine producers as subsidies to pork producers, but remanded countervailing determinations on several subsidy programs for reconsideration (e.g., Canada's National Tripartite Stabilization Program). The ITA must return to the panel with a reconsideration of its final subsidy determination.

The ITA determination has also been reviewed by a GATT panel established to determine the appropriateness of counting subsidies to swine producers as subsidies to pork producers. In November 1989, Canada requested the establishment of a panel to determine whether the countervailing duty on pork from Canada was consistent with article VI:3 of the GATT. Under article VI:3, the United States may impose a countervailing duty on pork only if it is determined that a subsidy has been bestowed on the production of pork; the mere fact that trade in pork is affected by the subsidies granted to swine producers is not sufficient. The subsidies granted to swine producers could be considered to be

## CANADIAN COMPETITION POLICY RECORD

bestowed on the pork production only if it benefitted pork producers with swine prices lower than those commercially available. The panel found that the ITA's determination that a subsidy had been bestowed on pork production was not in conformity with article VI:3.

The parties also requested that a bi-national panel be established to review the threat of material injury determination by the ITA. On August 24, 1990, the panel remanded the injury determination to the ITA for reconsideration because of the use of faulty statistics. On remand, the ITA readopted its original finding that subsidized imports of Canadian fresh frozen and chilled pork threaten to injure the U.S. pork industry. The panel must come to a decision on the ITA determination on remand by January 22, 1991.

#### Accelerated Tariff Reductions under the Free Trade Agreement

The list of products being considered for the second round of accelerated tariff reductions under the *Canada-U.S. FTA* has been released by the federal government.

The government asked for opinions from interested parties to be submitted no later than November 30, 1990. In January 1991, Canada will undertake negotiations with the United States on those items on the list which are in Canada's interest and which enjoy support in the industry concerned. In the interim, the Canadian government is seeking the views of Canadian industry on the list of proposed reductions.

#### Update on the Horticultural Inquiry

The Canadian International Trade Tribunal is currently conducting an inquiry into the competitiveness of the Canadian fresh and processed fruit and vegetable industry relative to that in major supplying countries, particularly the United States. Over 30 crops will be profiled and market data are to be developed on approximately 25 crops.

Regional hearings will commence in Montreal on December 12, 1990.

#### AD/CVD Update

##### Tribunal Issues Negative Finding on Four-Wheel-Drive Tractors from West Germany

On October 17, 1990, the Canadian International Trade Tribunal (CITT) determined that the dumping of four-wheel-drive tractors from the Federal Republic of Germany is not causing material injury to domestic production. The CITT found that the material injury to the complainant was not the result of dumping but rather the natural effect of the current market downturn.

##### Binational Panel Established to Review Tribunal's Finding Concerning Small Induction Motors

The Tribunal has conducted a review of its previous findings with respect to dumped polyphase induction motors (1 HP to 200HP) from the U.S., Brazil, Japan, Mexico, Poland, Taiwan and the U.K. and subsidized goods from Brazil, and dumped integral induction motors (1HP to 200 HP) from the U.S. It has continued the finding with respect to dumped integral induction motors, with an exclusion for goods imported from the United States by Trane Canada for installation in equipment manufactured by Trane Canada for export from Canada to the United States. The finding with respect to dumped polyphase induction motors has also been continued and the finding has been rescinded with respect to subsidized goods imported from Mexico.

The Tribunal found that without the imposition of antidumping duties, the dumped goods would cause material injury to some Canadian production in the form of lower prices, reduced market share, marginal and negative returns and a reduced ability to invest in the capital necessary to remain competitive.

A consortium of a US exporter and Canadian importers have requested that a panel be established under chapter 19 of the *FTA* to review the finding of the Tribunal.

## CANADIAN COMPETITION POLICY RECORD

### Tribunal to Commence Injury Inquiries

The Deputy Minister of National Revenue (Deputy Minister) has issued a final determination of dumping with respect to dumped self-adhesive photo albums and leaves from Indonesia, Thailand and the Philippines. The Tribunal began public hearings on December 3, 1990, to determine whether the dumping of the goods is causing material injury to domestic production. The Tribunal's decision is expected on or before January 2, 1991.

On January 7, 1991, the Tribunal will commence a hearing to determine whether the dumping of certain lint rollers from the United States are causing material injury to Canadian producers.

Later in the new year, on February 4, 1991, the Tribunal will conduct a public inquiry to review its material injury finding with respect to the dumping of vehicle washing equipment from the United States.

### Two New Dumping Cases Initiated

The Deputy Minister has initiated an investigation with respect to the dumping of aluminum wedge clamps from the United States produced by Reliable Power Products. The investigation follows a complaint by Entreprises Alliées Limitée of Québec.

The Deputy Minister has also recently initiated an investigation into the dumping of certain carbon steel welded pipe from Romania, Argentina, India, Thailand, Taiwan and Venezuela. The investigation follows a complaint by Stelpipe, a division of Stelco Inc.

### No Public Interest Hearing For Women's Footwear

The Tribunal has announced that it will not be conducting a public interest inquiry following its finding of May 3, 1990, concerning material injury with respect to women's footwear from Brazil, China, Taiwan, Poland, Romania and Yugoslavia.

The Tribunal received only one submission from the People's Republic of China. That party argued that the imposition of duties on women's

footwear from China would not be in the public interest because it would result in increased prices and deprive low to middle income consumers of a kind of low-cost footwear not available from Canadian producers. The Tribunal rejected the argument on the grounds that such price increases would not cause undue hardship on the Canadian population or deprive consumers of low-priced footwear.

### Australia Removes Canadian Pork Embargo

After years of negotiation, Australia has removed its embargo on the importation of Canadian fresh and frozen pork. Under the agreement, Canadian importers must obtain written permission from the Australian Director of Animal and Plant Quarantine, provide a quarantine entry certificate with each shipment, and comply with the agreement's general provisions before being granted permission to import into Australia.

## INTERNATIONAL TRADE LAW

*The following articles are taken from "Update", a newsletter published by the International Bar Association's Business Law Section (Committee on Antitrust and International Trade Law).*

### AUSTRALIA

#### Commercial Tariff Concession System

On October 12, 1990, the Industry Commission (IC) issued its Interim Report on the Commercial Tariff Concession System (CTCS) and By-Law Systems (BLS). The CTCS provides for duty-free entry of imports where it can be proved that goods serving a similar function to the goods to be imported are not manufactured in Australia and that the duty-free importation would not have a substantially adverse effect on other domestic goods. The BLS provides for duty free imports even when there may be competing local products. Under the CTCS and BLS, about A\$11 billion worth of goods enter Australia duty-free

## CANADIAN COMPETITION POLICY RECORD

each year, representing about A\$1.5 billion in foregone revenue. The IC supported the retention of these systems of concessions.

The IC Interim Report:

- identifies the main flaw of the CTCS as the definition of "goods serving a similar function";
- criticises the uncertainty in CTCS caused by the ease of revocation of a CTC order;
- recommends that the BLS system, which often disrupts local industry, is in need of more transparency;
- recommends that appeals on the merits in relation to both systems should be available and in the first instance should go to the Administrative Appeals Tribunal.

### Customs

The Australian Customs Service has established a Pre-Importation Valuation Advisory Service which will allow importers to get an official ruling prior to committing themselves to importing the goods.

The controversial Customs (Detention and Search) Bill 1990, giving Customs officers wide powers of personal search, is currently before Parliament after having been re-introduced earlier this year.

### TRIPs

One area of negotiation in the current *GATT* Uruguay Round is with respect to Trade Related Aspects of Intellectual Property (TRIPs). It is intended that the *GATT* negotiations will conclude an agreement establishing minimum standards for the protection of intellectual property rights worldwide. A major TRIPs issue has been the protection of geographical indications, including appellations of origin. The term "appellation of origin" is generally used to designate the country, region or place of origin of a product, the quality or characteristic of which is dependent on particular features of the place of origin. An example would be the designation "St. Emilion", which would identify wine from that geographical region having specific characteristics flowing from the grapes, soil and climate of the region.

Canada's trademark laws provide a mechanism for protection through registration of "certification marks", which generally are marks used in association with wares or services of a defined standard. Canada's position with respect to geographical indications (which include appellations of origin) has been that the existing international obligations are sufficient and that the problem is caused by those countries which have not met existing international obligations by providing for registration of certification marks.

The EEC position is to call for a higher standard of protection, especially for appellations of origin of wine. The EEC proposes that geographical indications be protected against unfair competition. The level of protection to be accorded in each country for appellations of origin would be the level of protection for the appellation in the country of origin of the product. In addition, the EEC proposes an international register for geographical indications including appellations of origin.

These discussions are important for producers wishing to use freely denominations including appellations of origin that are generic in conveying to the public, for example, a type of wine ("Port Wine"), a wine made from a particular grape ("Gamay Beaujolais") or a method of making wine ("Champagne"). Under the EEC proposal, the use of such appellations may not be available.

### GATT

The schedule advanced by Arthur Dunkel, Chairman of the Trade Negotiation Committee, calls for agreed texts in all fifteen negotiating areas by early November. Many participants doubt that this schedule can be met, but in the halls and meeting rooms there appears to be a genuine desire to move things along in time for at least partial agreement in each of these areas. Negotiators in the *GATT* are working virtually around the clock to salvage trade agreements in areas as diverse as agriculture, dispute settlement, services and intellectual property rights. The final meetings of the Uruguay Round at the Ministerial level will be held in Brussels in December.

# CANADIAN COMPETITION POLICY RECORD

## JAPAN

### Change of Export Trade Control of Strategic Materials

The Ministry of International Trade and Industry (MITI) will reinforce export controls of strategic materials (e.g., chemical materials that are diverted for use as chemical weapons, manufacturing equipment for weapons). MITI is concerned about the danger of a country such as Iraq using strategic materials to commit genocide. The Export Trade Control Order of Japan was amended in October 1990 by adding two chemical materials that now require a licence to export.

### Guidelines for Exclusive Import Agencies

The Fair Trade Commission (FTC) drafted new guidelines about the *Anti-Monopoly Act* of Japan regarding exclusive import distributorship agreements. According to the guidelines, thirty-one types of conduct for exclusive import distributorship agreements are covered. The following are examples of agreements that are in strong danger of violating the *Anti-Monopoly Act*:

- a company which has a market share above 25% in Japan becomes the exclusive import agency for foreign products the same as its own products;
- an exclusive import agency causes the parallel import company to cease to supply the products;
- a foreign company and the exclusive import agency restrict the resale price.

These guidelines were reportedly triggered by a U.S. proposal at the Structural Impediments Initiative Talks.

### Product Liability Act

According to MITI, Japan will establish product liability legislation in 1991, whereby manufacturers will be presumed to have non-negligence liability. Consumers can therefore claim for damages without proving negligence. The Bar Associations and consumer groups have long accused Japan of lack of effective relief for product liability. However, the industrial groups strongly object to the proposed *Product Liability*

*Act* because of the increased costs involved and are considering the establishment of a fund and an insurance system to cover damages awarded under the *Act*.

## UNITED STATES

### The 1990 Congress

Congress passed several pieces of legislation relating to international trade before adjourning. It approved MFN treatment for Czechoslovakia, defeated an attempt to revoke MFN treatment for the People's Republic of China, extended the *Export Administration Act* with amendments to ease controls on exports to Eastern Europe, expanded the Caribbean Basin Initiative, extended the customs user fee for five years, and provided for improved sharing among U.S. government agencies of information on foreign investment in the United States. President Bush signed each into law except the *Export Administration Act* amendments. He vetoed the Export Bill because it contained unilateral economic sanctions (in particular relating to chemical and biological weapons proliferation) and sought to reduce presidential discretion in administering export control.

Also in 1990, Congress passed a textile trade bill that would have severely limited further growth in imports of textiles, apparel and footwear. President Bush vetoed the bill and Congress narrowly failed to override his veto.

### Iraq Sanctions

The U.S. government imposed a trade embargo on Iraq and Kuwait pursuant to the U.N. sanctions. It also froze Iraqi and Kuwaiti assets in the United States. The sanctions were imposed pursuant to a national emergency declared by President Bush under the *International Emergency Economic Powers Act* and the *National Emergencies Act*, and are administered by the Office of Foreign Assets Control in the Department of the Treasury. Licences are being issued to permit certain legitimate transactions caught by the broad sweep of the embargo.

## CANADIAN COMPETITION POLICY RECORD

**Trade with Latin America**

As noted above, Congress amplified the Caribbean Basin Initiative. President Bush also sent a formal request to Congress to initiate negotiations with Mexico for a free trade area. Under U.S. law, Congress must agree to negotiations and approve any agreement reached. The government of Canada has expressed its intention to participate in the talks.

**GATT Panels**

In August, a GATT panel issued a report finding that the U.S. imposition of antidumping duties on imports of seamless, stainless steel hollow products from Sweden was inconsistent with article 5:1 of the *Agreement on Implementation of Article VI of the GATT*. The panel found that U.S. authorities initiated the investigation without adequate evidence that the petition had been filed on behalf of producers with a major proportion of the total domestic production of like products, as required by the *Agreement*.

In September, another GATT panel found that U.S. countervailing duties on fresh, chilled and frozen pork from Canada were being levied contrary to article VI:3 of the GATT. The U.S. Department of Commerce had found that subsidies provided to swine producers had constituted a subsidy to Canadian pork processors. The panel found that GATT permits countervailing duties to be applied only against subsidies to the product in question (in this case, pork) and that subsidies to swine producers would constitute subsidies to the pork processors only if they resulted in a lower price for swine being charged to pork processors. The panel found that the U.S. investigation did not include such a finding. A bilateral panel under

the *Canada-U.S. Free Trade Agreement*, however, found that the U.S. action was consistent with U.S. law.

**VENEZUELA**

On September 1, 1990, after a year of negotiations, Venezuela became a full member of GATT. Such a step is of the utmost importance to Venezuela given the radical shift in the government's commercial policy. This policy was traditionally based on import substitution, which encouraged the development of inefficient and expensive local industries instead of fostering Venezuelan exports throughout the world.

The Venezuelan government has viewed its accession to GATT as a mechanism to gain access to international markets for Venezuelan exports with a view to obtaining the foreign currency needed to improve the Venezuelan balance of payments, thus supporting the national economic plan aimed at the adjustment of the economy. The government intends to reduce Venezuela's reliance on oil exports through the promotion of non-traditional exports. Venezuela's membership in the GATT will allow the country a proper forum to discuss commerce-related matters relevant to the Venezuelan economy, as well as an opportunity to participate in the decision and policy making process for rules dealing with international trade.

Among the undertakings assumed by Venezuela to Contracting Parties are those related to tariff concessions as well as those regarding the amendment of some domestic laws that are inconsistent with GATT principles. The latter include the "Buy-Venezuelan Act", which imposed upon government officials an obligation to favour local suppliers in government procurement.