
On January 10, 2005, the Ranchers-Cattlemen Action Legal Fund, United Stockgrowers of America (R-CALF) filed a lawsuit in U.S. District Court seeking an order declaring the implementation of the rule unlawful and disallowing the importation of Canadian cattle and meat products. On January 31, 2005, R-CALF petitioned for a preliminary injunction prohibiting the USDA from implementing the U.S. final rule until the lawfulness of this rule can be reviewed in full by the court. This injunction was granted on March 2, 2005, and will remain in place until the U.S. District Court hears the legal arguments of R-CALF's lawsuit, or until the injunction is overturned on appeal.

Avian Influenza

Following the Canadian Food Inspection Agency's confirmation of highly pathogenic avian influenza in the B.C. Fraser Valley on March 9, 2004, the United States imposed measures against poultry products from British Columbia. Other trading partners also imposed measures against British Columbia and in many cases against all of Canada. On August 17, the U.S. became the first of Canada's trading partners to remove its restrictions.

Systemic Trade Remedy Issues

Canada continues to monitor trade remedy developments in the United States to ensure that any new rules, as well as the implementation of existing ones, conform to U.S. international trade obligations. Accordingly, Canada continued to make specific representations regarding the U.S. Department of Commerce practices on duty assessment that could have serious adverse consequences for many Canadian exporters in future anti-dumping duty investigations. Canada also made representations on proposed new certification procedures for U.S. countervail investigations. As well, the government has made submissions to U.S. authorities conducting trade remedy investigations against Canadian products. For example, it has filed extensive responses and made a number of representations in the context of the U.S. DOC investigation of programs affecting Canadian live swine (further details on this case follow). The government also continues to follow developments in various disputes that involve Canadian products

under Chapter 19 (Review and Dispute Settlement in Anti-Dumping and Countervailing Duty Matters) of the North American Free Trade Agreement. It defended Canadian interests in the unsuccessful extraordinary challenge that was launched by the United States regarding a NAFTA Chapter 19 panel decision instructing the U.S. DOC to revoke AD duties on pure magnesium from Canada.

At Canada's initiative, during the July 2004 Commission meeting, trade ministers noted the value of the NAFTA dispute settlement provisions and reaffirmed their commitment to their effective operation. Additionally, Canada continuously reminds its NAFTA partners that it is in the interests of all three countries to ensure that panel decisions are respected and implemented properly, in order to protect the integrity of the Agreement. The Prime Minister registered this message directly with President Bush during their meeting on November 3, 2004. The Prime Minister and the President agreed that officials should review NAFTA Chapter 19 to ensure its effective operation.

Byrd Amendment

On October 28, 2000, President Bill Clinton signed into law the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001. The Byrd Amendment (Continued Dumping and Subsidy Offset Act of 2000) was part of that Act. Under the Byrd Amendment, anti-dumping and countervailing duties are disbursed to U.S. industries that supported actions linked to the amendment. Prior to enactment of the Byrd Amendment, the duties were deposited in the U.S. Treasury.

Canada believes, and the WTO agreed, that these payments are not consistent with U.S. obligations under the WTO agreements governing anti-dumping and subsidies; rather, Canada's position is that the payments constitute action against injurious dumping and subsidization not contemplated in those agreements. The Byrd Amendment provides a "double remedy" to U.S. producers, which benefit not only from the imposition of AD and CVI duties on competing imports, but also from direct payments