

US\$190 million, with an additional US\$50 million withheld by U.S. Customs pending the outcome of a domestic court case. The primary recipients in the United States have been in the ball bearing, steel and other metals, and household item sectors.

Disbursements linked directly to duties paid on Canadian goods amounted to US\$5.2 million in 2001, US\$2.5 million in 2002 and have been estimated at US\$4.4 million for 2003.

Canadian softwood lumber producers have paid over U.S. \$2.7 billion in cash deposits to date. Canada is continuing to challenge the U.S. duties through litigation under NAFTA and at the WTO. As a result, disbursements to the U.S. industry under the Byrd Amendment would not take place until October 2007.

Canada, like other complainants, sought a level of retaliation that is linked to the dollar amount disbursed under the Byrd Amendment. The purpose of this methodology was to ensure that Canada's retaliation rights would be protected in the event of any large future disbursements. Proposed Canadian retaliatory options are tariff measures on imports from the U.S., and the suspension of the injury test in the context of anti-dumping and countervailing duty investigations involving imports from the United States.

Under WTO rules, anti-dumping and countervailing duties may only be imposed if dumped or subsidized imports are causing or threatening to cause injury to domestic producers. Canada's request proposes the suspension of that requirement on imports from the U.S. as a possible option for retaliation.

On August 31, 2004, the WTO arbitrators provided Canada with a formula by which to calculate Canada's retaliatory authorization. This will allow Canada to retaliate up to the annual level of countervailing and anti-dumping duties on Canadian goods disbursed under the Byrd Amendment, multiplied by a factor of 0.72. This formula is based on an economic model developed by the arbitrators to measure the trade effect of the Byrd Amendment. To date, U.S. producers have received between US\$2 million and US\$5 million annually in countervailing and anti-dumping duties paid on imports from Canada.

Before any retaliatory action is taken, Canada must return to the DSB and make a request to implement retaliatory measures in accordance with the WTO arbitration decision. There is no time limit for the request in the rules.

The overall objective of Canada's actions is to encourage the United States to live up to its WTO obligations and to implement the rulings by repealing the Byrd Amendment. The Government of Canada has made no decision on applying retaliatory measures against U.S. imports. Any decision to move forward with such measures would be preceded by public consultations.