

together to update the World Organization for Animal Health (OIE) guidelines and applications for the international trade in safe animal and animal products. Each government agreed to designate a sub-cabinet-level official to coordinate the ongoing inter-agency efforts aimed at a resumption of exports based on a harmonized framework.

Systemic Trade Remedy Issues

Canada continues to monitor trade remedy developments in the United States in order to ensure that any new rules, as well as the implementation of existing ones, conform with U.S. international trade obligations. In this regard, Canada has made specific representations for clarification of U.S. Department of Commerce practices regarding duty assessments and calculation methodology that could have serious adverse consequences for many Canadian exporters in future anti-dumping and countervailing investigations.

Byrd Amendment

On October 28, 2000, President Clinton signed into law the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001. The Continued Dumping and Subsidy Offset Act of 2000 (Byrd Amendment) was part of that Act. The legislation provides that domestic producers who support petitions for anti-dumping and/or countervailing duty investigations may be eligible to participate in the distribution of duties collected as a result of the imposition of anti-dumping and/or countervailing duty orders.

Canada believes that the amendment is a fundamental and misguided change in policy that could have unfortunate consequences for international trade in general and the administration of trade remedy law in particular. It also believes that these payments are not consistent with the WTO agreements governing anti-dumping and subsidies and countervailing measures. Accordingly, Canada, along with 10 other WTO members (Australia, Brazil, Chile, the European Union, India, Indonesia, Japan, Korea, Mexico and Thailand), successfully challenged the Byrd Amendment before the WTO.

On January 27, 2003, an Appellate Body report, confirming the panel finding that the Byrd Amendment is inconsistent with the WTO, was adopted. The

United States was subsequently given 11 months (until December 27, 2003) to bring its measure into compliance. The United States failed to comply by the deadline, prompting Canada, along with Brazil, Chile, the European Union, India, Japan, Korea and Mexico to request authorization to retaliate on January 15, 2004. That request was considered at a special Dispute Settlement Body meeting on January 26. The United States challenged the request at that meeting, and the issue has been brought to arbitration, a process that should conclude in the spring of 2004. The Government of Canada has begun consulting domestic stakeholders on lists of products for retaliation.

U.S. Trade Remedy Investigations on Canadian Goods

Wheat

On August 29, 2003, the U.S. Department of Commerce issued affirmative final countervail and anti-dumping determinations in its investigations of imports of hard red spring and durum wheat from Canada. This was followed on October 3 by a split decision on injury by the U.S. International Trade Commission (ITC). The ITC determined that imports of durum wheat from Canada were not injuring U.S. producers but, in a tied vote, it found that imports of hard red spring wheat from Canada were injurious. As a result, no duties were applied on imports of durum wheat but countervailing and anti-dumping duty orders totalling 14.15% were published on October 23 with respect to hard red spring wheat from Canada. Taking issue with the countervailing of certain government programs, the Government of Canada and other Canadian parties launched a NAFTA panel review of the countervail decision. The Canadian Wheat Board has also challenged the injury decision under NAFTA.

Magnesium

The Government of Canada continues to monitor developments surrounding the long-standing U.S. countervailing duties on Canadian magnesium, and it participates in the U.S. Department of Commerce's annual administrative reviews of these countervailing duties. In this context, it must be noted that the government continues to monitor the NAFTA challenges, which were brought against the U.S.