

b) *Pope & Talbot - Softwood Lumber Allocations*

Pope & Talbot Inc., a U.S. corporation, submitted a Claim to Arbitration under the dispute settlement provisions of NAFTA Chapter Eleven on March 24, 1999. The Claimant alleges that breaches to NAFTA Article 1102 (national treatment); Article 1103 (most-favoured-nation treatment); Article 1105 (minimum standard of treatment); Article 1106 (performance requirements); and Article 1110 (expropriation), caused damages of US\$500 million to itself and to its investment in Canada.

c) *Other cases*

Judgments are expected in the fall of 1999 and in the Spring of 2000 in two Chapter 11 cases against Mexico, "Desona" and "Metalclad" respectively. These will be the first decisions issued after a Chapter 11 arbitration.

4. **CASES UNDER THE CANADA - U.S. SOFTWOOD LUMBER AGREEMENT**

a) *B.C. Stumpage (USA v. Canada)*

On June 1, 1998, British Columbia implemented lower stumpage fees for coastal producers. The United States asserted that this was a circumvention of the 1996 Canada-U.S. Softwood Lumber Agreement and on July 28, 1998, requested arbitration under the dispute settlement provisions of the Agreement. On August 26, 1999, and prior to any Panel ruling, the Governments of Canada and the United States signed an exchange of letters which resolved the dispute. Under this arrangement, the previous fee schedule was maintained for all softwood lumber first manufactured in British Columbia and exported to the United States by B.C. companies, up to the average volume shipped in the first two years of the Agreement (i.e. prior to the stumpage reduction); higher fees apply to volumes exported in excess of that average, with the effect of discouraging B.C. lumber exports in excess of the pre-stumpage reduction average.

b) *Drilled Studs (Canada v. USA)*

In February 1997, U.S. Customs classified drilled softwood lumber studs (used in house construction) in a tariff heading outside the scope of the 1996 Canada-U.S. Softwood Lumber Agreement. On July 1, 1998, Customs revoked that ruling and reclassified drilled studs into a tariff heading covered by the Agreement, effective immediately. Consultations were held under the Agreement at Canada's request on July 23, 1998.

A domestic U.S. court proceeding brought by the U.S. Association of Homebuilders and U.S. National Lumber and Building Material Dealers Association and supported by Canadian interests, challenged the drilled studs ruling. The U.S. Court of International Trade (CIT) ruled in favour of the defendant, the U.S. Department of Justice, on December 15, 1998. The plaintiffs filed an appeal on January 28, 1999. The decision on appeal is expected by the end of 1999.

Canada also placed the product classification aspect of this dispute on the agenda of the Harmonized System Committee of the World Customs Organization (WCO) on September 2, 1998. The advisory opinion of the WCO issued on May 10, 1999 recommends that drilled studs