

EU, Japan Seek Sanctions on U.S. Goods Over Handouts

Nov. 10 (Bloomberg) -- The European Union and Japan plan to impose punitive tariffs on more than \$135 million of American exports, retaliating for a law that hands customs duties to U.S. companies, violating global trade rules.

The World Trade Organization ruled in August that the EU, Japan and six other governments can slap extra levies on U.S. imports after Congress failed to repeal a law distributing import duties to companies such as Timken Co. U.S. businesses that complain foreign rivals undercut their markets get duties that should go to the U.S. Treasury, the WTO said.

"This action will not, by itself, force Congress to act, though it will add pressure," said Spencer Griffith, trade partner at Washington law firm Akin Gump Strauss Hauer & Feld. "If history is a guide, opposition to repeal the amendment means it will be some time before Congress acquiesces."

Today's request adds to a list of complaints against U.S. trade practices, including cotton subsidies, and follows an EU threat last week to impose new sanctions on U.S. exports over tax law changes. In what may become the biggest WTO dispute ever, the EU and U.S. last month filed mutual accusations of illegally aiding aircraft makers Boeing Co. and Airbus SAS.

"We are consulting with our member states on the list" of U.S. products that will face tariffs, EU Trade Commissioner Pascal Lamy told a Brussels news conference.

The WTO will automatically grant the right to retaliate on Nov. 24.

Biggest Winners

The main beneficiaries last year of U.S. payouts under the customs law, known as the Byrd Amendment, were ball-bearing maker Timken and its subsidiary MPB Corp., which together got \$109.5 million. Steelmakers such as U.S. Steel Corp., Carpenter Technology Corp. and Allegheny Ludlum Corp., as well as canned fruit company Maui Land & Pineapple Co. Inc. and cookware manufacturer Regal Ware Inc., won a combined \$26.2 million.

U.S. payouts totaled \$231 million in 2001, \$330 million in 2002 and \$190 million in 2003.

The threat of retaliation may not be enough to persuade the U.S. to change the law, which President George W. Bush favors repealing. Last year, 68 of the 100 U.S. senators signed a letter saying they opposed repealing the Byrd Amendment.

"We have already notified the WTO that we intend to comply and we are currently working with Congress to bring the U.S. into compliance," said Richard Mills, a spokesman for the U.S. Trade Representative's office in Washington. "Complex issues like these often take time."

In eight separate decisions, the WTO ruled the governments may strike back against U.S. goods equal to 72 percent of the total paid by their companies as dumping or anti-subsidy duties. U.S.

companies such as Timken and Micron Technology Inc. received about \$13.6 million of import duties paid by EU companies in 2003 under the Byrd Amendment.

Double Punishment

The other complaining governments are Brazil, Canada, India, Chile, South Korea and Mexico. They argued the law enables the U.S. to punish exporters twice -- first by imposing a duty and then by giving the money collected to the exporter's rivals.

Of the eight complainants, only Brazil and Chile haven't yet given the WTO lists of U.S. products on which they may levy punitive tariffs.

"We strongly hope the U.S. will immediately repeal the Byrd Amendment so we don't need to actually impose sanctions," Japan's Ministry of Trade and Industry said in a statement today.

The statement, issued in Tokyo, lists 371 U.S. exports to Japan, worth 124.9 billion yen (\$1.18 billion), from which Japan will select the sanction targets, the ministry said. Some 212 of the goods on the list are steel and ball bearings, as well as textiles and machinery.

Japan said the WTO decision gives it authority to retaliate with tariffs worth as much as \$77 million a year. Japanese exporters were the hardest hit by the Byrd Amendment last year.

'Tiny' Retaliation

"The retaliation is tiny, relatively speaking, and most of it belongs to Japan, which is not particularly aggressive in trade matters," said Dan Ikenson, trade policy analyst at the free-market Cato Institute in Washington. Punitive tariffs may reach as high as \$3 billion next year, he said, because extra duties imposed by the U.S. on imports of softwood lumber from Canada will take effect.

"Then, Canada will have most of the leverage, and Canada is much more litigious than Japan," Ikenson said.

The U.S. Trade Representative's office has said it plans to work with Congress to change or repeal the four-year-old law and comply with WTO rules.

"The policy of the American administration is basically 'we're prepared to comply, but it has to get through Congress,'" Lamy said. "So we're putting pressure at this very moment, so that over the next few weeks, that legislation will be made to comply. That apparently is not impossible."

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