U.S. Could Face New Export Tariffs

WTO Authorizes Measures For Violating Trade Rules; A Setback for Bush, Congress

By **NEIL KING JR.** in Washington and **SCOTT MILLER** in Brussels
Staff Reporters
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The Bush administration suffered another defeat on international trade as the World Trade Organization cleared the way for major U.S. trading partners to impose punitive tariffs on U.S. exports.

The WTO's action targeted a 2000 law that last year doled out $210 million to U.S. companies hit by imports that were priced unfairly low. Under the law, known as the Byrd amendment, the U.S. collected some $710 million in all from antidumping tariffs from 2000 to 2003 and disbursed it directly to the U.S. companies -- sellers of everything from ball bearings and steel to candles, crawfish and pasta -- that had raised the original complaints about the low-priced imports.

Similar antidumping measures are a widely accepted practice within WTO rules. They enable countries to place tariffs on products that they find are being exported at prices below those charged in their home markets.

But the Byrd amendment takes the idea a step further by giving the tariff money to U.S. companies. The European Union and other complainants argued that the law amounts to an unfair double dip for the U.S. companies because it gives them both tariff protection and a cash bonus. Critics in the U.S. say the law, with its promise of big cash rewards, has led to an upsurge in antidumping cases and has prompted companies to alter their strategies simply to qualify for payments.

The WTO ruling would allow the initial list of eight trading partners -- the EU, Brazil, Canada, Japan, Chile, India, South Korea and Mexico -- to raise their own tariff income to an amount equal to 72% of the annual disbursement by imposing punitive duties on U.S. exports. For 2003, that figure would have been about $150 million.

Australia, Thailand and Indonesia, which joined in the original suit, have given the U.S. until the end of this year to change the law before seeking sanctions of their own. Even the countries that remained in the suit are unlikely to move quickly to impose new duties. European Trade Commissioner Pascal Lamy said in a statement that he hoped the U.S. "will now take action to remove this measure, thus avoiding the risk of sanctions." Japan issued a similar statement.

Nonetheless, the ruling stirred anger in Congress, where the law has wide support, especially in an election year in which the loss of manufacturing jobs has become a significant issue, particularly in battleground states such as Ohio and Pennsylvania. Members in both parties attacked the WTO, while some Democrats accused President Bush of being lax in defending U.S. trade protections.

Democratic candidate John Kerry used yesterday's ruling to charge that the Bush administration had "failed to stand up for American companies and workers at the WTO." The law's author, Sen. Robert Byrd (D., W.Va.), slammed the ruling as "outrageous" and vowed to preserve the provision. He said in a statement that the decision "represents yet another in a long line of obvious attempts by the WTO to limit the ability of the United States to enforce its own trade laws."

With the Republican Party convention under way in New York, the U.S. Trade Representative's office walked a line between pledging support for the WTO and support for U.S. workers. "The United States will comply with its WTO obligations, and the administration will work closely with Congress to do so in a way that supports American jobs and workers," USTR spokesman Christopher Padilla said in a statement. He stressed that the U.S. will still be able to protect itself against unfair imports.

The decision marks the latest in a string of U.S. setbacks within the WTO's dispute-settlement system. Late last year President Bush was forced to eliminate tariffs he imposed to protect U.S. steel companies after the WTO ruled that they violated international trade rules. This year the WTO ruled against U.S. prohibitions on Internet gambling and government subsidies to domestic cotton growers. And after years of wrangling, the European Union this spring imposed heightened duties on U.S. goods over an export tax break ruled illegal by the WTO.

Despite its support in Congress, the law has drawn fire from both the Clinton and Bush administrations, though the latter did defend it vigorously before the WTO. The Congressional Budget Office, in a report earlier this year, blasted the law as detrimental to the country's economic interests.

Senate aides from both parties said it was unlikely that Congress would move to address the law this year, but may consider alternatives next year. Prospects for an easy fix aren't good. "The only way that Congress can change the Byrd law is to offer something in exchange," said a Democratic Senate aide.

One proposal calls for putting antidumping revenue into a general fund to help beleaguered industries or communities. Some lawmakers also are suggesting that in modifying the Byrd law, Congress might look to alter the way the U.S. computes punitive tariffs so as to give them more sting.

Write to Neil King Jr. at neil.king@wsj.com and Scott Miller at scott.miller@wsj.com