U.S. Loses Trade Cases and Faces Penalties

By PAUL MELLER and ELIZABETH BECKER

RUSSELS, Aug. 31 - The World Trade Organization on Tuesday authorized the European Union and seven other leading American trading partners to impose more than $150 million in retaliatory sanctions on exports from the United States. The ruling comes after Congress refused for two years to repeal a tariff subsidy for American companies that the W.T.O. found to be in violation of global trade laws.

The decision by the trade organization, based in Geneva, is the latest example of several cases where Washington has been found to be in breach of international trade rules. The United States lost a battle on a complaint by Brazil and other developing countries over $3 billion in cotton subsidies and Congress has declined to rewrite legislation that provided what the W.T.O. found to be an unfair tax giveaway to companies doing business abroad.

Adding to the problems for American companies, the W.T.O. ruled on Monday and Tuesday against the United States and in favor of Canada in cases involving Canadian wheat and lumber.

The measure found to be illegal under global trade rules, known in Washington shorthand as the Byrd amendment, allows American companies rather than the government to receive the duties that Washington imposed on foreign companies deemed to be unfairly dumping products in the United States.

Tuesday's ruling gives the 25-nation European Union - along with Canada, Japan, Brazil, Chile, India, South Korea and Mexico - the right to impose higher tariffs on their choice of products. The tariffs could be worth slightly more than 70 percent of the value of the money received by American companies.

It is not clear how soon the trading partners may move to carry out countermeasures against the United States. "The aim is to get the United States to comply with the rules," said Arancha Gonzalez, a spokeswoman for Pascal Lamy, the European Union's trade commissioner, "not to impose sanctions."

Similarly, Japan's economy and trade minister, Shoichi Nakagawa, told reporters in Tokyo on Tuesday that Japan would wait until at least the fall before seeking approval of specific actions. "Japan strongly hopes the United States will repeal the Byrd amendment at an early date," Mr. Nakagawa said, "so that we can avoid invoking our right to take countermeasures."

Coming as the presidential campaign is gathering force, the various setbacks for the Bush administration were seized upon by Democrats as proof of what they see as the White House's poor record on trade.

"These decisions reflect the failure of the Bush administration to stand strong and tall on trade remedies," said Representative Sander M. Levin of Michigan, the ranking Democrat on the House Ways and Means trade subcommittee.
The administration, which supports repeal of the Byrd amendment, argues that it has initiated more anti-dumping cases through the Commerce Department than the administration of President Bill Clinton and has also done more to help American exporters by other means.

"Anyone can count up lawsuits at the W.T.O.,” said Christopher Padilla, a spokesman for the United States trade representative, "but we prefer to look at results."

Trade, a persistent issue in American politics, weighs particularly heavy this year in swing states, where manufacturing job losses have convinced some that outsourcing to foreign countries with cheap labor threatens to undermine the nation's economic health.

Global competition has also fueled questions about trade policies and whether international trade laws are helping or hurting American companies and workers.

The dispute over who receives dumping tariffs is modest compared with a broader fight with other countries over politically motivated steel tariffs imposed early in President Bush's tenure and the still-unresolved battle over tax breaks for American companies overseas.

The steel tariffs are at the center of the tariff dispute, since they represent the bulk of the money given to American companies.

But the amounts involved in Tuesday's ruling could substantially increase because the United States has collected billions of dollars in duties on other products - including lumber from Canada, shrimp from Thailand, and bedroom furniture from China - that have not yet been passed on to American companies.

In the even larger dispute over corporate tax breaks, the W.T.O. permitted the European Union to impose more than $2 billion in penalties on American companies. Only about $315 million of that has been imposed so far.

In that case, the Europeans aimed the sanctions at American products that could easily be replaced by imports from another country.

Like the offending United States tax law, a repeal of the Byrd amendment would require the assent of Congress.

Global trade rules permit countries to defend their domestic markets against imported goods sold at what is deemed to be unfairly low prices. But the W.T.O. concluded that the Byrd amendment punished importers twice by handing over the punitive duties - mostly imposed so far against foreign makers of ball bearings and other steel products - to local companies making the same products.

"Trade defense instruments are a legitimate tool," Mr. Lamy said, "but they have to follow W.T.O. rules."

But American officials say that giving the tariff payments to the companies affected made sense because they were the ones most directly hurt by the unfair trade practices.

Mr. Padilla of the trade representative's office said the United States would comply with the W.T.O. ruling. The Bush administration, he said, "will work closely with Congress to do so in a way that supports American jobs and American workers."

"It's important to remember that this decision will have zero effect on our ability to apply trade laws and impose
duties on countries that unfairly dump products in the U.S.," Mr. Padilla continued. "It only affects what we do with the duties."

In a related case decided Tuesday, the United States lost its appeal of a ruling on how it imposes dumping duties on Canadian softwood lumber.

On Monday, the W.T.O. ruled against the United States in a separate dispute with Canada over farm subsidies. Washington had argued that Canadian wheat farmers are indirectly and unfairly subsidized by the Canadian government through boards that buy and sell wheat and barley produced in Canada's western provinces at fixed prices.

The Bush administration said in a statement that it had won an earlier W.T.O. decision against Canada on the way it distributes its grain.

_Paul Meller reported from Brussels for this article and Elizabeth Becker from Washington._