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Ottawa forced to consider concessions

By STEVEN CHASE

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OTTAWA -- Less than one year after Ottawa signed a deal that was supposed to end the Canada-U.S. softwood lumber dispute, fresh U.S. complaints are forcing it to consider concessions that could mean higher export taxes for some Canadian timber companies.

The United States filed a formal objection against Canadian softwood practices this spring, charging that recent provincial aid programs amount to subsidies and complaining that timber firms are not paying enough export levies under the 2006 deal.

Unless Canada can agree to terms that assuage U.S. concerns, the dispute will head to binding arbitration by foreign judges, a process spelled out in last year's softwood deal. A loss in court for Ottawa could mean millions of dollars in extra export taxes, or more curbs on U.S.-bound softwood.

Federal Trade Minister David Emerson said yesterday that opinion is divided on whether Ottawa could successfully fend off the U.S. complaints in court.

He said he believes Canada should reach a settlement rather than risk a costly new legal battle that Ottawa might not win.

"There are some big differences of view on where this thing could go in arbitration, and, candidly, I'd prefer if we can reach an understanding, constructively," Mr. Emerson said yesterday.

"It's always better than getting into another bout of litigation and arbitration."

The federal Trade Minister couldn't say what form an "understanding" might take, but one charge Washington wants addressed is that Canadian producers, particularly in British Columbia, aren't paying enough export tax given what

Americans say is a surging volume of U.S.-bound wood.

A "surge mechanism" in the softwood deal stipulates that the penalty on shipments must jump sharply when the amount of wood shipped hits a trigger point.

The 2006 softwood lumber dispute truce between Canada and the United States replaced punitive U.S. duties on Canadian softwood with shipment restrictions and an export tax collected by Ottawa.

B.C. industry leaders say they're following the 2006 softwood deal to the letter and are prepared to defend their actions before judges rather than make concessions to Washington that could cost them tens of millions of dollars in extra export taxes.

"A plain-language reading of the agreement supports our position," said John Allan, president of the British Columbia Lumber Trade Council.

"There's an arbitration process provided for in the agreement and there's \$10-million of our money being put aside to pay for [it]. We feel we have a strong position ... therefore use the process."

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