

Duties from Canadian Softwood Lumber. Although previous distributions under the CDSOA have never been much higher than \$300 million in any year, the magnitude of the assessments and likely payments for the lumber case is unlike prior cases. As of now, it appears that the U.S. Treasury will collect duties totaling around \$4 billion on Canadian softwood lumber through the end of fiscal year 2006 if the dispute is not resolved before then. Those funds are not recorded on the budget but are held in a Treasury suspense account pending resolution of the dispute. The disposition of those funds is uncertain because it is unclear how or when this dispute will be resolved.

CBO's baseline estimates regarding the Canadian softwood lumber dispute reflect this uncertainty in two ways. First, CBO assumes equal probabilities that Canada or the United States will prevail in this case. If Canada were to prevail in this dispute, all amounts in the suspense account would be returned and no amounts would be recorded on the budget as a revenue or expenditure. Conversely, if the United States were to prevail in this dispute, all amounts in the suspense account would be recorded as revenues and disbursed to U.S. lumber firms. A myriad of other outcomes are possible as the parties could negotiate a wide variety of settlements to end the dispute. Because of this wide range of possibilities, CBO has assumed that half of the funds in the suspense account would ultimately be kept by the United States, recorded as revenues on the budget, and disbursed to the U.S. lumber industry.

Second, because the timing of any resolution is uncertain, we have assumed that the case would be resolved over the 2005-2007 period. Thus, our baseline includes revenues from duties on Canadian softwood lumber in each of those three years and spending of those amounts over the 2006-2008 period.

If CBO, in preparing its baseline projections, were to ignore the large amount of Canadian softwood duties that have been collected in the Treasury suspense account, that would be equivalent to assuming either that Canada will prevail in the dispute or that there will be no resolution over the next 10 years. Based on information provided by the Department of Commerce, we believe that neither of those assumptions is appropriate.

Other Precedents. CBO's baseline treatment of the Canadian softwood lumber duties is typical of how we have handled similar disputes in our budget projections. For example, in the 1980s, royalty collections from oil production on federal lands in Alaska were held in a Treasury escrow account pending resolution of a dispute with the state over its share of the royalties. Until the Supreme Court settled the dispute in 2000, CBO's baseline spending projections reflected equal probabilities that either party would prevail.

In the late 1990s, the Federal Communications Commission and a private firm were in litigation over the payment of several billion dollars for licenses to use part of the

electromagnetic spectrum. Throughout this lengthy litigation, CBO's baseline receipts projections assumed equal probabilities that either party would prevail.

Responses to Specific Questions

Cash Deposits vs. Liquidated Funds. Once the Department of Commerce and the International Trade Commission decide to impose duties on particular imported goods, the Bureau of Customs and Border Protection (CBP) collects those duties and deposits them in a suspense account. Those funds are not recorded on the federal budget until a final resolution of the duty order is made, at which point, the funds are "liquidated"—meaning that all of the necessary administrative proceedings are completed and that the duties are approved for distribution under the CDSOA. Liquidated funds are transferred from the suspense account into the Treasury, recorded on the federal budget as revenues, and become available for distribution to affected industries under the CDSOA. The CBP typically distributes liquidated funds once a year in December; hence, funds liquidated in one fiscal year are generally disbursed to affected industries in the following fiscal year.

Mr. Wessel's letter asserts that CBO has not properly distinguished between the collections held in suspense accounts for the Canadian softwood lumber case and liquidated duties. He also notes that the rate charged to Canadian exporters for the first dumping order (2001-2002) has decreased significantly since the original rate was established. Clearly, the amounts held in the suspense account—based on duty rates that have varied from year to year and that are still subject to change—may not be the final amounts distributed to the affected industries if the United States prevails in the dispute; those amounts are subject to adjustment until the case has been liquidated. In fact, the final amounts distributed may be more or less than the amounts held in suspense accounts. CBO's estimate is based on the amounts in the suspense accounts, however, because that is the best available indicator of the magnitude of the potential distribution in this case.

Time Lag Between Collection, Liquidation, and Distribution. Mr. Wessel believes that CBO erred by making the assumption that "liquidations will occur within one year of cash deposits being made." CBO did not make that assumption. Our baseline takes into account both the time lag between when cash is deposited in suspense accounts and when those funds are liquidated, and the added time lag between when liquidation occurs and when funds are disbursed to the affected firms. It therefore assumes a lag of several years from when some of the duties were collected to when they will be disbursed.

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Timing of Resolution of Canadian Softwood Lumber Dispute. In his letter, Mr. Wessel indicates that legal proceedings related to Canadian softwood lumber could take many years and that CBO's estimate of spending under the CDSOA ignores this likelihood. CBO agrees that legal proceedings and potential negotiations related to this lumber case may take several years. Our estimate assumes that the resolution would occur between three and five years after the initial dumping order in March 2002 for alleged dumping dating back to 2001. Such a resolution could take the form of a negotiated settlement, which might not take as long as legal proceedings. Nevertheless, this is a significant delay, approaching the length of time necessary to resolve previous antidumping cases. CBO's estimate is based on discussions with the Department of Commerce about the status of the dispute. While it is certainly possible that the case will take longer to be resolved, it is unlikely that the resolution would occur beyond the 10-year time frame for CBO's projections.

Estimates of Future Spending under CDSOA. Mr. Wessel's letter states that CBO's estimate of the number of cases under CDSOA increases over time. That is not the case. For duties other than those imposed on Canadian softwood lumber, CBO assumes collection and spending of \$300 million each year over the 2005-2015 period. This estimate is not specific to any case or any number of cases; it is based on the average amount of duties collected in prior years—including years before duties were authorized to be distributed under the CDSOA. (Before 2001, the United States collected antidumping and countervailing duties but did not distribute these amounts until the CDSOA became law).

I hope this information is helpful to you. If you wish further details about our estimates related to CDSOA, we will be pleased to provide them. The CBO staff contact is Melissa E. Zimmerman.

Sincerely,

Douglas Holtz-Eakin
Director

cc: Honorable Jim Nussle
Chairman

Honorable William "Bill" M. Thomas
Chairman, Committee on Ways and Means

Honorable Charles B. Rangel
Ranking Democrat