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Proposed Steel, Aluminum Tariffs Send Partners Reeling

In a seemingly impromptu announcement of tariffs on steel and aluminum imports, President Trump set the stock market tumbling and trade partners reeling March 1. At the end of a listening session with industry representatives, the president said he would implement tariffs of "25% for steel. It will be 10% for aluminum. And it will be for a long period of time."

> In interviews following the announcement, Commerce Secretary Wilbur Ross remained tight-lipped on the details of the tariffs, specifically what countries they'll apply to, and said details would be released the week of March 5. He was dismissive of potential retaliation by other countries.

Almost immediately, international trade leaders and partners voiced their opposition. The World Trade Organization (WTO) is "clearly concerned," WTO Director-General Roberto Azevedo said in a statement. "The potential for escalation is real, as we have seen from the initial responses of others. A trade war is in no one's interests," he added.

European Union (EU) Trade Commissioner Cecilia Malmstrom noted the "measures will have a negative impact on transatlantic relations and on global markets. In addition, they will raise costs and reduce choice for U.S. consumers of steel and aluminium [sic], including industries that import these commodities. The EU will seek dispute settlement consultations with the U.S. in Geneva at the earliest opportunity."

Chrystia Freeland, Canada's Foreign Affairs Minister, was even more blunt. "Should restrictions be imposed on Canadian steel and aluminum products, Canada will take responsive measures to defend its trade interests and workers," she said.

Industry, Unions React to Tariff Announcement

Industry and union response to the president's announcement of steel and aluminum tariffs fell into predictable lines. For one, United Steelworkers (USW) celebrated the

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president's announcement. "We …appreciate the attention that this issue has received in recent months. Comprehensive reports were sent to the White House and released to the public. They validated what we already knew: these sectors are critical to our nation," USW International President Leo Gerard said in a statement. He also cautioned that Canada should be exempted and a focus put on "countries that have created the problem," presumably, China.

The Aluminum Association also responded positively. "We appreciate the President's commitment to strengthening the U.S. aluminum industry. We look forward to working with the President on implementation and to creating a more level playing field."

> As expected, industry that is reliant on steel and aluminum imports were none too happy. "As major users of steel and aluminum, we have been proactive in explaining to the administration that the HVACR and water heating industry would be negatively impacted by an increase in tariffs, as would the consumers that rely on the products we manufacture," said Air-Conditioning, Heating and Refrigeration Institute President & CEO Stephen Yurek.

Beer company Miller Coors weighed in on Twitter. "We are disappointed with President Trump's announcement of a 10% tariff on aluminum. While we won't know the details for a week, the Department of Defense recently reported that aluminum does not cause any national security issues," it said.

Even members of the president's own party seemed to balk at the potential tariffs. "Tariffs on steel and aluminum are a tax hike the American people don't need and can't afford. I encourage the president to carefully consider all of the implications of raising the cost of steel and aluminum on American manufacturers and consumers," said Senate Finance Committee Chairman Orrin Hatch (R-Utah).

USTR Takes on WTO, Will Ask to Extend Fast Track

Touting "a new era in American trade policy," the president's Trade Policy Agenda and Annual Report unveiled Feb. 28 outlines the administration's five major trade pillars: trade policy that supports national security policy; strengthening the American economy; negotiating trade deals that work for all Americans; enforcing and defending U.S. trade laws; and strengthening the multilateral trading system.

The report summarizes the history of U.S. trade deals and lists the current administration's actions on enforcing trade laws, withdrawing from the "flawed" Trans-Pacific Partnership and renegotiating NAFTA and the Korea-U.S. Free Trade Agreement (KORUS). Looking to the future, the administration plans to ask Congress to extend Trade Promotion Authority (TPA) and believes there is strong support for an extension of fast-track authority through 2021.

The World Trade Organization (WTO) is firmly in the administration's cross-hairs (see related story, page 5). "The United States has been raising its concerns over the past two decades that the WTO is not operating as the contracting parties envisioned and consequently, undermining our country's ability to act in its national interest," reads a U.S. Trade Representative (USTR) fact sheet.

> "The United States stands ready to work with WTO Members to address our concerns, including a dispute settlement system that has appropriated to itself powers that the WTO Members never intended to give it, the WTO's inability to reach agreements needed in a modern global economy, and issues related to development," it further notes.

Interestingly, the report quotes George Washington as a means to justify the current president's protectionist trade stance. "President Washington, in his Farewell Address, warned his fellow citizens that when it comes to trade negotiations, 'There can be no greater error than to expect, or calculate upon, real favors from nation to nation.'" And for most of U.S. history, Americans have heeded that advice, says the report.

"More recently, however, the United States has backed away from these successful principles. Instead of asserting its sovereign authority to act in response to changing circumstances, the United States continued to passively adhere to outdated and under performing trade deals and allowed international bureaucracies to undermine U.S. interests. This has left U.S. workers and businesses at a disadvantage in global markets, as unfair trading practices flourish in the absence of a strong U.S. response."

"The administration's announcement of its intention to seek an extension of bipartisan Trade Promotion Authority (TPA) is welcome news. I look forward to reviewing the administration's conduct of trade policy over the next several months and its explanation of how it would use the authority to achieve the TPA negotiating objectives, if extended," Senate Finance Committee Chairman Orrin Hatch (R-Utah) said in a statement.

Senate Confirms USTR, ITC Nominees

At long last, the Senate March 1 confirmed four trade nominees by voice vote. USTR had turned the pressure up earlier in the week, tweeting out a graphic with a ticking timeline showing nominees who had waited 200-plus days for their confirmation.

The Senate confirmed Gregory Doud as USTR chief agricultural negotiator, Dennis Shea as ambassador to the World Trade Organization, and C.J. Mahoney as deputy USTR in charge of investment, services, environment, Africa, China and the Western Hemisphere. Jason Kearns was confirmed to serve as an International Trade Commission member. A series of holds had delayed the confirmations (see **WTTL**, Feb. 12, page 3).

"I applaud the Senate for taking action to confirm these immensely qualified trade deputies and negotiators," USTR Robert Lighthizer said in a statement. Neither deputy USTR nominee Jeffrey Gerrish nor Commerce undersecretary nominee Gilbert Kaplan received a vote. Senate Finance approved both last year.

NAFTA Negotiations Face Slow Going in Round 7

Despite nearly 30 technical groups meeting, little progress was made during the seventh round of NAFTA negotiations in Mexico Feb. 25-March 5, and additional talks will need to be held to settle the thorny issue of auto rules of origin.

Autos remain a source of contention. Talks on the subject were suspended when Jason Bernstein, the U.S. negotiator on rules of origin, returned to the U.S. supposedly to meet with auto manufacturers. The U.S. wants to raise the NAFTA content requirement from 62.5% to 85% with 50% of that coming from the U.S., to which the auto industries in all three countries have balked. To help assuage the tension, extra discussions on autos are expected to take place in March ahead of the eighth formal round of negotiations, which will likely be hosted in Washington in late March or early April.

> In a bit of good news, Mexico's chief negotiator Kenneth Smith Ramos announced on Twitter March 1 the conclusion of the chapter on good regulatory practices. It stands as the fourth chapter to be finalized. At the last round of negotiations in Canada, the chapter on anti-corruption was completed (see **WTTL**, Feb. 5, page 4).

It was a sliver of silver lining in an otherwise challenging week between Mexico and the U.S. Mexican President Enrique Pena Nieto tentatively was scheduled to visit the White House in March, but cancelled his visit after a tense phone call with President Trump regarding the proposed border wall. (Pena Nieto reportedly wanted Trump to acknowledge publicly that Mexico will not pay for the wall; Trump refused.)

That was followed by the announcement that U.S. Ambassador to Mexico Roberta Jacobson had tendered her resignation effective May 5. Jacobson has served for 30 years in the government and was a holdover from the Obama administration. By all accounts she is quite popular in Mexico. Trump is expected to name former General Motors CEO Edward Whitacre Jr. as Jacobson's replacement.

A bipartisan congressional delegation headed by House Ways and Means Committee Chairman Kevin Brady (R-Texas) set out for Mexico March 2 for a two-day visit during negotiations. Accompanying Brady were Reps. Bill Pascrell (D-N.J.), Sander Levin (D-Mich.), Adrian Smith (R-Neb.), Tom Rice (R-S.C.), Will Hurd (R-Texas) and Roger Marshall (R-Kan.).

"I look forward to consulting with the U.S. trade team and engaging with our trading partners about how we continue to move this important agreement forward. NAFTA has been critical to our economy in Texas and throughout the country. I am confident that by insisting on tough obligations – ones that are strictly enforced and hold our partners accountable through effective and binding dispute settlement – we will conclude a final agreement with big wins for the American people," Brady said in a statement.

U.S. Focus of WTO Dispute Settlement Body

U.S.-related disputes were the focus of much of the World Trade Organization's (WTO) Dispute Settlement Body meeting Feb. 28. Those disputes involve India, China, the European Union (EU), and the ongoing fight over Appellate Body vacancies.

India submitted its second request for the establishment of a panel to determine if it is in compliance with the DSB rulings on certain measures relating to solar cells and solar modules. The U.S. blocked India's first request Feb. 9 (see **WTTL**, Feb. 12, page 7). The U.S. maintains that India has no proof of its compliance and reserves its right to move forward with retaliation measures, but is willing to work with India to resolve the dispute.

> At the same time, the DSB adopted a compliance panel report in favor of the U.S. in its dispute over China's imposition of antidumping and countervailing duty measures on broiler (chicken) products. The panel supported the U.S. view that China should not have imposed the duties nor should those duties have stood for four years following the WTO ruling. China said it has decided to terminate the duties.

The EU requested again that the U.S. stop transferring antidumping and countervailing duties to U.S. domestic industry. The EU will continue to bring up the Continued Dumping and Subsidy Offset Act at every meeting until the U.S. complies, it said. The U.S. said it has already complied and has no obligation to provide further status reports.

Regarding the three vacancies on the Appellate Body, Mexico introduced a proposal, sponsored by 63 WTO members, to launch the selection process. The proposal calls for the establishment of a Selection Committee, submission of candidates within 30 days and recommendations by the committee within 60 days. Yet again, the U.S. said it cannot support the start of the process without the DSB addressing Appellate Body members hearing appeals after their terms have expired (see **WTTL**, Feb. 26, page 5). More than 20 members expressed their concerns with the impasse.

Commerce Announces Rates in AD/CVD Investigations

Commerce March 1 announced affirmative final determinations in the antidumping (AD) and countervailing duty (CVD) investigations of silicon metal imports from Australia and Brazil, an AD investigation of imports from Norway and a CVD investigation on Kazakhstan. Four days earlier, Commerce issued final determinations in the AD/CVD investigations into imports of certain aluminum foil from China. The International Trade Commission (ITC) is expected to make its final determinations on silicon metal April 13; for aluminum, April 12.

In the Australia AD investigation, mandatory respondent Simcoa Operations Pty Ltd. was assigned a dumping rate of 51.28% and all other producers/exporters from Australia a 41.73% dumping rate. In the CVD investigation, all producers/exporters were given a subsidy rate of 14.78%. Brazil mandatory respondent Palmyra was assigned a dumping rate of 68.97% and a subsidy rate of 2.44%. Ligas de Aluminio S.A.-LIASA was assigned a dumping rate of 134.92% and a subsidy rate of 52.51% using adverse facts available. Commerce assigned all other Brazilian producers/exporters a dumping rate of 68.97% and a subsidy rate of 2.44%.

All Norwegian producers/exporters were assigned a 3.22% dumping rate, while all Kazakshtan producers/exporters were assigned a subsidy rate of 100% using adverse facts available. The petitioner is Globe Specialty Metals.

> On aluminum, Chinese mandatory respondent Dingsheng was assigned a dumping margin of 106.09%. The other mandatory respondent Zhongji was assigned a dumping margin of 48.64%. A separate rate of 84.94% was assigned to 14 companies and all other companies face a China-wide dumping margin of 106.09%. Commerce made the determinations using adverse facts available.

In the CVD investigations, Commerce calculated subsidy rates of 19.98% for Dingsheng Aluminum Industries and 17.14% for Jiangsu Zhongji Lamination Materials Co., Ltd. Loften Aluminum Limited, Manakin Industries LLC and Suzhou Manakin Aluminum Processing Technology Co., Ltd. were all given subsidy rates of 80.97% using adverse facts available. All others are assigned a subsidy rate of 18.56%. The petitioner is the Aluminum Association Trade Enforcement Working Group.

* * * Briefs * * *

EXPORT ENFORCEMENT: Two Alexandria, Va., residents were arrested Feb. 27 and charged in Alexandria U.S. District Court with smuggling firearms, firearms parts such as Glock slides and barrels, and firearms accessories such as Glock and AK47 magazines to Chechnya by using false shipping inventories and disguising disassembled firearms as kitchen utensils. Tengiz Sydykov, U.S. legal permanent resident and citizen of Kyrgyzstan, and Eldar Rezvanov, Kazakh citizen, were charged with violating Arms Export Control Act, conspiracy to smuggle goods from U.S., wire fraud, bank fraud and money laundering.

MORE EXPORT ENFORCEMENT: Trilogy International of Modesto, Calif., and President and General Manager William Michael Johnson agreed Feb. 26 to pay BIS $100,000 each and ten-year denial order to settle charges of exporting explosives detector and 115 analog-to-digital converters to Russia without required licenses in 2010. Items were classified under Export Control Classification Numbers 1A004 and 3A001, controlled on national security grounds, and valued in total at approximately $76,035. Trilogy International exported items to Russian company TAIR R&D Co. Ltd. that employed Alexander Volkov, who had previously formed Trilogy. In 2017, Respondents motioned for summary dismissal of all charges, “relying upon the argument that a third party, the freight forwarder, bore responsibility for the unlicensed exports,” BIS said. Case went to Administrative Law Judge (ALJ), which found in BIS’ favor.

LIBYA: OFAC Feb. 26 added six Maltese, Libyan and Egyptian individuals, 24 companies in Malta, Italy and Libya and seven vessels to Specially Designated Nationals (SDN) list for smuggling oil from Libya to Europe. “Oil smuggling undermines Libya’s sovereignty, fuels the black market and contributes to further instability in the region while robbing the population of resources that are rightly theirs,” agency said.

TRADE PEOPLE: Julia Friedman joined House Ways and Means Committee Democrats as trade counsel. Friedman previously served as USTR director for innovation and intellectual property.

POLYESTER: In 4-0 "sunset" vote March 1, ITC said revoking antidumping duty order on imports of polyester staple fiber from China would renew injury to U.S. industry.

FCPA: Jeff Yin, principal assistant to Ng Lap Seng, owner of Macau Real Estate Development Company, was sentenced in Manhattan U.S. District Court Feb. 28 to seven months in prison for his role in scheme to bribe Antiguan and Dominican ambassadors to UN. Yin pleaded guilty in April 2017 to tax evasion. Federal jury convicted Seng in July after four-week trial on charges of violating Foreign Corrupt Practices Act (FCPA) (see **WTTL**, July 31, page 7). Ng and Yin allegedly paid hundreds of thousands of dollars to ambassadors in exchange for official action to benefit Ng and his company. Specifically, Ng sought formal UN support for Macau Conference Center that he hoped to build.

CATFISH: In latest step in long dispute, Vietnam requested WTO consultations with U.S. regarding inspection, marketing and labeling of Pangasius fish from Vietnam. Request was circulated to WTO members Feb. 27. "Shipments of *Pangasius* from Viet Nam to the United States have long been unfairly targeted for trade restrictions by United States producers of like products," Vietnam wrote in request. At meeting in May 2017, President Trump and Vietnamese Prime Minister Nguyen Xuan Phuc "pledged to continue to work together constructively to seek resolution" on catfish and other disputes (see **WTTL**, June 5, 2017, page 3).

PERU: USTR Feb. 26 asked Peru to verify three 2017 timber shipments to U.S. complied with applicable Peruvian laws and regulations on illegal logging. Timber verification provision is monitoring tool provided for in U.S.-Peru Trade Promotion Agreement (PTPA). After previous failed verification, USTR in October 2017 directed Customs to block future timber imports from Peruvian exporter Inversiones Oroza for three years "based on illegally harvested timber found in its supply chain," USTR said at time (see **WTTL**, Oct. 23, page 1).