ISSN 0276-8275

WTTLonline.com

Washington Tariff & Trade Letter®

A Weekly Report for Business Executives on U.S. Trade Policies, Negotiations, Legislation, Trade Laws and Export Controls

Publisher: Martin Kalin • Editor: Meredith Gilston • Associate Editor: Melissa Apter

Vol. 37, No. 47 **November 27, 2017**

ITC Recommends Tariffs in Washer Complaint

In a mixed decision, the International Trade Commission (ITC) Nov. 21 sent the president its remedy recommendations in the global safeguard petition seeking relief from imports of large residential washers Whirlpool filed in May. ITC voted in October to move forward with the petition (see **WTTL**, Oct. 9, page 3).

> The commissioners unanimously recommended that the president impose a three-year tariff-rate quota (TRQ) on washer imports. For U.S. imports over 1.2 million units, the commissioners recommended a 50% ad valorem tariff rate, in addition to the current duty rate. They recommended that the in-quota volume remain constant and that the above-quota tariff rate decrease 5% each year.

Rhonda Schmidtlein and Irving Williamson additionally recommended an in-quota 20% ad valorem tariff rate, which would decrease to 18% in the second year and 15% in the third, in addition to the current duty rate. David Johanson and Meredith Broadbent did not recommend an in-quota tariff rate. The commissioners also unanimously recommended a separate three-year TRQ on imports of covered washer parts. For imports over 50,000 units, they recommended a 50% ad valorem tariff rate and that the in-quota volume increase by 20,000 units and the above-quota tariff rate decrease 5% each year.

"The ITC appropriately rejected Whirlpool's outrageous tariff proposal, which would have had a devastating impact on consumers, retailers and jobs," Samsung said in a statement. "We strongly urge the Administration not to impose any remedy that would harm the workers in our South Carolina factory, or limit them from delivering innovative washing machines, made by Americans for Americans," it said.

Canada, U.S. Clash over Controversial NAFTA Proposals

The fifth round of NAFTA negotiations concluded Nov. 21 in Mexico with some progress made, according to a trilateral statement, but despite the extra time between rounds,

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tension remains thick between the parties with Canada and Mexico largely in lockstep against U.S. controversial proposals. At the same time, members of Congress reminded the administration they need to be heard in the renegotiation process.

"While we have made progress on some of our efforts to modernize NAFTA, I remain concerned about the lack of headway. Thus far, we have seen no evidence that Canada or Mexico are willing to seriously engage on provisions that will lead to a rebalanced agreement. Absent rebalancing, we will not reach a satisfactory result," U.S. Trade Representative (USTR) Robert Lighthizer said in a statement. A sixth round will be held Jan. 23-28 in Montreal. Intersessional meetings will take place in Washington throughout mid-December.

> In Canada's view, the U.S. is pushing against red lines. Canadian Foreign Affairs Minister Chrystia Freeland told reporters that Canada will "hope for the best and prepare for the worst and Canada is prepared for every eventuality." The U.S.-proposed five-year sunset clause is a no-go for Canada. "I've been married for 19 years, when my husband asked me to marry him, he didn't say every five years we're going to check whether we want to get divorced or not. We don't think that's a good foundation for a lasting relationship," said Freeland.

Mexico and Canada have also balked at a U.S. proposal on auto rules of origin that would raise the content requirement for North American-made autos from 62.5% to 85% (see **WTTL**, Nov. 20, page 1). "We have heard from the auto sector, not only in Canada, but also in the United States, that some of the proposals we have heard would not only be harmful for Canada, but would be harmful for the U.S. as well. [It] would be harmful for that integrated U.S.-Canada auto sector," Freeland noted.

Sen. John Cornyn (R-Texas), chairman of the Senate Finance Committee international trade subcommittee, convened a field hearing on NAFTA in San Antonio Nov. 20. Auto Alliance President and CEO Mitch Bainwol testified to the concerns U.S. automakers have with the "current trajectory of re-negotiations."

"With regards to rules of origin, it warrants emphasizing that the existing rule … is the highest of any free trade agreement in the world. It has been effective in striking the right balance to ensure there are no free riders and that to take advantage of the NAFTA tariff preferences, manufacturers must source significantly from the North American region," said Bainwol. He added that a sunset clause would render any renegotiated agreements "meaningless" due to the uncertainty it would render.

Cornyn's hearing is one of several actions lawmakers have taken to remind the administration that no new NAFTA agreement can go forward without congressional approval. The same day as the field hearing, a bipartisan group of senators urged Commerce Secretary Wilbur Ross to conduct an economic analysis on how the changes to NAFTA would impact the crop and livestock sectors.

"The agriculture industry does not want to see momentum hindered especially at a time when net farm income has declined by approximately 50% over the past four years. It is imperative that before any changes are made to NAFTA, or any other free trade agreement, that economic analysis that illustrates the impact on the full supply chain of the industries involved be shared. As such, we request an economic analysis that examines and evaluates the impacts to crop and livestock sectors as a result of any change to NAFTA," notes the letter signed by 18 lawmakers, including Sens. John Boozman (R-Ark.) and Heidi Heitkamp (D-N.D.).

Comments on Proposed Solar Remedies

The ITC's recent recommendation that the administration place tariffs and import restrictions on crystalline silicon photovoltaic (CSPV) cells set off an avalanche of comments on regulations.gov (see **WTTL**, Nov. 6, page 8). The president will make a final decision as to whether to provide relief to U.S. industry in response to a Section 201 global safeguard petition brought by Suniva and SolarWorld Americas.

> Written responses to the initial round of comments are due Nov. 29 and the USTR's Trade Policy Staff Committee will hold a hearing Dec. 6 in Washington. The USTR's office received more than 3,800 comments by the Nov. 20 deadline, many of which were written from the same boilerplate language.

John Magnus, counsel to Solar Energy Industries Association (SEIA), submitted 45 pages outlining SEIA's opposition to the petition, along with his request to testify at the hearing. Among its criticisms, SEIA believes the case does not call for tariffs, but rather an import license fee mechanism. "Fundamentally, the license fee auction mechanism is an innovative, elegant tool that allows the petitioners and the rest of the domestic industry, including module assemblers, to benefit from disbursement of funds collected from importers of CSPV based on the amount of imported solar modules," he noted.

"The fees create a multiplier effect because of the large amount of imports that would be funding the domestic industry. Domestic producers gain a competitive advantage because, unlike the imported product, domestically produced cells, and the modules manufactured from them, are not subject to the fees. The funds can be used to modernize and expand their businesses to achieve the technical expertise and scale needed to succeed in the long-term. In fact, both Suniva and SolarWorld support the license fee as a tool to help their efforts to expand operations," SEIA wrote.

Petitioner SolarWorld Americas maintains that a four-year relief period is appropriate because "domestic industry has been significantly weakened by successive surges of imports." Because of competition, four years is needed to "incentivize additional domestic and foreign investment in U.S. cell and module capacity." SolarWorld Americas' CEO Juergen Stein will likely testify at the TPSC.

Environmental groups, such as the Audubon Society, opposed the tariffs. "The proposed tariffs would harm the solar industry, resulting in job losses across the country, stalling development of solar energy in the United States, and slowing progress toward the clean energy future critical to people and birds," Audubon VP Matthew Anderson wrote.

* * * Briefs * * *

STEEL FITTINGS: In 4-0 preliminary vote Nov. 17, ITC found U.S. industry may be injured by allegedly dumped imports of forged steel fittings from China, Italy and Taiwan and subsidized imports from China.

FCPA: Chi Ping Patrick Ho aka Patrick C.P. Ho, head of Hong Kong non-governmental organization (NGO) China Energy Fund, and Cheikh Gadio, former foreign minister of Senegal and U.S. resident, were charged Nov. 20 in Manhattan U.S. District Court with conspiring to violate Foreign Corrupt Practices Act (FCPA), violating FCPA, conspiring to commit international money laundering, and committing international money laundering. Two are charged with participating in multi-year, multimillion-dollar scheme to bribe high-level officials in Chad and Uganda in exchange for business advantages for Chinese oil and gas company. Both were arrested and remain in custody. CEFC China, which funded NGO, denied involvement. Fund "has no commercial authorization relationship whatsoever with the company," it said in statement.

IRAQ: At informal Working Party meeting Nov. 17, WTO members welcomed Iraq's determination to resume WTO accession process after nine years. "The Working Party is encouraged by the political commitment demonstrated by the Government of Iraq to resume its accession process and the technical progress being made," Working Party Chair Omar Hilale of Morocco said in statement. Last meeting was held in April 2008.

IRAN: Treasury's Office of Foreign Assets Control (OFAC) Nov. 20 designated individuals and entities involved in "large-scale scheme to help Iran's Islamic Revolutionary Guard Corps-Qods Force (IRGC-QF) counterfeit currency to support its destabilizing activities," OFAC said. "Scheme exposes the serious risks faced by anyone doing business with Iran, as the IRGC continues to obscure its involvement in Iran's economy and hide behind the façade of legitimate businesses to perpetrate its nefarious objectives," Treasury Secretary Steven Mnuchin said in statement.

NORTH KOREA: OFAC Nov. 21 sanctioned one individual, 13 entities and 20 vessels in effort to "disrupt North Korea's illicit funding of its unlawful nuclear and ballistic missile programs," according to Treasury statement. "These designations include companies that have engaged in trade with North Korea cumulatively worth hundreds of millions of dollars. We are also sanctioning the shipping and transportation companies, and their vessels, that facilitate North Korea's trade and its deceptive maneuvers," Mnuchin said in statement.... Day before, president designated North Korea as state sponsor of terrorism. "In addition to threatening the world with nuclear devastation, North Korea has repeatedly supported acts of international terrorism including assassinations on foreign soil," president said during Cabinet meeting Nov. 20.

WIRE ROD: Commerce Nov. 21 announced affirmative final determinations in antidumping duty investigations of carbon and alloy steel wire rod from Belarus (280.02%), Russia (756.93% for mandatory respondents and 436.80% for all others) and UAE (84.10%). ITC expected to make its final determinations Jan. 5. Petitioners are Gerdau Ameristeel US Inc., Nucor Corporation, Keystone Consolidated Industries and Charter Steel.