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. 36, No. 34 **August 22, 2016**

Billions in Import Duties Went Uncollected, GAO Says

Over the last 15 years, the U.S. government did not collect $2.3 billion in antidumping (AD) and countervailing duties (CVD) as of mid-May 2015, according to a new report by the Government Accountability Office (GAO). Moreover, U.S. Customs and Border Protection (CBP) does not expect to collect most of that debt, according to the GAO findings published July 14 and released publicly Aug. 15 (GAO-16-542).

> Unpaid bills were concentrated among a small number of importers; 20 importers accounted for 50% of the uncollected debt, GAO noted. Many of those importers stopped importing before they got their first duty bill, data showed. CBP's efforts to collect these debts "yielded limited results," it said. Even more worrisome, CBP "had not collected and analyzed data systematically" to minimize processing errors. In short, CBP does not know the extent of existing errors and therefore cannot take effective action.

GAO recommended that CBP (1) collect and analyze data on a regular basis to find and address the causes of AD/CVD liquidation errors and track progress; (2) regularly conduct a comprehensive risk analysis related to duty nonpayment; and (3) take steps to use its data and risk assessment strategically to mitigate AD/CVD duty nonpayment. CBP concurred with all three recommendations, GAO said.

"Congress has long urged the Administration to improve enforcement and has passed legislation to help address this problem," said House Ways and Means Committee Chair Kevin Brady (R-Texas) in a statement. In the 2015 Customs bill, Congress "mandated that these provisions enter into effect by August 22nd," he said.

Agencies Issue Single Destination Control Statement

In their latest step in the export control reform effort, Bureau of Industry and Security (BIS) and State's Directorate of Defense Trade Controls (DDTC) listened to industry

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suggestions on how best to harmonize the destination control statements (DCS) required under their respective regulations. In final rules published in the Federal Register Aug.17, the two agencies agreed that a single DCS would be required only on commercial invoices, not other documents as originally proposed. These changes will become effective Nov. 15.

While manufacturers and shipping companies praised the agencies' effort, they complained about the continuing divergences between the Export Administration Regulations (EAR) and International Traffic in Arms Regulations (ITAR). In particular, the comments raised concerns about which documents are required to carry the harmonized language and whether exporters would be provided sufficient implementation period to adjust to the new requirements (see **WTTL**, July 13, 2015, page 7).

> The changes in this final rule mean "the EAR no longer includes, as of the effective date of this final rule, a requirement to include the DCS on the air waybill, bill of lading or other export control documents, and instead is limiting the requirement to the commercial invoice," BIS wrote.

"Commerce and State agree with the public commenters that, as proposed, the harmonization did not go far enough and in order to have true harmonization and achieve the stated objectives that additional harmonization was needed. In addition, certain clarifications and refinements of what was originally proposed were needed in order to clarify and alleviate perceived concerns, in particular for exporters of non-600 series and non-9x515 items under the EAR," it added.

The DDTC rule also included other changes to the ITAR "pertaining to the use of exemptions to the license requirements and the export of items subject to the EAR, when the EAR items are shipped with items subject to the ITAR," the agency wrote. These include changing the agency responsible for permanent import authorizations from Treasury to Justice, and removing the pilot filing requirement that "did not take into account the practices of modern airport operations and is no longer necessary." DDTC received no comments on these changes.

Peru Must Do More to Address Illegal Timber Concerns

Peru must do more to reform its forestry sector, according to a report from the Interagency Committee on Trade in Timber Products from Peru published Aug. 17. The interagency committee was created under the U.S.-Peru Trade Promotion Agreement (PTPA) to oversee implementation of the agreement's annex covering forest sector governance.

In February, the U.S. Trade Representative's (USTR) office requested an investigation into a January 2015 shipment of illegally harvested and traded Peruvian timber shipped to Houston (see **WTTL**, Feb. 29, page 9). Inspectors found trees were harvested illegally and regional bureaucracy curtailed the supervising agency from properly inspecting the shipment, which originated with La Oroza SRL, a Peruvian company.

Peru has taken positive steps including the arrest of 19 individuals linked to organized crime and illegal logging, the report found. In addition, the Supervisory Agency for Forest and Wildlife Resources (OSINFOR) Tribunal became fully operational in January 2016. However, the report identified 12 points for improvement spanning the timing of post-harvest inspections, implementation of new electronic timber tracking system, additional export documentation, and institutional strengthening of Peruvian regional governments.

On a recent visit to Peru, USTR Michael Froman "urged the new Administration to engage quickly with the United States on a focused set of actions to combat illegal logging, including maximizing the use of new technologies to address the challenges – including, for example, full and immediate deployment of the electronic timber tracking system we have been working together to develop," he said in a statement.

> Environmental groups and elected officials applauded the report, but urged the Peruvian government to do more. "It is time for Peru to address this organized crime with the urgency it requires. Illegal logging is not just about the stolen trees and ecosystem destruction, but also about corruption, human rights violations, and the threats of violence against and assassination of brave local leaders and public officers that fight to stop it," said Julia Urrunaga, Peru Program Director at the Environmental Investigation Agency.

"The report provided by Peru demonstrates that it has much more work to do to enforce its laws and to stop trade in illegally taken timber," said Sen. Ron Wyden (D-Ore.) in a statement. Wyden requested the report earlier this year. "Illegal timber costs American jobs and damages ecologically critical rainforest. I strongly urge Peru's new government to promptly act on the recommendations provided by the Obama Administration today, and that U.S. Agencies — particularly U.S. Fish and Wildlife — redouble their efforts to identify and interdict illegally taken timber," Wyden added.

The PTPA contains an environment chapter as well as the annex covering forest sector governance. That annex, which came into force in 2010, includes steps both countries must take to strengthen governance of the forest sector and combat illegal logging and trade.

Union Disappointed with Commerce Tire Ruling

United Steelworkers (USW) is "disappointed" by the negative preliminary determination Commerce announced Aug. 12 in its antidumping duty (AD) investigation of imports of certain pneumatic off-the-road (OTR) tires from India. Titan Tire Corporation and USW are petitioners.

According to government import statistics, in 2014 new pneumatic OTR tires from India were valued at $167.3 million. Though Commerce's finding was negative in this investigation, the agency in June calculated preliminary countervailing duty (CVD) margins for OTR tires from India at 4.7% to 7.64% and Sri Lanka at 2.9%. "Our members have suffered harm from OTR imports. The USW will be looking to the Commerce

Department to address all issues raised by petitioners in their final to ensure that any dumping is in fact addressed and offset," said USW President Leo Gerard in a statement Aug. 15.

In its testimony before the International Trade Commission (ITC) in January, USW said the workforce responsible for producing OTR tires at Titan's three facilities shrank by 40% from 2012 to 2014. Daily production dropped at Bridgestone's plants in Bloomington and Des Moines, which USW attributed to the "rising volume of low-priced imports."

TPP Means Lower Back-to-School Costs, FDRA Says

Parents would save a bundle on back-to-school shoe shopping were the Trans-Pacific Partnership (TPP) in full force, the Footwear Distributors and Retailers of America (FDRA) said in a new report published Aug. 16.

"We estimate American families could save $4 billion dollars at retail on kids' shoes over the full 12-year implementation process if TPP passes Congress," said FDRA President Matt Priest in a statement. His organization found the presidential candidates' opposition to the deal difficult to understand when TPP "would save families real money at a time they need it most, and on a product they have to buy on average of seven times a year per child due to growth spurts and various school and recreational activities," he added.

> From 2005 to 2015, there was a 191% increase in children's footwear duties paid, including a record $307 million duty on children's shoes collected in 2015. Children's shoes sold in the U.S. are subject to tariff rates upwards of 37.5%, 48% and 67.5%, while other consumer goods are taxed at 1.3%, according to the report. The duties are a result of the Smoot-Hawley Tariff Act of 1930 established to protect a domestic industry that no longer exists, Priest said.

An estimated 99.9% of children's shoes sold in the U.S. are imported. TPP would cut children's footwear duties by $125 million in year one and save $1.5 billion on children's footwear duties over TPP's 12-year phase-in, according to the report.

ITC Vote Finalizes Steel Victory

In another win for U.S. steel producers, the International Trade Commission (ITC) determined Aug. 17 that industry is materially injured by dumped imports of heavy walled rectangular welded carbon steel pipes and tubes from Korea, Mexico and Turkey and subsidized imports from Turkey.

The final vote was 4-2. Commissioners Meredith Broadbent and F. Scott Kieff voted no. Based on Commerce's determinations last month, final antidumping (AD) margins will range from 2.34% to 3.24% for Korean respondents and 3.83% to 5.21% for Mexican respondents. Turkey's MMZ Boru Profil Uretim Sanayi Ve Tic. A.S. was hit with 35.66%

AD and 23.37% CVD margins. All other Turkish exporters/producers were assessed 17.83% AD and 19.06% CVD. The case was originally filed July 21, 2015 (see **WTTL**, July 27, 2015, page 11). Petitioners are: Atlas Tube, a division of Zekelman Industries, Inc. (Ill.), Bull Moose Tube Company (Mo.), EXLTUBE (Mo.), Hannibal Industries, Inc. (Calif.), Independence Tube Corporation (Ill.), Maruichi American Corporation (Calif.), Searing Industries (Calif.), Southland Tube (Ala.), and Vest, Inc. (Calif.). Atlas Tube's parent company changed its name from JMC Steel Group to Zekelman Industries in June 2016.

U.S. imports from subject countries in 2015 totaled $103 million, according to the ITC. The leading sources in 2015 were Canada, Korea, Mexico and Turkey. Imports from other countries in the same time frame totaled $214 million.

* * * Briefs * * *

ZTE: BIS Aug. 19 extended temporary general license for exports, reexports and transfers (in-country) to two entities (ZTE Corporation and ZTE Kangxun) until Nov. 28. Companies were added to Entity List in March but sanctions were quickly suspended (see **WTTL**, July 4, page 8).

EXPORT ENFORCEMENT: Wenxia Man of San Diego was sentenced Aug. 19 in Ft. Lauderdale U.S. District Court to 50 months in prison for violating Arms Export Control Act. Federal jury June 9 convicted Man after five-day trial (see **WTTL**, June 13, page 9). Man conspired to export and cause export of Pratt & Whitney and General Electric fighter jet engines, General Atomics unmanned aerial vehicle and related technical data to China. Indictment was unsealed in September 2015 after Man's arrest. U.S. Attorney had recommended sentence of 78 months. "There is hardly a more serious case than as case such as this that involves some of our most sophisticated fighter jet engines and unmanned weaponized aerial drones," Justice wrote in sentencing memo.

MORE EXPORT ENFORCEMENT: Walter Anders and Terand, Inc. of Huntersville, N.C., Aug. 15 agreed to eight-year export denial to settle eight BIS charges of causing, aiding and/or abetting unlicensed exports of controlled 6,557 kg of U.S.-origin T300 carbon fiber to Singapore in 2012. Fiber was classified under ECCN 1C210 and controlled for nuclear proliferation reasons, valued at approximately $288,736. Charges relate to deal with Performance Engineered Nonwovens of Middletown, N.Y., and president Peter Gromacki that Terand "would falsely act as the U.S. exporter of record for exports of the items to Singapore in return for a $1,400 commission for each successful export on Performance Engineered Nonwovens' behalf," BIS said. In unrelated case, Gromacki was sentenced in Manhattan U.S. District Court in November 2013, to three months in prison for exporting 6,000 pounds high-grade T-700 carbon fiber to China (see **WTTL**, Dec. 2, 2013, page 10).

EVEN MORE EXPORT ENFORCEMENT: Pavel Semenovich Flider, Russian national and naturalized U.S. citizen, and his company Trident International Corporation, LLC, pleaded guilty Aug. 16 in San Francisco U.S. District Court to charges of smuggling and money laundering. Indictment was unsealed in March 2015 (see **WTTL**, March 30, 2015, page 11). They were charged with shipping electronic components from U.S. companies to Russia using transshipment points in Estonia and Finland. Sentencing is set for Feb. 16, 2017. BIS in March 2015 also issued six-month Temporary Denial Order (TDO) against Flider and Trident, which was renewed in September 2015. Despite issuance of TDO, "Trident repeatedly sought to order or buy items subject to the EAR from a U.S.- based electronics distributor from whom Trident had previously purchased items for export," renewal notice said. In July 2015, Flider "contacted employees of this electronics distributor requesting to reestablish Trident's account and make additional purchases of electronics components, including for computer chips," it added.

USTR: Trade Policy Staff Committee (TPSC) will hold public hearing Sept. 30 on Russia's implementation of its commitments as member of WTO. To testify, written notification and summary of testimony due Sept. 20. Comments to be used as part of USTR's annual report to Congress. Separately, two WTO panels ruled against Russian EU-wide pork import ban Aug. 19 and Russian duties on EU imports Aug. 12….TPSC to hold similar hearing for China Oct. 5. To testify, written notification and summary of testimony due Sept. 21.

ELECTION 2016: Democratic presidential candidate Hillary Clinton tapped former Interior Secretary Ken Salazar to chair her transition team. Salazar has supported TPP and fracking in the past, irking anti-TPP Democrats. Clinton is against 12-nation trade deal.

INSURANCE: House Ways and Means Chairman Kevin Brady (R-Texas) and Ranking Member Sander Levin (D-Mich.) took issue with EU's new insurance regulations in letter to USTR Michael Froman and Treasury Secretary Jacob Lew Aug. 17. Solvency II Directive unfairly discriminates against U.S. insurance and reinsurance businesses, congressmen said. "Specifically, the EU recognizes other countries' prudential regimes as having 'equivalence' to Solvency II, which relieves companies from those jurisdictions from having to satisfy Solvency II requirements for their non-EU operations. At the same time, the EU has deemed the U.S. to be only 'provisionally' equivalent, which creates a double standard that discriminates against U.S. insurers while benefiting EU insurers," letter states.

CHINA: Commerce announced Aug. 17 affirmative preliminary determination in antidumping duty (AD) investigation of imports of certain biaxial integral geogrid products from China. Dumping occurred by mandatory respondents BOSTD Geosynthetics Qingdao Ltd. and Taian Modern Plastic Co., Ltd. at preliminary dumping margins of 0% and 38.92%, respectively. Preliminary dumping margin of 66.74% for all other producers/exporters in China. Georgia-based Tensar Corporation original petitioner. Commerce to announce final determination Dec. 22.

ALUMINUM: ITC to hold public hearing Sept. 29 on competitive conditions affecting U.S. aluminum industry. Deadline for filing requests to appear at hearing is Sept. 5 and Sept. 12 for filing briefs and statements. ITC Chairman Irving Williamson invited 28 embassies to attend hearing, including China, France, Mozambique, Russia and Vietnam. Commission launched Section 332 investigation of U.S. aluminum industry and global aluminum trade in April (see **WTTL**, April 11, page 9).

EDITOR'S NOTE: In keeping with our 50-week publishing schedule, there will be no issue of ***Washington Tariff & Trade Letter*** on Aug. 29. Our next issue will be Sept. 5.