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Obama Aims to Remove Cuba from Terrorism List

The removal of Cuba from the list of terrorism-sponsoring countries, as President Obama said April 14 that he intends to do, will have limited impact on U.S. business initially because of the continuing statutory trade embargo on Cuba and other financial sanctions under Treasury's Office of Foreign Assets Control (OFAC) still exist (see **WTTL**, April 13, page 8). In his message to Congress, Obama wrote that Havana "has not provided any support for international terrorism during the preceding 6-month period" and "has provided assurances that it will not support acts of international terrorism in the future."

> Cuba's terrorism designation imposes four main sanctions: "restrictions on U.S. foreign assistance, a ban on defense exports and sales, certain controls over the exports of dual-use items, and miscellaneous financial and other restrictions," a senior administration official told reporters.

The president's certification begins a 45-day process during which lawmakers could reject his determination by a joint resolution, which he could veto. After the 45 days, the administration will "remove one set of sanctions and will certainly be of assistance to the Cuban government in financial dealings, but we are optimistic that they will have the banking issue resolved independent of this process," another official noted.

While removing Cuba's antiterrorism (AT) designation will allow some exports under the Export Administration Regulations, many financial transactions will still be prohibited under other Treasury regulations. "Surely it is easier for a country with fewer sanctions on it to find financial institutions willing to do business with it," the official said. Meanwhile, OFAC April 16 issued 14 pages of new Frequently Asked Questions (FAQs) related to its existing Cuba regulations.

Fast-Track Legislation Likely to Move Quickly in Congress

The fast-track trade promotion authority (TPA) bills (S. 995) introduced April 16 are expected to move quickly through the House and Senate despite continued opposition from most Democrats and labor, environment and consumer groups. Among the key compromises that allowed Senate Finance Committee Chairman Orrin Hatch (R-Utah) and Ranking Member Ron Wyden (D-Ore.) to reach a deal along with House Ways and

Means Chairman Paul Ryan (R-Wis.) was agreement also to move legislation to extend Trade Adjustment Assistance (TAA) (S. 1005) with an expanded health care tax credit for workers, including service workers, who lose their jobs due to trade.

> With introduction of the bill, Hatch said he intends to hold a markup session April 22 or 23 and get the bill to the Senate floor "relatively quickly." Although he initially said he wouldn't hold a hearing on the bill, the committee later announced that it will hold one April 21 to get testimony on the measure from Chamber of Commerce President Thomas Donohue and AFL-CIO President Richard Trumka.

The bill's introduction drew strong support from President Obama and administration officials as well as Republican leaders. House Speaker John Boehner (R-Ohio) called it "good news" but said work is still to be done. "In the House, Republicans stand ready to work with President Obama to advance TPA but he must secure the support from his own party that's needed to ensure strong, bipartisan passage," he said in a statement.

Along with TPA and TAA, agreements were reached to introduce bills to renew and retroactively apply the lapsed Generalized System of Preferences (GSP), extend the Africa Growth and Opportunity Act (AGOA) for ten years and extend the Hemispheric Opportunity through Partnership Encouragement Act (HOPE) and the Haiti Economic Lift Program (HELP) until 2025.

Hatch and Wyden agreed that TPA and TAA would both move on the same day in the Senate and Wyden says he has assurance from Ryan that they would get the same treatment in the House. "We know that we have to move TPA and TAA in tandem, we know that," Hatch told reporters. "Let's face it. TAA is one of the costs of doing TPA, though that is not something I could support," he added.

Wyden also stressed the addition on new transparency requirements in TPA and provisions that would allow Congress to "turn off" fast track if the president doesn't meet the conditions in the law. Under the measure, the president would have to notify Congress 90 days before signing any trade deal and publicly release the full text 60 days before the signing. "After that it may well be a month or two before Congress can vote," Wyden told reporters (see **WTTL**, March 30, page 1).

"What this means is you'd have the prospect of a trade agreement, the details of it, specific language out for four months before the United States Congress votes," he said. Wyden said this procedure should respond to critics who say lawmakers don't have enough time to know what is in a trade deal before they are required to vote up or down on the pact under fast-track rules.

Another new provision would allow any member to introduce a resolution to withdraw TPA if the president fails to meet the negotiating objectives in the law or fails to consult with lawmakers as required. Such a resolution also would be automatically introduced if either Ways and Means or Finance vote to disapprove the proposed accord for the same reasons. Such a resolution would need to go through Ways and Means and Finance before being considered by either house. It appears improbable, if not fanciful, that any president would sign an accord that doesn't try to achieve those objectives in some way or not do a modicum of consultations with Congress.

The polarization of the trade debate was seen in the onslaught of press releases issued within minutes after the TPA bill was introduced by trade supporters and opponents, praising or condemning the measure. The fast timing of the statements suggests that they were written before the new TPA bill was even read and nothing in the legislation changed anyone's views.

> The new TPA bill goes beyond the measure that then-Finance Chairman Max Baucus (D-Mont.) and then-Ways and Means Chairman Dave Camp (R-Mich.) introduced in 2014 and previous versions dating back to 2002. It includes new language on foreign investment, including a requirement "that foreign investors in the United States are not accorded greater substantive rights with respect to investment protections than United States investors in the United States." It also includes requirements on labor and environment protections and dispute settlement, plus provisions on state-owned enterprises, localization requirements, trans-border data flows and digital rights.

The measure includes a provision on currency, but one that doesn't satisfy proponents of legislation that would make currency manipulation subject to countervailing duty law. "The principal negotiating objective of the United States with respect to currency practices is that parties to a trade agreement with the United States avoid manipulating exchange rates in order to prevent effective balance of payments adjustment or to gain an unfair competitive advantage over other parties to the agreement, such as through cooperative mechanisms, enforceable rules, reporting, monitoring, transparency, or other means, as appropriate," the bill states.

WTO Panel Sides with Mexico Against U.S. on Tuna Labeling

The U.S. could face trade retaliation by Mexico for U.S. dolphin-safe tuna labeling requirements despite changes it made to the regulations in July 2013. A World Trade Organization (WTO) dispute-settlement panel April 14 largely sided with Mexico in its complaint that the U.S. has failed to comply with a previous panel decision that an earlier version of the labeling rules violated WTO obligations. Mexico contended the changes still create different requirements for Mexican-caught and U.S.-caught tuna. Mexico originally asked the panel to review the revised rules in January 2014.

> The compliance panel reaffirmed that the U.S. has the right to disqualify tuna caught by "setting," which is the practice of encircling dolphins to get to the tuna below them, from using the dolphin-safe label. However, it agreed with Mexico that the different certification, verification and tracking requirements in the revised regulations for tuna caught within the Eastern Tropical Pacific (ETP) zone where Mexican boats mainly operate and tuna caught in other fisheries are not even-handed and thus inconsistent with WTO rules (see **WTTL**, Jan. 20, 2014, page 10).

The panel agreed with Mexico that the lesser burden placed on non-ETP large purse seine tuna is not rationally related to the amended tuna measure's objective of conserving dolphins by providing information to consumers concerning the dolphin-safe status of tuna products. "Moreover, to the extent the different requirements may make it easier for tuna caught other than by large purse seine vessel in the ETP to be incorrectly labeled – a point on which we do not make a definitive finding – this would also be inconsistent with the measure's goal of providing accurate information to consumers," the panel said. In a statement, Mexico applauded the ruling. "The decision of the WTO is another important victory not only for Mexico, but for the environment and all marine species, as well as for consumers who trust in the accuracy of environmental labeling. The decision reinforces the commitment of Mexico to fish for tuna in a sustainable way and offer consumers a product that is traceable from the point of capture to the point of sale in order to verify the level of protection for dolphins," it said.

> The U.S. has 60 days to appeal the ruling. "If the United States does not appeal the report or if today's decision is affirmed in the eventual appeal process, Mexico will have the right to suspend benefits to the United States until the latter eliminates discriminatory aspects of its dolphin-safe labeling system," the Mexican statement noted.

Anti-trade groups linked the ruling to other trade deals. The ruling "spotlights the conflict between basic environmental objectives and the status quo trade rules that the Obama administration seeks to expand. Rather than roll back the labeling program, which has contributed to a dramatic decline in tuna fishing-related dolphin deaths, the U.S. government should appeal the ruling," said Ralph Nader's Public Citizen in a statement.

"That a so-called 'trade' pact can be used to attack a voluntary food label allowing Americans to avoid dolphin-deadly tuna just spotlights why so many Americans oppose Fast Tracking more of the same deals that go way beyond trade and expose commonsense environmental and consumer safeguards to challenge," said Lori Wallach, director of Public Citizen's Global Trade Watch.

Ban on Crude Oil Exports Provides Gusher of Debate

A hearing April 14 showed the stark differences of opinion on lifting the existing restrictions on crude oil exports. On one side, witnesses at a House hearing claimed lifting the ban could create jobs in a domestic industry that has been hit with layoffs and set an example for other trading partners to lift protectionist policies. Other witnesses argued that increased oil production would add to climate change and keep investment from renewable forms of energy. The two sides also disagreed over the effect that ending the ban would have on domestic gas prices.

> Rep. Ted Poe (R-Texas), chairman of the House Foreign Affairs Committee's subcommittee on terrorism and trade which held the hearing, noted the hypocrisy of a deal to allow Iran to increase oil production and complaints against Chinese restrictions on rare earth minerals. "It is ironic to me, with the so-called deal with Iran, it is now U.S. government long-term policy to allow Iran to export crude oil and inject billions of dollars into their own economy. At the same time it is still U.S. government policy to prohibit American producers from doing the same," he said.

"We criticize China for not exporting rare earth materials and yet here we are not exporting crude oil. Removing the ban will give us more credibility when we criticize other nations' export bans," Poe said. By lifting the ban, Washington has a "unique window of opportunity to strengthen domestic economic growth, oil market stability, U.S. global leadership and open trade relations," Elizabeth Rosenberg of the Center for a New

American Security testified. In addition, lifting the ban would "send a strong message on a commitment to open markets by lifting restrictions on oil export. In turn, this will affirm the expectation that key trading partners will adopt similar commitments on energy trade. Having more open energy trade is in line with U.S. World Trade Organization commitments, and will be indispensible in winning potential, future natural resource trading disputes that may arise with other countries," she testified.

> While everyone agrees that lifting the ban would increase U.S. production, not everyone agrees that's necessarily a positive step. "The crude oil export ban should not be lifted and ... maintaining the ban would be 'helpful' from the perspectives of community safety and climate protection. Our analysis and that of others predicts that lifting the ban will lead to a hazardous increase in U.S. oil production. This production would in turn likely lead to greater greenhouse gas emissions and threats to public safety," testified Stephen M. Kretzmann, executive director, Oil Change International.

"The crude oil export ban was certainly not designed to play a role in climate change mitigation or to reduce the likelihood of a mile long freight train full of crude oil destroying a community in America's heartland. However it plays an important role in regulating an industry that currently has few limits placed upon it," Kretzmann added.

A bill that Rep. Michael McCaul (R-Texas) introduced in January (H.R. 156) would lift the ban without phase-in or phase-outs; however, observers told WTTL that this bill was not bipartisan and had no chance to pass through the House. The bill would direct the Bureau of Industry and Security (BIS) to grant licenses for crude oil exports to any country except those subject to sanctions or trade restrictions or that has been excluded for national security reasons. In addition, it would give the president limited authority to impose a 90-day ban for national emergencies. Sen. Ted Cruz (R-Texas) had proposed and then withdrawn a similar amendment to the Keystone XL Pipeline legislation Congress passed in January and President Obama vetoed (see **WTTL**, Jan. 26, page 1).

Separately, the U.S. Energy Information Administration (EIA) issued its Annual Energy Outlook (AEO) April 14, predicting the U.S. could eliminate net energy imports sometime between 2020 and 2030. "The timing of the projected end to U.S. net energy imports depends on assumptions about oil prices, energy resources, and economic growth. In the AEO2015 Reference case, imports and exports are balanced starting in 2028. In other cases, such as the High Oil Price and High Oil and Gas Resource cases, the United States becomes a net exporter of energy in 2019. However, in the Low Oil Price case, the United States remains a net energy importer through 2040," EIA said.

Two House Committees Join Together to Attack Ex-Im

One House committee bashing the Export-Import Bank (Ex-Im) apparently wasn't enough. So two committees held a joint hearing April 15 to grill Ex-Im President Fred Hochberg and Treasury Under Secretary Nathan Sheets. Republicans on the panels took turns bullying the two officials, questioning the integrity of bank employees, complaining that Boeing is getting too much of Ex-Im's financing and challenging claims that the bank is essential for U.S. exports. The joint hearing of subcommittees of the House Financial Services Committee and the House Oversight and Government Reform Committee was a clear sign that Ex-Im's reauthorization is in trouble in the House. With less than 30 legislative days before the bank's current charter expires, its fate is in the hands of House Speaker John Boehner (R-Ohio), who will have to come up with a plan to move renewal legislation in the face of strong opposition from tea party Republicans and other conservatives. The hearing indicated that Financial Services, chaired by bank opponent Rep. Jeb Hensarling (R-Texas), is unlikely to report out a reauthorization bill or, if it does, one with poison pill provisions.

> Boehner and other Republicans have stressed the importance of returning Congress to "regular order," under which bills go through normal committee hearings and markups before coming to the House floor for a vote. In 2012, when the bank was last reauthorized, then-House Majority Leader Eric Cantor (R-Va.) pulled a rabbit out of his hat with a bill that circumvented opponents and reauthorized Ex-Im along with numerous reform mandates.

Ex-Im supporters claim they have some 250 votes in the House for pending reauthorization bills. Movement on the legislation, however, "is going to have to come from the leadership," Rep. Gwen Moore (D-Wis.), ranking member on Financial Services' monetary policy and trade subcommittee, told WTTL after the hearing. Boehner "has problems within his caucus but they will figure a way to get it out of here," she said.

Moore declined to comment on whether Boehner would need to use "extraordinary order" to pass a bill. "We've seen a trend here. The will of the House will push this through. There are enough votes in the House on a bipartisan basis to a pass a bill out," she said. "Perhaps there would need to be a conference report [between the House and Senate] regarding some sticking points on reform," she added.

Among the GOP members of the two committees, only Rep. Frank Lucas (R-Okla.) expressed support for Ex-Im, but conceded reforms to its operations may be needed. He noted that China and other emerging countries are not following international rules on export credit. "I have a real hesitation about giving the field away," he said. "I would encourage my colleagues, reform is the key. We have to make reforms, but this is an institution we will be voting on before this year is out," Lucas said. "The discussion about ending something that none of our competitors are willing to do, that does not seem like a rational economic choice," he added.

Some of the toughest questioning came from Financial Services health care subcommittee chairman Jim Jordan (R-Ohio), who questioned the role of former Ex-Im board member Diane Farrell in financing exports to India and the fact that her husband works for Boeing. Farrell now serves as acting president of the U.S.-India Business Council and in January was named to the board of India's <u>Azure Power</u>, Jordan pointed out. Hochberg was quick to defend Farrell's integrity, noting that the financing of solar sales to India came after she left the bank board in 2011 and that she had recused herself from all Boeing applications while she was on the board.

If GOP members needed any red meat to fuel their ire at the bank, they got it with the April 13 filing of a criminal information in D.C. U.S. District Court, charging former Ex-Im loan officer Johnny Gutierrez with bribery. From 2006 through December 2013, Gutierrez "personally and corruptly sought and accepted things of personal value, i.e., money, from another person and entity, in return for being influenced in the performance of his official acts," said the one-count information. Ex-Im Deputy Inspector General Michael McCarthy told the committees that other indictments of bank employees are possible (see **WTTL**, Aug. 4, 2014, page 4). At the start of the hearing, Jordan quoted from then-Sen. Barack Obama who called the bank a fund for corporate welfare in 2006. "He was right. The bank was and is corrupt beyond repair," Jordan declared. The fight over its reauthorization represents "the worst of politics," with special interests and K Street "descending with Chicken Little fables about how small business across America will suffer if the bank's charter is allowed to expire," he said. "The reality is that 99.9% of small businesses" don't get help from Ex-Im, he argued. Most of Ex-Im's financing goes to the largest corporations in America "who don't need taxpayer help to succeed," he added.

Trade Growth Picks Up But Still Slow

Slow trade growth and modest economic expansion have sparked a debate about whether this trend reflects a long-lasting structural change or a transitory setback, WTO Director General Roberto Azevedo told reporters April 14 during release of the WTO's annual trade report. The answer is likely a mix, he suggested. An International Monetary Fund (IMF) economic forecast also released April 14 echoed the WTO's findings. Higher gains from rapid globalization in the 1990s and the emergence of new technologies may have started to wane, Azevedo said.

> The WTO said world merchandise trade expanded weakly at 2.8% in 2014, which was exactly the increase for U.S. exports last year (see **WTTL**, Feb. 9, page 4). Global growth was below the WTO's April 2014 forecast that trade would increase 4.7% and also a later revision down to 3.1%. Last year was the third consecutive year with less than 3% growth, Azevedo noted. Trade barely exceeded world output and was far below the average growth of 5.1% since 1990, he said.

The report predicts the pace of global trade will pick up to 3.3% in 2015 and 4.0% in 2016. This is still below last year's prediction that trade would grow 5.3% in 2015 as well as a downward revision last September to 4.0%. Azevado said lower petroleum prices may affect future trade figures, but boost income and trade in rich economies. Developing country exports and imports are expected to grow 3.6% in 2015, which would be slightly faster than for developed economies, which are likely to see trade increase just 3.2%.

Azevedo said stability and predictability are needed for trade growth. "Those elements are not there," he said. Risks to the trade forecast are mostly on the downside, he added. Lower than expected GDP growth, the escalation of geo-political tensions, and possible effects of divergent monetary policies in developed economies are potential negative factors, he said.

Nonetheless, the trend for developing countries is "pretty positive," Hubert Escaith, WTO's chief statistician said. Their share of world trade climbed from 31% in 2000 to 44% in the most recent figures. South-south trade accounted for 52% of their exports in 2013. Preliminary statistics for least developed countries' trade showed "high growth" in manufactured exports, he said. Oil exports usually add to the balance of payments, but don't add a lot of jobs, he noted. Although the U.S. and Europe may experience a modest pickup, a robust recovery will be held back by the European Union unemployment rate of over 10%. The IMF's forecast for world economy growth in 2015 is 3.5%, Olivier Blanchard, director of the IMF's research department said in April 14 release of the IMF world economic outlook. This is down from its prediction in January 2014, when it expected 3.9% growth for 2015. It expects global growth for 2016 at 3.8%, mostly reflecting waning downward pressure on economic activity in Russia, Brazil and the rest of Latin America. Fairly strong consumer spending in big oil-importing nations, the U.S., the Eurozone, China, India may come partly from the increase in real income due to lower oil prices, Blanchard said.

> Growth will be "moderate and uneven" this year, Blanchard said. Effects from the financial crisis, the Euro crisis, weak banks, high debt at the consumer, corporate and government levels, dissipate slowly, he said. Potential growth in advanced economies has been declining since before the 2008 economic crisis, and most likely from the early 2000s, he said. The decrease in potential growth is even more visible in emerging markets, he said. He cited aging populations and productivity slowdown in both cases.

Risks to financial stability over the last six months have risen and shifted in a way that is more difficult to monitor and address, Jose Vinals, an IMF financial counsellor, said April 15 on release of the organization's global financial stability report. Financial risks have shifted from non-bank actors and solvency risks have shifted to market liquidity risks, he said. Those risks have also moved from advanced economies to emerging markets, he added.

* * * Brief * * *

EXPORT ENFORCEMENT: Indictment was unsealed April 16 in Houston U.S. District Court against four companies and five individuals, charging them with illegal export of high-tech microelectronics, uninterruptible power supplies and other commodities to Iran. Houston-based company Smart Power Systems Inc. (SPS); Bahram Mechanic and Tooraj Faridi, both of Houston; and Khosrow Afghahi of Los Angeles allegedly were members of Iranian procurement network in U.S. Also charged were Arthur Shyu and Hosoda Taiwan Limited Corporation in Taiwan; Matin Sadeghi and Golsad Istanbul Trading Ltd. in Turkey; and Faratel Corporation, co-owned by Mechanic and Afghahi in Iran.

SYRIA: OFAC April 13 issued general license for activities that "support the publishing and marketing of manuscripts, books, journals, and newspapers in paper and electronic format."

MISCELLANEOUS TARIFF BILL: Hoping to join trade fun, Sen. Rob Portman (R-Ohio) re-introduced bill April 16 to "establish a process for the consideration of temporary duty suspensions and reductions, and for other purposes" (S.998). Portman and Sen. Claire McCaskill (D-Mo.) in January sponsored Temporary Duty Suspension Process Act (S. 260), which directed ITC to review all temporary duty suspensions and report to Congress on feasibility of suspending or reducing duties on sectoral basis.

OFAC: President Obama April 16 announced intent to nominate Adam J. Szubin to be Treasury under secretary for terrorism and financial crimes, replacing David Cohen. Szubin has been acting under secretary since February and before then he was director of Office of Foreign Assets Control (OFAC) since 2006. Earlier, he was at Justice where he was counsel to deputy attorney general and coordinator of department's effort to combat terrorism financing.

TPP: Introduction of TPA may have already had impact on Trans-Pacific Partnership talks. USTR's office announced April 17 that USTR Michael Froman was flying to Japan Saturday, April 18 for TPP discussions (see related story page 1).