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Obama Administration Opens Market for Burmese Imports

To coincide with President Obama's historic visit to Burma, State and Treasury Nov. 16 authorized Burmese-origin imports into the U.S. in recognition of "Burmese government's ongoing reform efforts and to encourage further change, as well as to offer new opportunities for Burmese and American businesses," the departments said. State waived the import ban on Burmese goods under the authority of the Burmese Freedom and Democracy Act of 2003. Treasury then issued General License (GL) 18 and added to its Specially Designated Nationals (SDN) list seven Burmese entities that are blocked from transactions under this and other general licenses.

Due to continuing conflicts in Burma, GL 18 continues the ban on imports of jadeite and rubies and jewelry made from those stones. The ban was imposed by the Tom Lantos Block Burmese JADE (Junta's Anti-Democratic Efforts) Act of 2008. Treasury identified the seven entities added to the SDN List as front companies owned or controlled by Steven Law and Tay Za, two cronies of the former regime in Burma who were added to the list in 2007 and 2008.

Doha Agriculture Talks Raise TRQ, Food Security Issues

Although the Doha Round seems dormant, negotiators have continued to hold informal meetings to discuss issues that might be part of an eventual – albeit elusive – agriculture deal. Recent talks at the World Trade Organization (WTO) have focused on possibly tightening disciplines on the administration of tariff-rate quotas (TRQs) and amending so-called "Green Box" rules on farm subsidies to loosen domestic support disciplines to provide food security for poor farmers.

A group of developing countries known as the G-20 floated two papers on TRQs in September, while a group of less-developed countries known as the G-33 recently circulated a proposal on food security. One of the G-20 papers called for tightening disciplines on TRQs and the other wants the WTO to compile information on the use of TRQs, especially on how quotas are filled.

The G-20 proposal envisages measures for sharing information and monitoring how quotas are used. If a quota is persistently under filled, it suggests the importing government would have to apply one of a prescribed set of methods to remove impediments. The G-20 also wants an early agreement on tighter TRQ disciplines where duties for quantities inside the quotas are lower than quantities outside. The proposal would address concerns that the way the quotas are shared among importers can be too cumbersome and hamper exporters' ability to access



markets. Consultations on managing TRQs have shown that agriculture negotiators consider an early deal to be crucial if similar efforts are to succeed in other areas, John Adank, chairman of the Doha Round agriculture talks and New Zealand's WTO ambassador, said after informal farm talks Nov. 16. Some sensitivities remain, he cautioned. There's "broad support" for considering TRQ administration as "a possible element" for decisions next year, another official said. But one "couldn't say there was complete convergence around the G-20 proposal," he added.

Some delegations said they want factual information before any decisions and further discussion, he noted. The Cairns Group of agriculture exporting countries largely support the proposal, he reported. Japan, which would be most likely to be affected by tightened TRQ disciplines, told negotiators such restraints would upset the balance on market access in the trade talks.

The G-33 want early approval of provisions to allow government purchases from poor farmers at supported prices to be excluded from calculations of domestic support that has to be limited because it distorts markets. The group said loosening domestic support disciplines would provide food security for poor farmers. A U.S. official reportedly told the meeting that food security hadn't undergone an in-depth multilateral discussion. South Africa, New Zealand and Australia said the best way to boost food security is to conclude the Doha Round. Other members cited the difficulty of plucking out one piece of the agriculture draft for agreement.

U.S., Colombia Aim to Speed Up Tariff Cuts

Just six months after the U.S.-Colombia Free Trade Agreement (FTA) went into effect, trade officials of the two countries plan to launch talks aimed speeding up the schedule of tariffs cuts in the accord. At the first meeting of the U.S.-Colombia Free Trade Commission Nov. 19, Deputy U.S. Trade Representative (USTR) Miriam Sapiro and Colombian Vice Minister of Trade Gabriel Duque Mildenberg agreed to consider "tariff acceleration and to establish time frames for establishing the dispute settlement mechanism and updating the rules of origin," the USTR's office said. "All indications are that the agreement is off to a successful start," said a written statement from USTR Ron Kirk. "Our statistics show a significant increase in trade in both directions – a classic win-win," he added.

Thailand Looks to Join TPP Negotiations

A Trans-Pacific Partnership (TPP) deal could become significantly more important economically if Thailand follows through with its interest in joining the negotiations. During President Obama's stop in Bangkok Nov. 18 as part of his trip to Asia, Thailand Prime Minister Yingluck Shinawatra told the president her government has begun examining the possibility of entering the talks. "I informed the president that Thailand will initiate negotiations on the Trans-Pacific Partnership, or TPP, which will engage all stakeholders and undertake the necessary domestic legislative process to make it become a reality," she said at a press conference with Obama.

Thailand's interest in the TPP talks is both offensive and defensive, as it wants to avoid losing its strong economic link with the U.S. to its neighbors, particularly Malaysia and Vietnam. "What we would like to work on share and fair and also free market, so that's why Thailand saw the TPP as very important for the future," Shinawatra said.

Thailand was the 27th largest export market for the U.S. in 2011 with total exports of \$10.9 billion and ranks as the 19th largest supplier of imports at \$24.8 billion. It is a major leg of the Triangular Trade that has grown between the U.S., Southeast Asia and China. Trade figures hint at likely issues in negotiations. Top U.S. exports in 2011 to Thailand, which signed its first trade treaty with the U.S. in 1833, included semiconductors (\$1.5 billion), non-monetary gold (\$1.2 billion), organic and nonorganic chemicals (\$609 million), cotton (\$402 million), petroleum products (\$337 million) and industrial machinery (\$322 million). Top imports from

Thailand were computer accessories (\$3.2 billion), telecommunications products (\$2.5 billion), fish and shellfish (\$2.5 billion), apparel (\$1.3 billion) and auto parts (\$1.2 billion).

U.S. Pivot to Asia Seeks Expanded Trade with ASEAN

The U.S. diplomatic “pivot” toward Asia, which already includes TPP talks, will now add new negotiations with the Association of Southeast Asian Nations (ASEAN). In Cambodia Nov. 19, President Obama and ASEAN leaders announced plans to launch talks on an Expanded Economic Engagement (E3) initiative to increase trade and investment and also potentially to add more countries to the TPP negotiations. The E3 “will lay the groundwork for ASEAN countries to prepare to join high-standard trade agreements, such as the Trans-Pacific Partnership,” a White House fact sheet said. “E3 will also help ASEAN countries integrate their markets further as ASEAN seeks to build an ASEAN Economic Community by 2015,” it said.

“We reaffirmed our commitment to deepen trade and investment ties and welcomed the launch of the 2013 ASEAN-U.S. Trade and Investment Framework Arrangement (TIFA) Work Plan,” said a joint U.S.-ASEAN statement. “Drawing on the TIFA work plan, E3 initiative activities may include negotiation of a U.S.-ASEAN trade facilitation agreement, the joint development of principles on information and communication technology, the joint development of investment principles, the development of a code of conduct for small and medium-sized enterprises on ethical business practices in key sectors, and the expansion of cooperative work on standards development and practices, including on technical barriers to trade and good regulatory practices,” the statement noted.

Court Finds Customs Unlawfully Revoked Ruling Letter

A legal battle that has raged since 2005 over an import classification ended Nov. 20 with a Court of International Trade (CIT) ruling that Customs and Border Protection (CBP) had unlawfully revoked a Ruling Letter through the issuance of a Notice of Action Letter. In the suit, International Custom Products, Inc. (ICP), challenged a CBP import classification for white sauce imported from New Zealand, disputing Customs’ claim that the original Ruling Letter was invalid because IPC had misrepresented the contents of the sauce. The change in classification resulted in a 2400% increase in the tariff on the import.

“The Court therefore concludes that Customs violated its own regulation at 19 C.F.R. Section 177.2(b)(2) when it decided not to apply the Ruling Letter to the Entry, despite the conformance of the Entry,” ruled Judge Gregory W. Carman (Slip Op. 12-140). The Notice of Action “was tantamount to an interpretive ruling issued contrary to law, as it had the effect of revoking the Ruling Letter without the notice and comment procedures required by 19 U.S.C. Section 1625(c)(1) by liquidating the Entry under a different HTSUS subheading than specified in the Ruling Letter,” he added.

Retailers Object to Administration’s Objections to MTB Bills

In parallel letters to USTR Ron Kirk and Acting Commerce Secretary Rebecca Blank Nov. 19, industry groups representing retailers urged the Obama administration to withdraw its objections to all the footwear and apparel duty suspensions proposed for the 2012 Miscellaneous Tariff Bill (MTB). The administration also objected to bills suspending tariffs on a range of products, including high-performance loudspeakers, grill brushes, fishing reels and sports bras. The USTR had claimed 59 proposed footwear provisions would undermine trade negotiations, while some half dozen apparel changes would undermine existing trade preferences. Those objections “are simply false,” said a letter from the American Apparel & Footwear Association

(AAFA)(see **WTTL**, Oct. 15, page 3). The USTR's claims "turn upside down U.S. trade policy and U.S. trade negotiating strategy for the last two decades," it said. In another letter to the USTR and Commerce, AAFA, Footwear Distributors & Retailers of America, National Retail Federation, Outdoor Industry Association and the Retail Industry Leaders Association also argued that none of the bills would hamper negotiations toward a TPP. "There is no evidence that these MTBs have had any negative impact on the TPP negotiations to date, so it is not logical that their extensions would now undermine these talks," the joint letter noted.

The MTB bill's fate in the lame-duck session remains unclear, as some lawmakers still oppose it as a big bundle of earmarks, to which Republicans have renewed their opposition. Proposals to package the bill with a final budget deal face resistance, but history has shown that many unexpected pieces of legislation can get enacted in the last hours before Congress adjourns for the year.

* * * **Briefs** * * *

ETHANOL: In letter to USTR Ron Kirk Nov. 16, Renewable Fuels Association (RFA) asked for "assistance in addressing and removing certain trade distortions with Brazil that are severely impacting the U.S. ethanol industry's ability to export product to that country." These include Brazil's 2011 decision to reduce ethanol blend volumes and Sao Paulo's imposition of 25% tariff on ethanol imports, RFA wrote.

OFAC: Sogda Limited, Inc. food distributor in Kirkland, Wash., agreed Nov. 15 to pay \$128,250 to settle seven alleged violations of Iranian Transactions Regulations when it engaged in transactions involving transshipment of goods through Iran. Sogda did not voluntarily disclose matter to OFAC.

ANTIBOYCOTT: Climax Molybdenum Co., Phoenix subsidiary of Freeport-McMoRan, Nov. 9 agreed to pay \$9,000 to settle three BIS charges of violating antiboycott regulations by furnishing information about business relationships with boycotted countries to clients in Kuwait and failing to report receipt of request to engage in restrictive trade practice. Climax neither admitted nor denied charges.

EXPORT ENFORCEMENT: Alireza Moazami Goudarzi, Iranian national, was indicted Nov. 15 in Manhattan U.S. District Court on six counts related to illegal export of military and civilian aircraft parts, including rotor blades for attack helicopter and jet engine parts, to Iran. Goudarzi was arrested in Kuala Lumpur, Malaysia, by Malaysian authorities Oct. 24 and awaits extradition.

MORE EXPORT ENFORCEMENT: Iranian Amin Ravan and his company, IC Market Iran, were charged Nov. 20 in D.C. U.S. District Court with conspiracy to defraud U.S., smuggling, and violating Arms Export Control Act in connection with unlawful export of 55 military antennas to Singapore and Hong Kong. Ravan allegedly acted as agent of Corezing International, Pte, Ltd, which was indicted in October 2011 in connection with export of these military antennae (see **WTTL**, Jan. 30, page 4).

SILICA BRICKS: Utah Refractories Corporation filed antidumping petitions at ITC and ITA Nov. 15 seeking relief from imports of silica bricks and shapes from China.

MEXICO: Mexico became 47th member of Nuclear Suppliers Group after receiving unanimous support of other 46 members, Mexican Ministry of Foreign Affairs announced Nov. 19. Mexico joined Wassenaar Arrangement in January 2012 and is currently seeking admission to Australia Group, which controls exports of chemicals and biological agents, ministry noted (see **WTTL**, Jan. 30, page 3).

AD/CVD: In Nov. 20 ruling sustaining in part and remanding in part Commerce antidumping order on drill pipe from China, CIT Senior Judge Nicholas Tsoucalas put off a decision on constitutionality of legislation allowing imposition of both antidumping and CVD orders on NME imports. "A more fundamental concern is that Commerce and domestic industry have not yet been afforded a full opportunity to be heard. The unique circumstances of this case may deem the application of waiver inappropriate, but it is impossible at present for the court to address the important constitutional issues briefed only in two short paragraphs in DP's reply," Tsoucalas wrote (Slip Op. 12-141). "Therefore, DP's request for a remand on its due process, equal protection, and ex post facto objections is denied without prejudice to renew after Commerce returns with its remand determination," he ruled.

HONEY: In 6-0 vote Nov. 19 in "sunset" review, ITC determined that ending antidumping duty order on honey from China would likely cause renewed injury to U.S. industry.