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ETRAC Questions Role in Export Control Reform

As the too-smart kids in school soon find out, there is such a thing as being too good and too productive. After four years in existence and three reports under its belt, the Bureau of Industry and Security's (BIS) Ph.D.-packed Emerging Technologies and Research Advisory Committee (ETRAC), which was created to advise BIS on regulating emerging technology, applying deemed export rules and interpreting fundamental research, is asking for more homework as well as a report card on how well it has fulfilled its mission. At their meeting Oct. 11, ETRAC members also questioned the need for the committee's continuation, suggesting that their assignment has been overtaken by the export control reform initiative.

"There are a billion things we could do," one member noted. "We only want to do them, if BIS can absorb them," she said. Another member said BIS is currently "suboptimizing what they can get out of this committee on what we can do."

BIS Assistant Secretary Kevin Wolf told ETRAC that BIS' advice to them will depend a lot on the outcome of the election. "If the president doesn't win reelection, you can check with me at Lowe's Hardware aisle 4, and I'll be discussing the latest bargains on home and garden equipment, and somebody else will have to decide what they want to do. If the president wins reelection, we'll continue on at the same pace, the same schedule," he said.

Once the current drafting and issuing of regulations is done, "the weight of work would be more in the operation and the running of that new system as opposed to thinking it up and getting it out for public comment and getting reaction," Wolf said. "That will then allow Commerce to go back to several dozen other topics that are on our to-do list. That would be a perfect chance to task ETRAC with several of them," he added (see **WTTL**, Jan. 2, page 3).

ETRAC members also wanted to know why some of their recommendations haven't been followed, such as a deemed export report written two years ago. That report came at the beginning of the export control reform effort and "the two didn't really intersect," Wolf explained. "It was a completely different way of looking at things, and I don't think it would have worked out all that well, given the standards that we've adopted since then," he said.

Geography May Determine Next WTO Director General

Developing countries in Latin America and Africa are pushing to have a diplomat from one of those regions succeed Pascal Lamy when his current term as director general of the World



Trade Organization (WTO) ends in September 2013. While the formal selection process won't start for a few months, the names of potential candidates from Costa Rica, Ghana, Mexico and Brazil have already emerged along with one from New Zealand. In the 64-year history of the WTO and its predecessor, the General Agreement on Tariffs & Trade (GATT), leaders of the trade organization have come mostly from Europe, with the exception of New Zealand's Michael Moore and Supachai Panitchpakdi of Thailand. Trade officials still expect a name from a developed country to emerge before the process is over.

Among the expected candidates are Ghana's former trade minister Alan Kyerematen, New Zealand's trade minister, Tim Groser, and Eduardo Perez Motta, chief of Mexico's competition commission. Other potential names include Georgetown University-educated Anabel Gonzalez, Costa Rica's foreign trade minister, and a possible unnamed candidate from Chile. Celso Amorim, Brazil's previous foreign minister, and Roberto Azevedo, Brazil's ambassador to the WTO, appeared very early in discussions, but trade sources say Brazil is probably watching discussions develop before pressing their candidacy.

Amorim, who was a key organizer of the group of developing countries that became known as the G-20 in the Doha Round, is now Brazil's minister of defense. Azevedo is a well-respected ambassador in Geneva, but that "is not necessarily enough" to be a candidate for the WTO's top slot, one trade official said. Kyerematen has the early backing of the African Union. Groser led agriculture talks for a while in the Doha Round before returning to New Zealand.

All the candidates that have emerged in early reports are "highly respectable," and would be unlikely to attract strong opposition, one official said. The geographic distribution of WTO chiefs is perhaps one factor that will feature more strongly than in the past, he said. Brazil seems "ready and willing to use that argument," he added. The Brazilians "are interested" in building support for a Latin American candidate and the real question for the Latin American region is whether one candidate has enough support to unite the region and avoid a repeat of the disharmony that was viewed as helping Lamy win his first term, the official noted.

The formal WTO nomination window runs from Dec. 1 to 31. All the candidates will appear before a WTO General Council session sometime late in January, and likely before the annual Davos World Economic Summit. Each candidate will make a presentation, followed by a question and answer session with council delegates and then a press conference. The candidates will then campaign in Geneva and in capitals through March.

A first round of consultations will be held by the chairpersons of the WTO General Council, the Dispute Settlement Body, the Trade Policy Review Body with the heads of delegations. They will prioritize member interest in each candidate and find out if there is a candidate that they couldn't accept. The three chairmen will then report to the General Council. One candidate will be asked to leave the running after each round of consultations. The process will begin again with one fewer candidate. The number of candidates will be pared back until two remain. Candidates with built-in fierce opposition will have a problem, although none of the expected candidates are likely to face such objections, one source said. The WTO is "clearly changing gears" and the next director-general would be responsible for the transition, he said.

EU Complains About U.S. Leak of Confidential Airbus Data

The European Union (EU) publicly rebuked the U.S. Oct. 8 after a spokesman for the U.S. Trade Representative's (USTR) office and other U.S. officials allegedly revealed information about Airbus A350 funding that was submitted confidentially to a WTO compliance panel. "The EU regrets that the U.S. government has disregarded the confidentiality of WTO proceedings by referring to the EU's submission of documents last week," John Clancy, the spokesman for Karel De Gucht, the EU trade commissioner, said in an e-mailed statement. At the request of the U.S., the WTO panel is weighing whether the EU has complied with a WTO ruling that found EU member states had given Airbus subsidies that violate WTO rules (see **WTTL**, April

2, page 4). The complaint about the release of the information came just before the EU asked the WTO Oct. 11 to establish a compliance panel to address its claim that the U.S. has failed to remove WTO-inconsistent subsidies to Boeing as required by a WTO ruling in March (see **WTTL**, Oct. 1, page 3). “The United States’ failure to end aircraft subsidies continues to cost European aerospace companies billions of euros in lost revenue,” De Gucht said in a statement.

Clancy’s e-mail said U.S. officials have been widely quoted in international media reports commenting on the Airbus submission. “We can confirm that the EU has replied to a request by the WTO panel to provide documents relating to the A350. As we have said all along, it is the EU position that any alleged measures related to the A350 are outside the terms of reference of the compliance panel. In its request the panel explicitly stated it needed these documents to decide on the EU’s claim on the scope of the proceedings,” Clancy said.

Clancy reportedly was reacting to a Reuters report Oct. 6, which cited a “U.S. source” who gave an outside estimate for A350 loans at around \$4.5 billion. A USTR spokesman in the Reuters’ story confirmed receipt of the EU submission. The information was submitted within the confidential framework of the dispute settlement understanding, a source said. The WTO dispute settlement understanding says panel deliberations and submitted documents are to “be kept confidential,” a statement by the EU trade commissioner’s office noted.

Reuters reported that a WTO compliance panel had asked for documents on funding of the A350 large civil aircraft. The news agency cited an EU source saying the compliance panel wanted to assess the relevance of the A350 funding. The original panel “firmly rejected” the U.S. request to include funding for the A350 in the proceedings, the EU statement said. That panel “made clear” that refundable launch investment is a perfectly legal market-based instrument, it added. Both the U.S. and EU claim to be in compliance with WTO decisions.

Push for Miscellaneous Tariff Bill Still Faces Hurdles in Congress

As work continues on crafting a Miscellaneous Tariff Bill (MTB) for lawmakers to consider when they return for a lame-duck session after the election, hurdles remain for the legislation, especially in the Senate. If Congress fails to act on a tariff measure this year, hundreds of currently suspended tariffs will kick back into force Jan. 1. The historically straightforward process of suspending duties on products that are not manufactured domestically has gotten tied up in the controversy in both chambers over Republican claims that the bills are “earmarks” that are supposedly barred by current congressional rules.

Industry groups, such as the U.S. Chamber of Commerce and National Association of Manufacturers, and leaders of the House Ways and Means and Senate Finance committees support the bills, but a group of Republican senators and some U.S. producers oppose them (see **WTTL**, July 9, page 2). Congressional staffers are still wading through public comments on the 1,250 MTB bills introduced in the House and 793 bills in the Senate, many of which are for the same product.

At issue is whether MTB bills are “limited tariff benefits” that affect less than ten entities and thus are considered earmarks that the last Congress banned. In the past, MTB measures were mostly noncontroversial since they affect products not made domestically and any proposal that drew opposition from anyone was dropped from final legislation. Some in Washington say the debate displays a fundamental misunderstanding of how MTB works and how its benefits are broadly available, not just to importers, but to manufacturers, supply chains and retailers.

Both Ways and Means Chairman Dave Camp (R-Mich.) and Finance Chairman Max Baucus (D-Mont.) have said their goal is to pass an MTB package by the end of the year and avoid the expiration of the tariff reductions, but the Senate Republican conference still needs to be convinced and time is running out. Congressional staffs are trying to draft a single final package that would move through both sides of Congress in the lame-duck session. An MTB

measure, however, will compete for congressional time and attention in an over-packed lame-duck agenda that includes critical tax and budget legislation, as well as the still uncertain fate of a vote on permanent-normal-trade-relations (PNTR) for Russia.

Congress Gets Good Marks on Old Trade Agenda

The 112th Congress, which ends its term in December, received high marks for its actions on trade in the last two years even though most of the legislation it enacted was left over from previous years or merely renewed expiring measures and didn't reflect any new trade initiatives, according to an industry report card on the legislative session. USA*Engage gave 64 Senators a grade of A or B for their trade votes but a D to four senators – three Democrats and an Independent. In the House, 186 members received an A or B, while 28 representatives – 23 Democrats and four Republicans -- got a D and one Democrat an F.

The report card graded members on eight votes: the three FTAs, China currency legislation, Export-Import Bank reauthorization, extension of Trade Adjustment Assistance, Iran sanctions, sugar program repeal and immigration reform. In some cases, a yes vote was considered positive, while a no vote was positive on others. Measures such as renewal of the African Growth and Opportunity Act's Third-Country Fabric provision, extension of the Andean Trade Preference Act, extension of the Generalized System of Preferences and legislation permitting the imposition of countervailing duties on imports from non-market economies were passed without recorded opposition and therefore were not scored.

"Congress took up no major new trade initiatives. Congress continues to be divided along party lines on trade legislation with Republicans being markedly more favorable than Democrats, but with important exceptions," USA*Engage said. It noted that Congress hasn't acted on PNTR for Russia, to reauthorize the Overseas Private Investment Corporation or to renew the president's fast-track negotiating authority which is needed to finish Trans-Pacific Partnership talks.

* * * Briefs * * *

IRAN: President Obama Oct. 9 signed Executive Order (EO) 13628 to implement portions of Iran Threat Reduction and Syria Human Rights Act of 2012 (ITRSHRA). EO defines terms such as "entity" and "government of Iran," sets deadline of February 2013 for companies to divest Iran business, and authorizes secretaries of State and Treasury and other cabinet-level officials to impose sanctions under EO.

SILICOMANGANESE: In 5-0 vote Oct. 11 in "sunset" review, ITC determined ending antidumping duty order on silicomanganese from China would likely cause renewed injury to U.S. industry. In 4-1 vote, it also determined that ending antidumping order on those imports from Ukraine would likely cause renewed injury to U.S. industry. ITC also voted 4-1 to terminate existing order on imports from Brazil.

SUPPLY CHAINS: Commerce launched new supply chain advisory committee Oct. 12. Newly created Advisory Committee on Supply Chain Competitiveness, which will advise department on role freight infrastructure and policies play in U.S. manufacturing, distribution and exporting, will have 40 senior-level private sector members from industry and supply chain experts. Its first meeting will be Oct. 19.

TRADE FIGURES: U.S. merchandise exports are still growing but at slower pace than double-digit rate of last two years. Goods exports in August rose just 1.6% from year ago to \$128.5 billion, Commerce reported Oct. 11. Services exports increased 1.75% to \$52.8 billion from last August. Goods imports went up 0.6% from August 2011 to \$188 billion, as services imports gained 3.4% to \$37.6 billion.

EU: European Commission Oct. 10 proposed new industrial policy aimed at increasing manufacturing's share of EU economy to 20% from current 15.6%. Four-part plan calls for more investment in innovation, better access for EU firms to markets of 27 EU members, improved lending and access to capital for small and medium-size enterprises and training workers with new skills. Industries targeted for new investment in innovation include: advanced manufacturing technologies, key enabling technologies, bio-based products, clean vehicles and vessels, sustainable construction and raw materials and smart grids.