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House Panel Says Export Reforms Could Help Defense Industry

In a switch from the committee's historic opposition to the liberalization of export controls, a special bipartisan panel of House Armed Services Committee (HASC) members issued a report March 19 saying the Obama administration's reform initiative could help small defense manufacturers but urging adoption of a balanced approach to avoid the release of sensitive goods to potential adversaries. The report is more accommodating to the reform effort than the stand of House Foreign Relations Committee Chair Ileana Ros-Lehtinen (R-Fla.), who has continued to raise concerns about the administration's plans (see **WTTL**, March 19, page 1).

"The current system is overly complex, subjectively enforced and unable to respond to advances in the global markets and technology developments," wrote the HASC panel on Business Challenges in the Defense Industry. "The defense business environment is also complicated, and some argue hindered, by current export control requirements," it declared.

"Some restrictions in the current system may disproportionately affect small business in that they may not have the corporate resources to navigate the often complex export licensing system and the result can be the elimination in the world market," the report stated. The panel acknowledged the potential of the ongoing export control reform effort. "While this reform effort would likely not fundamentally change these defense trade licensing and registration requirements, it has the potential to ameliorate some of the concerns of the business community primarily through paring the U.S. Munitions List (USML)," it said.

Ex-Im Charter Fight Seen Shifting Back to House

With Senate Republicans having blocked an amendment to reauthorize the Export-Import Bank March 20, business community sources expect GOP House leaders to seek a compromise with House Democrats to approve – perhaps during week of March 26 – an alternative reauthorization bill drafted by House Majority Leader Eric Cantor (R-Va.). Such a compromise is still a long shot because of strong opposition among House Republicans tied to the tea party to raising the cap on bank lending and Democratic and business demands for a significant increase in the cap and a full four-year extension of the Ex-Im charter. By a 55-44 vote, the Senate was unable to muster the 60 votes needed for cloture to allow the Ex-Im amendment, co-sponsored by Sens. Maria Cantwell (D-Wash.), Lindsey Graham (R-S.C.), Tim Johnson (D-S.D.) and Richard Shelby (R-Ala.), to be attached to pending legislation (S. 3606) to revise equity financing rules, the so-called JOBS bill. Only two Republicans voted to end debate, with other GOP



members saying they opposed cloture because of Majority Leader Harry Reid's (D-Nev.) refusal to allow votes on any amendments to the measure. Some business sources also put some of the blame on Reid and the White House. They say the amendments the Republicans wanted were not "killer amendments" and there is enough support among Senate GOP members to pass a standalone Ex-Im bill. "The White House was not anywhere to be found," one source said.

The Senate amendment would extend Ex-Im's charter for three years and increase its exposure cap to \$140 billion. Cantor's amendment, which would add extensive additional requirements on bank financing, would provide only a one-year extension until June 2013 and raise the limit to \$113 billion.

The battle over the bank has been fueled by complaints from Delta Airlines, the conservative Club for Growth and tea party Republicans that Ex-Im financing of Boeing aircraft sales to foreign carriers, especially Air India, has put Delta at a disadvantage on international air routes. Ex-Im Chairman and President Fred Hochberg refutes that contention. "I just think it's a false fight," he told WTTL in an exclusive interview. "It's not Boeing versus Delta. It's silliness," he said. Hochberg noted the 2011 Aircraft Sector Understanding (ASU) among advanced countries with large aircraft industries, which is being phased in over two years. The ASU when it "goes into full effect in 2013, doubles the rates that it costs airlines to borrow money from the U.S. or any other export credit agency," he told WTTL.

Hochberg said numbers comparing domestic lending rates and Ex-Im rates show "our rates were higher and the rates are getting even higher." He said the bank wants to charge market rates. "Some U.S. carriers are less creditworthy" than foreign buyers whose loans are backed by sovereign guarantees. "One of the large communications problems we have is, I think, the members of Congress aren't as exposed to the degree of competition that those of you in this room see every single day," Hochberg told the Ex-Im advisory committee March 20. A minority of members "are looking at a world that maybe existed in the 1970s or 1960s but certainly does not exist in the 21st century in terms of competition and government support," he said.

Ex-Im Likely to Revise Economic Impact Analysis

The scrutiny the Export-Import Bank has received in its latest fight for reauthorization could lead the bank to revise its existing process for analyzing the economic impact of its financing to assure that exports it supports aren't hurting domestic U.S. industries. The bank was already considering changes to the process before it came under fire from such unlikely sources as the Wall Street Journal and conservative columnist George Will for helping large exporters such as Boeing and allegedly hurting domestic U.S. airlines that compete with foreign carriers that buy Boeing planes with Ex-Im assistance (see story above).

The bank was about to start a review of the process based on criticism in reports from the Government Accountability Office (GAO) and its own Inspector General (IG), Ex-Im Chairman and President Fred Hochberg told WTTL in an exclusive interview. The bank delayed the review in the expectation that its reauthorization legislation would include additional directives on handling reviews, he said.

"Our reauthorization at that point was a few months off, so we said, 'Do we really want to do this before we finish [reauthorization] and then have to change it again'," he told WTTL. The bank decided to "complete the economic impact review of policy and procedures post-authorization so we can incorporate the GAO, IG and the reauthorization," he said.

A reauthorization bill floated by House Majority Leader Eric Cantor (R-Va.) includes specific requirements for public comments on bank financing of large carrier aircraft sold to foreign airlines. The bill also would direct the president to launch negotiations aimed at ending subsidized export financing programs in general and separate negotiations among all countries that finance large aircraft sales to "substantially reduce export credit financing for the aircraft, with the ultimate goal of eliminating financing for the aircraft by state-sponsored entities."

Industry Urges Comprehensive U.S.-EU Economic Pact

In the short window before November's presidential elections in the U.S. and European elections in 2013, 12 U.S. and European business associations, led by the U.S. Chamber of Commerce and Business Europe, are urging the G-8 leaders of industrial nations to add a U.S.-European Union (EU) trade and investment treaty to the agenda at their May meeting. In a March 20 letter, the groups urged leaders "to grasp the opportunity of the May 19-20, 2012, G-8 Summit to be ambitious and to commit to an accelerated launch of comprehensive transatlantic trade, investment and regulatory negotiations this year."

While the question of whether such an agreement would be a free trade agreement (FTA) or something else is still up for debate, industry representatives told reporters March 20 that they are aiming for something beyond just an FTA. "We want to use a term 'economic and trade pact' because we want to show that it's something that's going to be more ambitious, more comprehensive than any bilateral negotiation that we've had until now," said Peter Rashish, vice president for Europe and Eurasia at the Chamber.

In a separate letter to Obama administration officials and members of Congress March 21, 40 food and agricultural organizations called for comprehensive talks that would be a "single undertaking" covering all trade topics. "Some non-agricultural members of the business community have suggested that a U.S.-EU FTA negotiation should not be pursued as a 'single undertaking' with success in one area dependent on success in all the others," said National Pork Producers Council President R.C. Hunt in a statement. "The agriculture community, however, believes that, rather than creating a high-standard 21st century trade agreement that is central to the administration's trade policy efforts, approaches *other* than a single undertaking would assure the perpetuation of trade barriers to many U.S. products," he said (his emphasis).

Waiver of Iran Sanctions Omits Major Oil Importers

More important than State's March 20 announcement of waivers for 11 countries from Iran sanctions was the list of countries not named, including India, China and Russia. The department said sanctions under the National Defense Authorization Act for 2012 (NDAA) for banks doing business in Iran will not apply to institutions in Belgium, the Czech Republic, France, Germany, Greece, Italy, Japan, the Netherlands, Poland, Spain and the United Kingdom. Those countries received waivers because they "significantly reduced their volume of crude oil purchases from Iran," said Secretary of State Hillary Clinton (see **WTTL**, Feb. 13, page 2).

State's announcement comes just a week after the Belgian-based Society for Worldwide Interbank Financial Telecommunication (SWIFT) said it had been instructed to discontinue its communications services to Iranian financial institutions that are subject to European Union (EU) sanctions. The EU and SWIFT actions will further restrict even legal trade with Iran as foreign banks cut off all transactions with Iranian entities to avoid violating the sanctions.

"Disconnecting banks is an extraordinary and unprecedented step for SWIFT. It is a direct result of international and multilateral action to intensify financial sanctions against Iran," said SWIFT CEO Lázaro Campos. SWIFT acted after a March 15 EU decision that "no specialized financial messaging shall be provided to those persons and entities subject to an asset freeze."

Low CVD Rates on Solar Panels Cast Doubts on New Law

The relatively low countervailing duties (CVDs) the International Trade Administration (ITA) imposed March 20 in its preliminary decision on imports of crystalline silicon photovoltaic cells from China could raise doubts about the value of legislation granting Commerce clear

authority to impose both CVDs and antidumping remedies on the same product (see **WTTL**, March 12, page 1). While the CVDs, which range from 2.9% to 4.73%, could go even lower in a final ruling, the major remedy likely will come in ITA's parallel antidumping investigation of these imports, which is due May 17. The petitioner, SolarWorld Industries America Inc., and China critics in Congress have complained that China's solar panel industry has unfair advantage over U.S. producers because of Beijing's subsidies. The preliminary ITA ruling suggests that government involvement isn't as big a factor as critics contend.

To prevent circumvention, ITA in January determined that critical circumstances exists and will apply duties on imports arriving 90 days before the preliminary ruling. It also expanded the investigation and remedies to third-country imports using Chinese panels. "Modules, laminates, and panels produced in a third-country from cells produced in the PRC are covered by this investigation; however, modules, laminates, and panels produced in the PRC from cells produced in a third-country are not covered by this investigation," an ITA factsheet stated.

*** * * Briefs * * ***

ANTIBOYCOTT: Miami branch of Banco Sabadell SA, Spain's sixth largest bank, agreed Jan. 23 to pay \$14,000 fine to settle two BIS charges of violating antiboycott regulations by furnishing information about business relationships with Israel, agency just revealed. Sabadell neither admitted nor denied charges.

EXPORT ENFORCEMENT: Ping Cheng of Manhasset, N.Y., and Prime Technology of Great Neck, N.Y., each agreed to pay \$125,000 fines to settle BIS charges of conspiracy to export carbon fiber to China without required licenses. In both cases, \$75,000 of settlement will be waived for two years if first \$50,000 is paid on time and Cheng and Prime Technology commit no further violations. Cheng must also complete export controls compliance training program, and Prime must complete two audits of its compliance program. Cheng was sentenced to probation for these charges in Minneapolis U.S. District Court in October 2009, because he agreed to cooperate with investigators (see **WTTL**, Oct. 26, 2009, page 4).

SRI LANKA: In Federal Register March 22 State amended ITAR to add exception to license denial policy toward Sri Lanka, allowing for assistance for aerial and maritime surveillance.

DEFENSE TRADE: State in Federal Register March 21 issued final rule amending ITAR to implement U.S.-UK Defense Trade Cooperation Treaty and identifying defense articles and services that may not be exported under treaty (see **WTTL**, Nov. 28, page 1).

MADE IN THE WORLD: WTO and OECD agreed March 15 to cooperate on statistics on value-added trade that reflects global value chains not just trade from final country of export. "Attributing the full commercial value of imports to the last country of origin can skew bilateral trade balances, pervert the political debate on trade imbalances and may lead to wrong and counter-productive decisions," WTO said.

COLOMBIA: In phone call with Colombian President Santos, "President Obama also welcomed President Santos's decision to seek emergency legislation intended to complete the necessary work to implement the United States-Colombia Free Trade Agreement as soon as possible," White House reported.

SILICON METAL: On 5-0 vote March 20 in "sunset" review, ITC determined that ending antidumping order on silicon metal from China would likely cause renewed injury to U.S. industry.

BRASS: By 6-0 vote, ITC March 21 reached "sunset" review determination that revoking antidumping orders on brass sheet and strip from Germany, Italy and Japan would likely lead to renewed injury to U.S. industry. It reached same conclusion by 5-1 vote on imports from France.

BYRD AMENDMENT: At WTO Dispute-Settlement Body meeting March 23, EU and Japan complained about continuing disbursement of payments under Byrd Amendment. "Japan urges the United States to stop illegal distributions and repeal CDSOA not just in form but in substance," Japanese statement said.

ORANGE JUICE: ITC "sunset" determination that will revoke antidumping order on orange juice from Brazil doesn't satisfy Brazil's WTO complaint against order nor does change in "zeroing" rules in administrative reviews, Brazilian representative told WTO Dispute-Settlement Body March 23 (see **WTTL**, March 19, page 4). Rule change and sunset decision are positive developments but have "no connection to the orange juice dispute," Brazilian statement argued.