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BIS Budget Request Would Expand Export Enforcement

Almost all of the $10.85 million increase President Obama requested in his budget for fiscal 2012, which starts Oct. 1, 2011, for the Bureau of Industry and Security (BIS) would go toward expanding export enforcement, including the opening of new field offices in Arizona, Georgia, Ohio and Oregon. The request would add 37 positions to the agency's field and headquarters enforcement staffs to focus on weapons of mass destruction (WMD) and counterterrorism.

> The proposed budget would add nine positions for existing BIS field offices, with the goal of having 10 agents in each office. Twenty additional agents would be added to staff the four proposed new offices. The BIS Office of Enforcement Analysis would get eight more positions to coordinate WMD enforcement.

None of the budget provides for implementation of the administration's export reform plans. BIS officials are still calculating the cost of shifting the agency's automated licensing system to the single information technology (IT) system called for in the reform plan, including the move of the BIS system to the Defense Department's USXport system. No new funding is requested for the Export Enforcement Coordination Center, which has not yet been set up even though Obama authorized its creation in November.

This year's budget process is complicated because Congress is still fighting over appropriations for fiscal year 2011, and the government, including BIS, has been operating under a Continuing Resolution (CR). Under the current CR, BIS has operated on a budget of about $100.3 million, the same amount it had in FY 2010. The proposal for 2012 calls for a budget of about $111.2 million. Spending for export licensing under the new budget would remain nearly unchanged. A major upgrade of the BIS computer system that was funded in the FY 2010 and 2011 budgets is almost completed. Starting the week of Feb. 21, most BIS employees will again have direct access to the Internet. BIS was forced to disconnect from the Internet in late 2006 after its computers were hacked reportedly by Chinese hackers and a bug was found in the system.

Frustration Seen over Slow Progress on Doha Farm Talks

Although trade officials keep saying Doha Round negotiations are getting "serious" in Geneva, the latest session of talks on agriculture revealed frustration among members that little progress has been made. New Zealand's ambassador to the WTO, David Walker, who chairs the Agriculture Negotiating Committee, told members at a Feb. 17 meeting that he hasn't heard anything new in the talks in the last few weeks. He acknowledged, however, that some of the

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negotiation is being conducted out of sight in bilateral meetings and among small groups of countries. With trade diplomats aiming to have texts ready for all parts of the Doha package by the end of April, Walker warned, "We are losing one day every day," according to one source (see **WTTL**, Feb. 7, page 2). The small side meetings reportedly have focused on such areas as tariff simplification, a special safeguard mechanism (SSM) and creation of a new tariff-quota system for products that are deemed to be "sensitive."

Many of the comments that country representatives made at the Feb. 17 session repeated previously made statements. Brazil continued to insist that market access for agriculture was key to any improvement in its offer for industrial goods. The European Union, which already has committed to cutting export subsidies, said it doesn't want to reopen settled agreements. Switzerland renewed its call for protection of geographic indications under the farm text.

Industry Favors STA Proposal But Wants Further Changes

A small sampling of public comments on the BIS proposal to create a new License Exception Strategic Trade Authorization (STA) finds industry generally in support of the idea, but individual companies want changes in the final rule to assure that their products and customers are eligible for license-free trade. One recurring concern is the proposed requirement for consignees to provide statements for each shipment saying they understand the restrictions on STA items and won't reexport the items without authorization.

BIS has received more than 100 comments on the proposal, but only a few have been posted on the Web. Nine companies and trade organizations from the U.S., Japan and France expressed their opinions, both positive and critical. The comments ranged from three lines of general support to pages and pages of specific recommendations on specific products (see **WTTL**, Jan. 31, page 4).

License Exception STA would allow license-free exports of certain products to 37 close allies, and a smaller set of products to a larger group of 125 countries. In the proposed rule, BIS highlighted 29 Export Control Classification Numbers (ECCNs) that might be considered Tier 1, subject to the highest level of export controls and thus not eligible for the License Exception.

Several comments referred to the consignee statement requirement. United Technologies recommended that "BIS clarify that the exporter, reexporter or transferor must obtain a written statement from its consignee 'prior *to the first shipment of the item(s)*...' As long as the statement identifies all items to be shipped to the consignee, subsequent shipments should not require a separate prior consignee statement." The level of control on specific ECCNs also drew comments. ION Geophysical Corp., for example, wrote, "Making 6A001.a.2 seismic products eligible to use license exception STA would be a huge step in simplification in an industry where proliferation has not been an issue thus far."

The Japan Machinery Center for Trade and Investment (JMC), an association of 270 manufacturing and exporting firms, commented on the existing difficulty of getting accurate ECCNs from U.S. companies. "JMC has ever requested BIS to make it mandatory for the U.S. exporters to furnish the Japanese exporters with the ECCN on this account. The proposed rule stipulated the requirement of furnishing the ECCN with its consignee and this requirement seemed to satisfy our request. But we are still concerned if the U.S. exporters would be capable of furnishing the ECCN timeline in accordance with the requirement," the association told BIS.

Oil and Gas Imports Skew Picture of FTA Trade

Both supporters and opponents of U.S. free trade agreements (FTAs) will be able to quote 2010 trade figures to bolster their arguments about U.S. trade policy. When all 17 FTAs are included in the figures Commerce released Feb. 11, the U.S. ran a trade deficit of $70.5 billion last year with those countries, but if Canada and Mexico are excluded, the U.S. had a $23.5 billion surplus with the remaining 15 FTA countries (see **WTTL**, Feb. 14, page 2). With Canada and Mexico included but U.S. imports of oil and gas from the two NAFTA partners not counted, the U.S. would have had a $24 billion surplus with all 17 FTA nations. Energy products also made up a large share of the imports from Guatemala, Peru and Oman (see table). Besides Canada and Mexico, the U.S. had trade deficits with only three other FTA partners: Costa Rica, Israel and Nicaragua.

U.S. Merchandise Trade with Free Trade Agreement Partners 2010 v. 2009
(in billions)

Country	2010 Exports	2009 Exports	% Change	2010 Imports	2009 Imports	% Change	2010 Trade Surplus/ (Deficit)	2009 Trade Surplus/ (Deficit)	% Change
Australia	$22	$19.6	12%	$9	$8	13%	$13	$11.6	12%
Bahrain	1.3	0.7	87	0.42	0.46	-9	0.8	0.2	295
Canada	249	205	21	276	226	22	(27)	(21)	29
Chile	10.9	9.3	17	7	5.9	19	4	3.4	15
Costa Rica	5.2	4.7	11	8.7	5.6	55	(3.5)	(.09)	289
Dominican Republic	6.5	5.3	23	3.7	3.3	12	2.8	2	40
El Salvador	2.4	2	20	2.2	1.8	22	0.2	0.2	0
Guatemala	4.4	3.9	13	3.2	3.1	3	1.2	0.8	50
Honduras	4.6	3.4	35	3.9	3.3	18	0.7	0.1	600
Israel	11.3	9.6	18	21	18.7	12	(9.7)	(9.1)	7
Jordan	1.2	1.2	-1	0.98	0.92	6	0.2	0.3	(25)
Mexico	163	129	26	230	177	30	(67)	(48)	40
Morocco	1.95	1.6	20	0.7	0.5	46	1.3	1.2	9
Nicaragua	0.98	0.72	36	2	1.6	25	(1)	(0.9)	16
Oman	1.1	1.1	-3	0.77	0.91	-15	0.33	0.22	50
Peru	6.75	4.9	38	5.1	4.2	21	1.65	0.7	136
Singapore	29.1	22.2	31	17.5	15.7	11	11.6	6.5	78
TOTAL	521.6	424.2	23	592	477	24	(70.5)	(52.7)	34
Total without Canada, Mexico	109.6	90.2	21	86.2	74	16	23.5	16.3	44

The main contributors to the $3.5 billion deficit with Costa Rica were its exports to the U.S. of $2.8 billion in computer accessories, $2.5 billion in semiconductors, $804 million in fruits and $654 million in medcal supplies.

More than 60% of Israel's exports to the U.S. came from two product groups: $7.8 billion in cut diamonds and jewelry and $5.1 billion in pharmaceuticals.

Various apparel exports from Nicaragua, which totaled more than $1 billion, accounted for about half of the country's shipments to the U.S. and all of its trade surplus.

Apparel products also constituted the main exports from other Central America nations that were part of the Central American FTA (CAFTA-DR), including Guatemala, El Salvador and the Dominican Republic. Apparel items were also Jordan's main export to the U.S., with production coming from Qualified Industrial Zones in the country.

Raw materials were a major component of imports from several countries, including copper from Chile and Peru, nuclear materials from Australia and gold from Guatemala. Food products came from many FTA countries, including meat from Australia, fruits and vegetables from Chile and Central America and wine from both Chile and Australia. Aside from the deficit in energy imports from Canada and Mexico, the U.S. also ran nearly a $39 billion deficit with its two neighbors in cars, trucks and auto parts. The U.S. also runs a candy deficit with Canada due to the U.S. price support and quota program for sugar, which raises sugar prices in the U.S.

TAA, ATPA Caught in Partisan Battle

Conservative think tanks are taking credit – and Democrats are assigning them the blame – for scuttling a House deal to extend portions of the Trade Adjustment Assistance (TAA) program along with the Andean Trade Preference Act (ATPA). Without legislation, enhancements to TAA enacted in 2009 as part of the Recovery Act expired Feb. 14, along with ATPA. Lawmakers backing both programs are trying to find a way to get them renewed, possibly through a Senate amendment to other pending legislation. House staffers also are working to have a potential compromise ready when lawmakers return from their Presidents Day recess Feb. 28.

> Republicans and Democrats remain split over funding TAA under new House budget rules that require a real spending offset to fund any new expenditures. Ways and Means Chairman Dave Camp (R-Mich.) has proposed using some community college aid to pay for TAA, while Democrats want to keep using money from a Customs user fee to pay for it. TAA has traditionally been a quid-pro-quo sweetener that has been attached to trade bills to win Democrat votes. While attached to the Recovery Act, the 2009 amendments represented one of the few times the law was amended without being attached to a larger trade bill.

Statements from the conservative Heritage Foundation, Club for Growth and Republican Study Committee led House leaders to pull TAA and ATPA bills from consideration on Feb. 9. The groups complained that TAA unfairly favors workers who lose their jobs due to trade rather than treating all unemployed workers the same (see **WTTL**, Feb. 14, page 2). Another reason suggested for the decision to withdraw the bill was leadership uncertainty about how tea party-backed members would vote. "Because they're so new and so untested, you don't know what they believe," Rep. Jim McDermott (D-Wash.) told WTTL. "Most of them have never had to confront this issue; never thought about it," he said.

The decision of House leaders to pull the bills reportedly caught Camp by surprise. "They surely pulled the rug out from under him," McDermott said. "I think he thought he had a bill," he added; noting, "That's not the first time that some guy in the Ways and Means leadership had the rug pulled out from under him or her." McDermott said he didn't know whether the decision came from Speaker John Boehner (R-Ohio) or Majority Leader Eric Cantor (R-Va.).

McDermott and Rep. Sander Levin (D-Mich.) tried to paint the Republicans as not caring about unemployed Americans. They told reporters Feb. 15 that the expiration of the 2009 amendments to TAA will reduce the number of workers eligible for training assistance, cut the level of support those in the program get for health insurance to 65% from 80%, shorten the amount of training available and reduce the training cap for the program to $220 million from $575 million. Even with the expiration of the 2009 enhancements, however, workers already enrolled in TAA with the 2009 benefits will continue to receive them.

* * * Briefs * * *

<u>ANTIBOYCOTT</u>: <u>UPS Supply Chain Solutions</u> of Houston, Texas, agreed Jan. 25, to pay $6,400 civil fine to settle single BIS charge that it violated antiboycott regulations by including statement on Trade Links International Invoice, saying, "We hereby certify that the good described in this invoice are not of Israelian (sic) origin and there has no Israelian material been used to produce it (sic)."

<u>COOKING WARE</u>: In "sunset" review, ITC by 6-0 vote determined Feb. 16 that revoking antidumping order on porcelain-on-steel cooking ware from China would likely cause renewed injury to U.S. industry.

<u>MAGNESIUM</u>: ITC reached split decisions Feb. 10 in "sunset" cases on antidumping orders on magnesium. It voted 5-0 that revoking order on imports from China would likely lead to injury to U.S. industry. It voted 4-1 that revoking order on imports from Russia would not cause injury to recur.

<u>TRANS-PACIFIC PARTNERSHIP</u>: U.S., Australia, Brunei Darussalam, Chile, Malaysia, New Zealand, Peru, Singapore and Vietnam completed fifth round of TPP talks in Santiago, Chile, Feb. 19, continuing talks on tariff cutting and agreeing to make initial offers on services and investment at next session.