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Ex-Im Bank Offers More Aid for Export Financing

Amid signs of a sharp drop in U.S. exports, the Export-Import Bank Nov. 25 said it is taking additional steps to aid exporters get financing, including a new program to back $2.9 billion in exports to South Korea and expansion of its working capital loan guarantee program to indirect exporters who supply parts, components and materials that go into final exports (see **WTTL,** Nov. 17, page 1). The Ex-Im board granted special delegated authority to bank staff to approve requests for up to $2.9 billion in insurance cover involving letters of credit issued by 11 Korean financial institutions. The board was also briefed on new measures to increase access to direct lending and working capital loan guarantees. Under these new measures:

■ Companies that produce goods or services that are sold to U.S. companies and are subsequently exported will now be eligible to apply for working capital loans guaranteed by Ex-Im Bank. The Bank is raising from 10% to 100% the amount of a working capital loan guarantee available for these "indirect" exporters, the first time such companies have, on their own, been able to access the product.

■ Ex-Im Bank will now consider covering warranty letters of credit up to 20% of loan amount or $1.5 million, whichever is lower, for a term of 12 months. This is a tripling of the previous ceiling of $500,000 which the Bank says "will provide additional liquidity to exporters and help them be more competitive." Exporters using Ex-Im for such coverage are required to provide only 25% cash collateral versus the standard 100% cash collateral in the private sector.

■ Staff will now consider, on a case-by-case basis, reducing collateral requirements for letters of credit to 10% of face value, down from 25% currently versus 100% collateral for all letters of credit generally required by the private sector.

ITC Still Pondering How to Apply Advice on Bratsk

An attempt in September by the Court of Appeals for the Federal Circuit (CAFC) to clarify its 2006 ruling in the *Bratsk Aluminum* case did not answer all the questions the International Trade Commission (ITC) has about how to apply *Bratsk* in injury investigations in antidumping cases, according to ITC General Counsel Jim Lyons (see **WTTL**, Sept. 22, page 3). The ITC has not yet determined how to apply the circuit court's newer advice in its ruling in *Mittal Steel* to the older ruling in *Bratsk,* he said. "The jury is still out on that one," Lyons told the Court of International Trade's Judicial Conference Nov. 19. "It is something we still are

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deliberating and examining," he said. "*Mittal* certainly clarified some aspects of the previous decision in Bratsk, but in my personal view, I don't believe that it clarified some important remaining aspects the advice," he added.

> Lyons said he didn't know if the appellate court's advice meant that the ITC should do a 'but-for' analysis or continue to do a 'replacement-benefit' analysis. "I don't believe there is absolute clarity, in terms of what direction the court has given us on those issues. And it is something that we will have to determine how we'll apply going forward," he told the conference.

"I can say there is a number of different views as to what the Commission can do to satisfy the most recent opinion by the court, but which of those will be chosen or whether more than one alternative will be pursued is still an open question," he noted. "One thing I can say is that we think there are still some very real inconsistencies between what the Federal Circuit has directed us to do with regard to causation and what it had indicated in previous decisions."

U.S.-China Meeting Shadowed by Economic Crisis

Bush Cabinet officials will hold their last Strategic Economic Dialogue (SED) meeting with their Chinese counterparts Dec. 3-4 in Beijing in a world that has changed drastically since they last met in June. Not only are the Bush officials heading to the talks as lame ducks, but both the U.S. and Chinese economies are facing economic turmoil that will make any meaningful progress in the bilateral relationship almost impossible. U.S. reliance on capital from China to help fund the ever-expanding number of financial rescue plans and stimulus packages will restrict American efforts to get new market liberalization commitments from China.

> At the same time, China is facing its own crisis. China's GDP growth rate has slowed from 12.6% in the second quarter of 2007 to 6% this quarter, economist Nicholas Lardy, a senior fellow at the Petersen Institute, told a conference at the institute Nov. 24. This is the "largest drop in growth in China in over the last 30 years," he said. The decline is due to a shrinkage of external demand. The external surplus is usually 60% to 80% of exports but has now fallen to zero, he reported. Beijing's concerns about its economy has led it to launch its own stimulus package to increase fixed investment and government consumption.

Although the world looks at China in a macro sense, Beijing looks at itself in a micro sense, Derek Mitchell, a senior fellow at the Center for Security and International Studies (CSIS) told the conference. "Even though regime survival is not at risk, the fundamental insecurity of the regime is what drives their foreign policy," he said. "They want good relations with the U.S., and they focus on regional states. They are focused on the world in a defensive way to protect their interests," he noted.

Petersen Institute Director Fred Bergsten said an expansive Chinese fiscal policy over the next two or three years "is just what the doctor ordered." Using the increasingly popular term "Chinamerica" to describe the close relationship between the U.S. and China, Bergsten said China should get more influences in the IMF if it is to provide more money to the fund. "Of the top three world economies, only the U.S. and China can act as unitary actors. It, therefore, bears significant responsibility for the world economy," he said.

Customs Modifies Interim Final 10+2 Reporting Rules

A strong outpouring of objections from the trade community succeeded in getting Customs and Border Protection (CBP) to modify its original proposed changes to its 24-hour advance reporting requirements for maritime cargo carriers. The interim final rule published in Nov. 25 Federal Register made 13 changes from the original proposal and offered an opportunity for industry to file additional comments. Added to the existing 10 elements that carriers need to

file before lading cargo for shipment to the U.S., are two new requirements to submit a vessel stow plan (VSP) and container status messages (CSM) under certain scenarios where cargo containers are destined for the United States. The rule also requires importers or their agents to submit an Importer Security Filing (ISF) with eight data elements, no later than 24 hours before the cargo is laden aboard a vessel destined for the United States.

> "CBP is committed to fully supporting the trade community in its efforts to successfully implement the requirements of this rule," the Federal Register notice stated. Customs plans an extensive outreach effort with seminars to explain the new requirements. It also will try to find operators who have successful processes in place to have them offer help to other businesses on how to comply.

Among the changes CBP made to the original proposal it added flexibility in four ISF elements to allow importers, in their initial filing, "to provide a range of acceptable responses based on facts available to the importer at the time in lieu of a single specific response (which may become known to the importer only at a later time)." It also added flexibility to two other ISF elements for consolidators to require "submission as early as possible, and in any event no later than 24 hours prior to arrival in a U.S. port (or upon lading at the foreign port, if that is later than 24 hours prior to arrival in a U.S. port)."

"The 10+2 Rule, as originally drafted, would have cost U.S. manufacturers as much as $20 billion annually, created huge delays and missed shipments in the global supply chain, risked shutting down U.S. production lines and actually worsened security by increasing the amount of time containers sat around available for tampering at foreign ports," said National Association of Manufacturers (NAM) President John Engler in a statement. He said NAM led the industry-wide effort to get the proposal modified. "We are very pleased that, after nearly a year of the NAM's unrelenting effort, a realistic assessment of the rule was made under the auspices of the White House's Office of Management and Budget (OMB)," Said Engler. The Bush administration "listened carefully to what our member companies told them," he said.

Quest for Electronic Cargo Security Systems Faces Delays

The effort to establish globally consistent ways to use a radiofrequency identification (RFID) system to secure cargo containers and the global supply chain faces delays because of technical differences and the conflicting interests of those involved in global trade, according to sources working on RFID standards and spectrum planning. A key step in the process is the possible allocation of radio frequencies for the systems at the World Radiocommunication Conference in 2011 (WRC-11). But sources say further worldwide coordination will be needed to approve the necessary standards, radio interfaces, changes in national regulations and implementation of new technologies to help secure the chain of custody for the world's 18 million shipping containers.

> The WRC is a quadrennial conference held by the Geneva-based International Telecommunication Union (ITU) to update technical treaty-level provisions in international radio regulations. Although the meeting is three years away, technical studies have started in the ITU and other organizations on RFID and related standards, with some conflicts already surfacing.

Participants in the International Organization for Standardization (ISO) are working on a new draft standard (0891:CD2008): "Freight containers — RF automatic identification," which would provide an RF tag that encodes only the unique identification of the freight container. The air interface standard used with 10891, however, shouldn't be selected for a common worldwide frequency band for freight containers because the frequencies are assigned to industrial, scientific and medical uses and for other pertinent reasons such as their physical properties, said Craig Harmon, president of QED Systems and chairman of an ISO joint working group on supply chain applications of RFID. The same problem faces standards for short-range

devices (SRD), Harmon said. Canada and Arab countries have raised concerns about interference, as have Earth science interests, radio astronomy interests and others.

> The U.S. work plan for WRC-11 leans toward support for a technology branded as Zigbee, which uses a standard developed by the IEEE, the international engineering organization. Zigbee is being advocated by the "Zigbee Alliance", which says it is made up of dozens of companies working on reliable, cost-effective, low-power, wirelessly networked, monitoring and control products based on an open global standard.

Other participants, however, favor what they say is a promising technology called Ultra Wide Band (UWB). A U.S. prepatory document for the WRC said current regulations for UWB systems differ widely across the globe, particularly with regards to frequency allocation and constraints on operation.

Additional problems come from carriers who can make implementing security techniques more difficult, according to an official who declined to be identified. Carriers don't like new International Maritime Organization requirements for ships regarding long-range identification and tracking, the source said. The carriers, under the leadership of the World Shipping Council (WSC), would prefer "no requirements," the source said. The WSC will argue in favor of any initiative that prolongs a timeline for implementation, the source added. The carriers have embraced an eSeals standard that will never be produced and are looking for ways to stall implementation of an RFID standard for shipping containers, the source said. The carriers also are attempting to gain control of the ISO standard for supply chain tags, the source added.

Bush Suspends Bolivia's Andean Trade Preferences

President Bush Nov. 26 followed through with his threat and issued an executive order suspending Bolivia's eligibility for tariff-free treatment of its exports to the U.S. under both the Andean Trade Preference Act (ATPA) and the Andean Trade Promotion and Drug Eradication Act (ATPDEA). "The suspension, which takes effect on December 15, 2008, is the result of Bolivia's failure to cooperate with the United States on counternarcotics efforts," said White House spokeswoman Dana Perino. The president's decision was anticipated ever since he proposed the suspension of Bolivia's benefits and the U.S. Trade Representative's office held a hearing on the proposal (see **WTTL**, Oct.27, page 1).

> Because of the Thanksgiving holiday, administration officials were not available to offer details on how the suspension will be applied and whether there will be any "savings clause" addressing when the suspension will apply to goods in transit or laden for shipping before Dec. 15. With the suspension expected, importers were likely rushing to beat the clock on the White House action.

Bolivia will lose its ATPA and ATPDEA benefits a little over one month before the new Obama administration comes into office. Although Bush refused to defer the action against Bolivia, Perino indicated that the new policy could be reversed. "If Bolivia were to improve its performance under the ATPA and ATPDEA programs' criteria, the President would have the discretion to issue a proclamation to redesignate Bolivia as a beneficiary country," she said.

A Reuters report quoted Bolivian President Evo Morales saying, "It's totally false that the Bolivian government did not comply. We complied better than Colombia and Peru. Those are the facts, but this is political vengeance because we don't agree with capitalism, provoked wars...or the free market." The article said Morales "reiterated his willingness to improve U.S.-Bolivian relations once U.S. President-elect Barack Obama takes office." While the administration was considering this action, Chile urged the U.S. to retain trade preferences for both Bolivia and Ecuador. "We have helped countries in discussions with the American administra-tion and Congress," Chilean Ambassador to the U.S. Mariano Fernandez told WTTL. "Our president sent a letter to Congress, to President Bush, to Nancy Pelosi, saying that Chile

supports strongly free trade with Peru, Panama, and Columbia, and the renewal of trade preferences for Bolivia and Ecuador," he told WTTL after the USTR hearing.

Trade Ministers May Meet with Wide Differences Remaining

World Trade Organization (WTO) Director General Pascal Lamy may call trade ministers back to Geneva in the next two weeks to try again to reach agreement on modalities in the Doha Round negotiations. A decision on recalling the ministers could come after "Green Room" meetings Lamy and the chairs of the key negotiating groups will hold on Sunday, Nov. 30. It looks increasingly likely, however, that the ministers would arrive with little advance progress having been made by senior negotiators on the issues that led to the collapse of the last ministerial in July. The push for ministers to meet again came out of the declaration issued in November by the leaders of the world's 20 largest economies (see **WTTL**, Nov. 24, page 3).

> Doha agriculture committee chairman Crawford Falconer reported Nov. 28 that two weeks of talks and consultations have shown some progress but not "closure". He said he would wait until after the weekend talks to decide whether to issue another draft text with farm "modalities." He also will consult with Lamy and Swiss Ambassador Luzius Wasescha, the chair of the non-agricultural market access (NAMA) negotiations, who is also expected to revise his text.

Recent movement in positions hasn't been fast, a developing country ambassador to the WTO told WTTL. Among areas where progress is still needed are preference erosion, NAMA sectorals, agriculture special safeguard mechanism (SSM), sensitive products in agriculture and sugar. Negotiators are narrowing gaps on SSM and trying to reduce the "number of moving parts for ministers," the ambassador reported. Discussions have focused on how to modulate and regulate SSM triggers and remedies, he said.

One subject likely to be left for trade ministers is how developed nations will provide extra compensation for their entitlement to protect sensitive products, the ambassador said. One side says the compensation is too high while the other side says it's not enough, he noted. Sectorals remain a potential deal breaker, the ambassador said. The U.S. and EU want sectoral negotiations more clearly defined in the push for agriculture and NAMA modalities, but China, Brazil and ASEAN countries are resisting, he pointed out.

Paper Sees Economic Benefits From Ending Iran Sanctions

As the incoming Obama administration ponders how to deal with Iran, a new report says the easing of trade sanctions on Tehran could have economic benefits for the U.S. and Iran. The paper, written by Dean DeRosa the principal economist at ADR International Ltd., and Gary Hufbauer from the Peterson Institute for International Economics, comes just as Treasury's Office of Foreign Assets Control (OFAC) Nov. 26 identified Iran's National Iranian Oil Company (a.k.a. NIOC), Naftiran Intertrade Company Ltd. (a.k.a. NICO), and Naftiran Intertrade Co. Sarl as owned or controlled by the government of Iran and prohibited most commercial and financial transactions with the three firms and their branches or subsidiaries.

> "A new administration gives us an opportunity to try a fresh approach to foreign relations," DeRosa said at a Nov. 21 briefing on the paper which was released by the National Foreign Trade Council and USA Engage, a trade promotion group. "The economy of Iran is a highly repressed one. A lot of significant liberalization would need to occur on Iran's end," he noted.

The main benefit for the U.S. in more open trade with Iran would come from a reduction in world oil prices that would follow an increase in Iranian oil production spurred by an increase in foreign direct investment (FDI) in the country, the paper suggests. "With no offsets by OPEC, a 50% increase in production from a 5% [increase in western] FDI, with the technology

and knowhow, would be diffused generally including to the state owned oil firm," DeRosa said. "This would reduce oil prices 10% worldwide. Iran would benefit from $1 billion in increases in trade and services from the U.S. and E.U. augmented by FDI by two or three times," he said. "The largest benefits are for the U.S., with $38 billion in savings with oil at $50 a barrel and a savings of $76 billion at $100 a barrel," DeRosa remarked.

> Hufbauer said he does not foresee OPEC offsetting the increased Iranian oil production. "There might be some offset, but it would not be significant. It is clear that in OPEC, cheated quotas is quite widespread. If you assume OPEC will reduce production and Iran is offset, then our models go out the window," he said.

NTFC President Bill Reinsch said that "in an economy that has been closed, there is tremendous opportunity." He cited the example of the U.S. opening with Libya to stress that both sides need reform. "Libya is half a job. We opened, they did not," Reinsch noted.

* * * Briefs * * *

TRADE FIGURES: August to September decline in merchandise export of $10.4 billion was record, Commerce reports. Merchandise exports declined from $165.2 billion in August to $155.4 billion in September. Exports to China in September ($5.3 billion) were lowest since July 2007, department says. September exports to European Union ($20.9 billion) were lowest since December 2007 ($20.8 billion) and September exports of advanced technology products ($21.6 billion) were lowest since April 2007 ($20.6 billion), Commerce notes.

FCPA: Aibel Group Ltd., of United Kingdom, Nov. 21 pleaded guilty to violating Foreign Corrupt Practices Act (FCPA) in Houston U.S. District Court and agreed to pay $4.2 million criminal fine. Plea agreement admits it conspired to violate FCPA and violated FCPA. Firm also acknowledged that it had violated terms of February 2007 deferred prosecution agreement it had reached with Justice. Aibel is part of Vetco International, which, along with several subsidiaries, had pleaded guilty in 2004 to FCPA violations related to bribes paid to government officials in Nigeria.

AVIATION PARTS: BIS in Nov. 20 Federal Register asked for public comment on possible removal from *de minimis* eligibility commodities controlled for missile technology (MT) reasons under Category 7--Product Group A on CCL when 7A commodities are incorporated as standard equipment in Federal Aviation Administration (FAA) or national equivalent certified civilian transport aircraft. "If such a policy were implemented, foreign made items that incorporate U.S.-origin 7A commodities would be subject to the Export Administration Regulations, except when the 7A commodities are incorporated as standard equipment in FAA (or national equivalent) certified civilian transport aircraft," BIS explained.

EXPORT ENFORCEMENT: Shu Quan-Sheng pleaded guilty Nov. 17 in Norfolk, Va., U.S. District Court to exporting defense services and U.S. Munitions List (USML) items to China without license and with violating FCPA with attempted bribes of Chinese officials (see **WTTL,** Sept. 29, page 4).

EAR TRANSFER RULES: In Nov. 18 Federal Register, BIS issued final amendment revising definition of "transfer" to include "in-country transfer/transfer (in-country)" and referring to conveyance of items within single foreign country. "The amendments in this rule clarify that a party cannot proceed with an export, reexport, or transfer (in-country) that is in transit at the time the party is informed by BIS that a license is required (in accordance with certain end-user/end-use controls in the EAR), unless that party first obtains a license from BIS authorizing the completion of the transaction," agency said.

BANANAS: WTO Appellate Body Nov. 26 issued reports upholding dispute-settlement panel's rulings in favor or U.S. and Ecuador and against EU banana regime. "It is time for the EU to do the right thing and implement a tariff-only regime for bananas that meets the interests of all parties involved," USTR Susan Schwab said in statement. Ruling said U.S. had right to bring complaint and that EU duty-free quota program for former European colonies in Africa, Caribbean and Pacific violated WTO rules.

VIETNAM: Commerce Nov. 21 said it had found no grounds to self-initiate antidumping cases against apparel imports from Vietnam based on import data it has been monitoring. "Commerce has concluded the third review of the import-monitoring program covering certain textile and apparel products from Vietnam," said Assistant Secretary for Import Administration David Spooner. "This final investigation reveals that prices of Vietnamese apparel are in line with, and in most cases even exceed, other major suppliers, including Central America," he added.