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Ex-Im Moves to Deal with Export Credit Crisis

The Export-Import Bank Oct. 8 took the first step toward addressing fears that the global credit crisis is drying up export financing and insurance. It announced a 15% reduction in the premium rate for two of its major credit insurance programs: short-term small business multibuyer policies and short-term small business environmental multibuyer policies. “We hope this change will make it easier on small businesses in this difficult credit environment,” said Ex-Im Chairman and President James H. Lambright in a statement (see **WTTL**, Sept. 29, page 1).

> Ex-Im officials expect to take a more comprehensive look at the impact the credit crisis is having on export financing in the next few weeks, one source reported. A special staff and board meeting is being planned to get a report on the state of trade financing. Surprisingly, sources say the Treasury Department has not asked Ex-Im for information on the trade finance situation or coordinated its credit financing rescue plans with Ex-Im, despite the fact that more than $1 trillion in U.S. exports of manufactured goods could be a risk if export financing dries up.

Concerns about the credit crisis has also gotten the attention of World Trade Organization (WTO) Director General Pascal Lamy. On Oct. 10 he said he has called for a special meeting of major trade finance providers to developing countries Nov. 12 to examine the issue and find ways to alleviate the situation. Up until April, “the situation seemed to be stable with volumes and rates at normal levels,” Lamy told the WTO Trade Negotiations Committee. “But just this week Brazil brought this issue to the forefront,” he said; noting that the World Bank IFC has increased its trade financing program by $500 million.

“We will follow this up in the Working Group on Trade Debt and Finance at the end of November,” Lamy said. “If there are indications that the financial situation could be having serious implications more generally for trade or the trading system, I shall consult with the GC [General Council] Chairman on the possibility of convening a GC meeting on our Coherence mandate. Let us keep the situation under review, and act as necessary,” he advised.

Textile Industry Gets ITC to Monitor Imports

Unable to get the Bush administration to establish a monitoring program for textile and apparel imports from China, the U.S. textile industry succeeded in getting Democrats on the House Ways and Means Committee to ask the International Trade Commission (ITC) to do the monitoring. This is not a new assignment for the ITC. For many years, it followed and issued annual reports on textile and apparel imports under the Multifiber Arrangement. Ways and Means Chairman Charles Rangel (D-N.Y.) asked the commission to begin monitoring the trade in an Oct. 8 letter to the ITC (see **WTTL,** Oct. 6, page 1).

> "I request that the Commission initiate an investigation to provide the Committee with statistical reports on the volume, value, unit value, and import market share of certain textile and apparel imports from China," Rangel wrote. "The Commission is asked to compile these data for each product covered by the [U.S.-China] Textile and Apparel MOU, at both the three-digit textile/apparel category level and at the level of the 10-digit Harmonized Tariff Schedule for each product within each of the three-digit textile/apparel categories," he added.

"To be clear, the Committee is not requesting at this time any analysis of the import data, nor is the Committee directing the Commission to initiate a section 421 investigation," Rangel noted. "The Committee simply is seeking the statistical data that will allow the Committee to monitor the volume and unit values of textile and apparel Imports from China to determine whether a more comprehensive investigation is appropriate. The Committee understands that these data already have been compiled. The Committee simply seeks that the data be reported in the format requested," he wrote.

Rangel said he wanted the ITC to first compile historical data on imports of the items that were the subject of the Memorandum of Understanding from January 2003 to date. He also wants the ITC to give the committee preliminary and final data as they become available. "In addition, the Commission should publish a compilation of the monthly reports of the final Census data on an annual basis. Finally, I request that the Commission continue to provide these reports until such time that the Committee terminates or amends this request," he said.

With the Bush administration not apparently willing to launch a monitoring program, apparel manufacturers and importers were expecting the textile industry to seek another route for help. "Considering the many tools available to the Chairman and the ITC as we approach the end of quotas on Chinese imports, this request for a study is not a surprise," said American Apparel & Footwear Association President and CEO Kevin M. Burke. "While the monitoring program may not result in any protectionist actions, its existence does create apprehension that action may be taken in the near future," explained Burke.

CFIUS Focuses on 42 Activities, 15 Sectors, Official Says

The Committee on Foreign Investment in the U.S. (CFIUS) is developing a list of industries and activities that are likely to get its closest attention, according to Nova Daly, Treasury's deputy assistant secretary for investment security and policy. "There are forty-two types of activities across fifteen broad sectors. The sectors are yet to be fully defined," Daly told the U.S.-Russia Business Council Oct. 6.

> While Daly would not say what those sectors are, former Commerce Under Secretary Stuart Eizenstat, who was on the panel with Daly, identified some of the sectors as mining, natural resource deposits, radio, TV, publishing, printing, and telecommunications. "The list seems broad and the sectors are yet to be fully defined, but it is clear that even in strategic sectors, investment will be possible," Eizenstat said.

Treasury officials had wanted to have the final CFIUS regulation, which will implement 2007 legislation mandating new procedures, published by the end of September, but the credit crisis and congressional rescue effort distracted them from reaching that goal. The new goal is "hopefully really soon, very soon," Daly told WTTL. Eizenstat said that CFIUS' interpretation of the law "has taken care of congressional anxiety about foreign investment and the risk of politicizing that." Daly said "CFIUS has gone through a positive process, maintaining national security in the context of open investment. It is a move in the right direction. We just need enforcement." It can take up to four months to process an investment review and up to seven months until it clears the interagency system, he indicated. "Eighty-four percent of the time we clear a case without mitigation under CFIUS within a thirty-day period," Daly said.

> Scott Morris, a senior economist on the House Financial Services Committee, acknowledged that "some countries feel like CFIUS is a gun pointed right at them." A CFIUS review is transaction specific, he noted. "Though sector and country are relevant, they are not the determining factor," Morris said. A reviw is "based on the vulnerabilities and sensitivity of that technology. We want to be clear about it, so there is no misunderstandings what CFIUS is," Morris said.

Critics of the changes Congress made to the CFIUS process say the new rules are forcing more companies to file investment notifications with the committee, and the heavier workload has reduced the time and effort it has to focus on true national security cases. At the current rate of submissions, CFIUS is on track to receive 180 cases for review in 2008. This compares to 145 in 2007, 117 in 2006 and 65 in 2005. In the years before Dubai Ports World attempted to buy the operations of several U.S. ports and triggered the congressional outburst against foreign investment, CFIUS was receiving just 30-50 cases a year. The rise in CFIUS cases came as foreign direct investment decreased 40% globally and 35% in the U.S., Daly noted.

U.S. Wins and Loses in IPR Complaint Against China

The U.S. may have won two out of three of its complaints against China's lack of protection for intellectual property rights before a WTO dispute-settlement panel or it may have lost two of the three charges. The preliminary results of the panel's review have been given to the parties but not yet made public, so both sides in the dispute are explaining the results in the best light from their point of view. "In response to published press reports, we can confirm that the panel agreed with the United States on two out of three U.S. claims," said a U.S. trade official who asked not to be identified.

> "We are, of course, still reviewing the report, but so far are very pleased that the Panel has found that China has violated its WTO obligations. Under WTO rules, this interim report is confidential. We therefore cannot comment further on the details of the report at this time," the official added. Because the report is only preliminary, both the U.S. and China will have a chance to comment on it and argue against any findings with which they disagree.

The U.S. had asked the WTO panel to rule on three Chinese practices that Washington contends violate Beijing's WTO obligations under the Agreement on Trade Related Intellectual Property Rights (TRIPS). The U.S. reportedly won on the charge that Chinese customs measures provide for the auctioning off of seized counterfeit goods and thus allow them to go back into commercial channels. It also may have prevailed on provisions in Chinese copyright law that require a certain amount of Chinese content. The WTO panel apparently rejected the U.S. complaint that Chinese criminal penalties against counterfeiting aren't stiff enough.

Russia Risks Rejection of Jackson-Vanik Change, Eizenstat Warns

Congress may refuse to revise the Jackson-Vanik Amendment to give Russia permanent-normal-trade-relations (PNTR) status "if the political relationship continues to deteriorate," warned former Commerce Under Secretary Stuart Eizenstat at Oct. 6 annual meeting of the U.S.-Russia Business Council. The granting of PNTR, formerly known as most-favored-nation status, will be required, if Russia ever completes its accession to the WTO. So far, Russia's accession has been blocked by U.S. objections to its lack of protection for intellectual property rights. World-wide condemnation of Moscow's actions in South Ossetia and its invasion of Georgia have further dimmed chances for its entry to the WTO. "If there is a sense that the rule of law continues to be compromised, if there is a sense that business executives aren't treated fairly, that will effect congressional attitudes towards Russian investment and amending the outmoded Jackson-Vanik restrictions and allowing Russian ascension to the WTO," said Eizenstat, who is now with the law firm of Covington and Burling in Washington. "Russia's actions taken outside of foreign investment will compromise Russia's better intentions," he said.

> In addition to the war in Georgia, Russia's treatment of foreign investors in recent months has raised concerns in the international business community. The sharp drop in the Russian stock market, which started even before the rest of the world markets began to crumble, was a reaction in part to those policies. "Russia is dependant on foreign investment, because of the high cost of the ruble and the need for technical know how," said Nova Daly, the deputy assistant secretary for investment security and policy at the Treasury Department. "Whatever Russia does, it should be committed to open investment," he said.

* * * Briefs * * *

TRADE FIGURES: With global economy being hit by credit crisis, July may prove to have been height of U.S export boom, figures released Oct. 10 on August trade suggest. July may have also marked turning point for U.S. trade deficit. U.S. exports of goods in August were up 19.4% from August 2007, but down from July. Goods imports rose 14% from a year ago, but were down $6.5 billion from July. Exports could face slowing markets abroad, while imports are expected to drop with lower oil prices and cut back in U.S. consumer spending. Historically, U.S. trade deficits have declined during recessions.

EX-IM BANK: In latest set of charges related to $80 million fraud scheme against Ex-Im Bank, grand jury in D.C. Oct. 7, returned nine-count indictment against Bettina Balderrama, also known as Bonnie Balder-rama, 57, of Manila, Philippines. Indictment claims she brokered approximately $15 million worth of fraudulent loan transactions between companies located in the Philippines and U.S. lending banks, in which Ex-Im acted as guarantor or insurer (see **WTTL**, Oct. 6, page 6).

ITC: Dominic L. Bianchi has been named head of congressional relations. Previously, he served for seven years as counsel to ITC Commissioner Deanna Tanner Okun and was at USTR's office before that working on congressional affairs and was acting assistant USTR for intergovernmental and public liaison.

ANTIBOYCOTT: Houston, Texas freight forwarder Rohde & Liesenfeld, Inc., has reached settlement with BIS to resolve charges that it violated antiboycott regulations on 36 occasions by providing Al-Furat Petroleum Company in Syria statements that shipments did not contain Israeli content. Firm agreed to pay $108,000 civil fine, but BIS said it would suspend $78,000 of penalty until November 10, 2008 (sic) and then waive it after that, if R&L does not violate regulations during that period. Company neither admitted nor denied BIS charges.

EXPORT ENFORCEMENT: D.C. federal grand jury Sept. 9 handed up five-count indictment against Rajaram Engineering Corporation of Bangalore, India, and its founder and president, Siddabasappa Suresh, charging them with conspiracy to violate IEEEP and EAR and unlawful export without approved licenses. Indictment accuses them of buying and arranging export of a variety of electronic products from unnamed company in Cleveland, Ohio, to the Vikram Sarabhai Space Centre (VSSC), which is in the Department of Space of the government of India. At time of exports, VSSC was on BIS Entity List.

MORE EXPORT ENFORCEMENT: Federal jury in Detroit Oct. 2, convicted Dawn Hanna of eight counts related to unlicensed exports of communications equipment to Iraq but acquitted her brother, Darrin Hanna, on all charges. Pair was subject of July 2007 indictment alleging they conspired to violate embargo on Iraq as part of United Nations Oil-for-Food program in 2002 (see **WTTL**, July 30, 2007, page 4).

ZEROING: U.S. Oct. 1 lost another WTO panel dispute over policy of zeroing margins in antidumping cases. In complaint brought by EU, panel said U.S. acted inconsistent with its WTO obligations by using zeroing in four investigations, 29 administrative reviews and eight sunset reviews. It rejected EU request to recommend corrective action. "In our view, it is evident under the DSU, particularly Article 19.1 thereof, that Members must implement DSB recommendations and rulings in a WTO-consistent manner. We cannot presume that Members might act inconsistently with their WTO obligations in the implementation of DSB recommendations and rulings. We therefore reject the EC's request," panel report said.

CIT: 15th Judicial Conference scheduled for Nov. 19 in New York City. Details and registration available at CIT website: www.cit.uscourts.gov.