ISSN 0276-8275

WTTLonline.com

A Weekly Report for Business Executives on U.S. Trade Policies, Negotiations, Legislation, Trade Laws and Export Controls

Washington Tariff & Trade Letter®

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Vol. 28, No. 37 **September 22, 2008**

Brazil Moves Closer to WTO Case Against U.S. Ethanol Tariff

Under pressure from its own agriculture interests, Brazil is moving ahead with preparations to file a complaint at the World Trade Organization (WTO) against U.S. tariffs on ethanol imports and subsidies to ethanol producers. "We are lining up the arguments" for the complaint now, one Brazilian official told WTTL. The timing for when the complaint will be filed will be up to Foreign Minister Celso Amorim, he noted. "There has not been a final decision on what the complaint will look like," the official added.

> The likely targets of the Brazilian complaint will be the special tax of 50 cents per ton on ethanol imported into the U.S. and the subsidies given to ethanol producers. A quota on imports also limits Brazilian imports to 7% of the U.S. market. Brazil claims the subsidies and tariffs are connected. "One exists because of the other," the Brazilian official explained.

A decision on the WTO case may come soon because the Brazilian government is under pressure from its farm and ethanol industries. The case is "very much in reaction to pressure," the official said. The case also reflects the fallout from the breakdown in Doha Round talks in July. More WTO disputes may be a sign of what's to come in a world without Doha, said one diplomat in Geneva, noting the re-institution of Brazil's complaint against the U.S. on cotton.

Indictment Targets Ring Accused on Shipping Electronics to Iran

At least 17 U.S. manufacturers and distributors sold or exported electronic parts and components to Iranian front companies that allegedly shipped the items to Iran without approved licenses, according to a federal indictment unsealed Sept. 17 in Miami U.S. District Court. The superseding indictment charged eight individuals and eight firms, including Mayrow General Trading, with 13 counts linked to those exports, including violation of the Iranian Transactions Regulations (ITR) and the Export Administration Regulations (EAR).

The Bureau of Industry and Security (BIS) issued a General Order in June 2006 barring exports to Mayrow and several of its affiliates. Some of the exports cited in the indictment came after that order was issued. None of the U.S. firms cited in the indictment were charged, and Federal prosecutors apparently believe other U.S. companies may have been doing business with the defendants. "I urge any domestic supplier who may have unwittingly helped the defendants, or others like them, to come forth and report the matter to federal law enforcement," said U.S. Attorney Alex Acosta in a statement. Among the products allegedly purchased and sent to Iran

Published weekly 50 times a year except last week in August and December. Subscription in print or by e-mail $647 a year. Combo subscription of print and e-mail is $747. Additional print copies mailed with full-price subscription are $100 each.

through Dubai, United Arab Emirates, Malaysia, Germany, Great Britain and Egypt were field programmable gate arrays, integrated circuits, global position systems, Invensys field communicators, Microchip brand microcontrollers, DC/DC converters, scintillation paint and EZ-Tilt 5000 Inclinometers.

> Although the indictment didn't name the companies that supplied these and other products, it did identify their locations. The companies from which the defendants bought these items were located in Chandler, Ariz., Mountain View, Calif., Chicago, Ill., Burlington, Calif., Tamarac, Fla., Stamford, Conn., Fort Worth, Texas, Holbrook, N.Y., Thief River Falls, Minn., Goleta, Calif., Largo, Fla., Foxboro, Mass., San Jose, Calif., Manteca, Calif., Deerfield Beech, Fla., Linden, N.J. and Sweetwater, Texas, the indictment revealed.

At the same time the indictment was unsealed, BIS applied its new criteria for placing names of the Entity List and announced the addition of 75 parties to the list. BIS said it led the investigation that produced the indictment of the Mayrow ring. Federal officials suggested that the items exported could be used in Improvised Explosive Devices (IEDs) that have been used against coalition forces in Iran and Afghanistan. The indictment claimed that only the micro-controllers have been found in the IEDs. Government officials were careful to say the exports "have potential military applications" but not that these specific items were used in IEDs. [**Editor's Note:** Copy of superseding indictment will be sent to subscribers on request.]

EC Proposal To Expand ITA Panned as Ploy by U.S. Firms

A European Union (EU) proposal Sept. 15 to renegotiate the WTO's Information Technology Agreement (ITA) was panned by U.S. industry representatives as a ploy to avoid a dispute with the U.S. over proposed EU tariffs on certain electronic products such as cable and satellite set-top boxes, LCD monitors and multi-function printers. The U.S., Japan and Taiwan are expected to make a second request Sept. 23 to the WTO Dispute-Settlement Body (DSB) to convene a dispute-settlement panel to hear their complaint that the new tariffs violate the ITA.

> The EU proposal calls for talks to update the ITA to deal with products that have come onto the market since the accord was reached in 1996, to address non-tariff barriers (NTB) to trade in information products and to fix mechanisms and procedures under which the ITA is suppose to operate. "The ITA remains a milestone duty-free agreement. But it risks being left behind after twelve years of technological development. We need an ITA for the 21st century that will continue to benefit our consumers and businesses," said EU Trade Commissioner Peter Mandelson (see **WTTL**, Sept. 1, page 3).

The EC is particularly concerned with NTBs and says it wants "recognition of internationally agreed standards and methods of conformity assessment." EU officials complain that countries in Asia, especially China, Japan and Taiwan, have instituted NTBs that have undermined the tariff-free treatment and market access that IT products are supposed to enjoy in those nations. U.S. industry sources, however, claim the shift in focus to NTBs is an EU effort to gain leverage in the tariff dispute and to put pressure on Asian countries.

The U.S. WTO complaint and the EU's call for new ITA talks also have exposed growing tensions among firms in the U.S., Europe and Asia in the very competitive IT field. That tension may be getting fed by some former negotiators who participated in the original ITA deal, industry sources contend. People in the room during negotiations ten years ago and now in the private sector say the EU is reneging on the deal by raising tariffs, the source argued.

Firms in the U.S. and EU want their governments "to put more pressure on the Chinese to stop subsidizing their domestic firms, to remove all these non-tariff barriers. They're not living up to their WTO commitments," said one industry executive. "Our common adversary in commercial terms, in economic terms, is China," he said. He also said Japanese officials play dumb when concerns are raised over NTBs. “They're in denial that there are these obstacles to trade. They say their market is completely open,” he added; noting that similar problems exist in South Korea and other Asian countries.

> The tariffs that are at the core of the U.S. complaint to the WTO face an uncertain future in the EU because of a legal challenge. A European Court of Justice Advocate General found flawed for a second time two weeks ago the EC’s rationale to justify the tariffs, said John Neuffer, vice president for technology and trade at the Information and Technology Industry Council. The preliminary findings were on flat-panel displays and multi-function printers. “The views of the Advocate General are not necessarily the views of the court, so we need to wait to see what the court decides,” said Mandelson spokesman Peter Power.

G-7 Resume Talks on Safeguards Mechanism

The Doha Round isn’t dead yet. Talks resumed in Geneva Sept. 19 on the Special Safeguard Mechanism (SSM), which led to the collapse of the mini-ministerial in July, and the chairman of the agriculture negotiating committee, New Zealand Ambassador Crawford Falconer, announced that he would start new negotiations and consultations on the overall farm text the weeks of Sept. 22 and 29 (see **WTTL** Sept. 1, page 1). Senior trade officials from the Group of Seven (G-7) countries began new talks aimed at firming up possible options to break the deadlock over the SSM provisions in the draft agriculture text.

> The G-7 officials, who represent the U.S., European Union, Japan, Australia, Brazil, India, and China, reportedly addressed whether the SSM would cover countries that will make no cuts in farm tariffs, the triggers for invoking the SSM, the duration of the remedy, the remedy itself, and monitoring of actions to prevent abuse of the mechanism, one source reported.

“Some very constructive ideas” on SSM were circulated in the last two weeks “which people have said are not so bad and even the U.S., I think, is considering it,” said one ambassador who has followed the negotiations but did not participate in the G-7 talks. The proposals aim for a middle ground between developing country concerns for farmers and U.S. concerns about the impact SSMs could have on normal trade, he said. “The U.S. is becoming fickle...Normally, they're decisive; now they're fickle” about whether they want to conclude a deal, he said.

Falconer issued a note to negotiators in Geneva on his plans for holding meetings with various groups of countries as well as one-on-one talks with individual representatives, a process he calls “a walk in the woods.” The results of these talks will be presented to the full membership at a later meeting. The outcome of the G-7 talks, which will continue, will be a key element in any new agreement on agriculture.

Meanwhile, WTO General Pascal Lamy, who has been holding consultations throughout the summer with trade ministers around the world, signaled his willingness to call the ministers back to Geneva for another shot at nailing down the modalities in agriculture and non-agriculture market access (NAMA). “In the weeks to come, and depending on progress made by the negotiators, I am ready to call ministers to Geneva to try and close the issues, which remain open so that the scheduling process in both areas can commence,” Lamy told the U.N. Conference on Trade and Development Board September 16.

U.S. Eases Pressure on China As Bush Term Nears End

A Sept. 16 meeting of the U.S.-China Joint Commission on Commerce and Trade (JCCT) showed that in the twilight of the Bush administration, the U.S. is not demanding much from China and the Chinese are offering even less. U.S. pressure on Beijing also has been tempered by the crisis on Wall Street and the financial market’s need for continued funding from China.

Even the U.S. Chamber of Commerce called the results of the JCCT modest. "The modest gains from these meetings are not home runs, but they are important for expanding commercial opportunities for America's businesses," said Chamber Vice President Myron Brilliant.

> The most important move by the Chinese came before the meeting when Beijing announced that it was reducing the minimum capital levels required for basic telecommunications providers to operate in China. The new requirements "are still far higher than international norms, and the United States will continue to urge China to consider further reductions," said a U.S. fact sheet on the talks.

In another key move announced at the meeting, China said it would ease requirements for the review and approval of medical devices in China. Chinese agencies responsible for these reviews issued joint statement saying they will require only one test, one report and one factory inspection for medical devices, the fact sheet reported. "The reduction of redundancies could cut the medical device approval time in half, providing U.S. industry with more timely access to China's medical device market," the fact sheet said. The Chinese also announced the partial reopening of its market to poultry from several states and processing plants.

For most other issues that the JCCT addressed, the results were agreements to keep on talking. Areas that will continue to get discussed include intellectual property rights, pharmaceuticals, phytosanitary standards, government procurement, software piracy, services, retailing, information security, information services and financing of aircraft sales. The Chinese said they would continue to delay publication of final rules on information security certification.

On a conference call with reporters, Commerce Secretary Carlos Gutierrez bristled at the suggestion that the Chinese were treating him and U.S. Trade Representative (USTR) Susan Schwab as lame ducks. "We don't see it that way," he said. "There is a display of commitment on behalf of the Chinese officials and the vice premier [Wang Qishan] to have held this meeting when we did," Gutierrez said.

Panama and Colombian Leaders Tout Progress in their Countries

Panamanian President Martin Torrijos and Colombia President Alvaro Uribe were in Washington the week of Sept. 15 to boost to Bush administration efforts to get Congress to vote on their free trade agreements (FTAs) this year. Rather than emphasizing the trade pacts, both leaders stressed economic developments in their countries and their openness to foreign investment. Speaking at different venues Sept. 19, Uribe also focused on the results of his government's steps to reduce violence against union members and to curb paramilitary groups.

> At the U.S. Chamber of Commerce Sept. 16, Torrijos said Panama is a growing economy with many opportunities. "We feel confident American investors will become partners in the bright future that lies ahead for Panama," Torrijos said. He also noted that Panama Canal expansion "is advancing on schedule and on budget. I want to pledge to my countrymen that I will do my best to ensure their faith in my administration was well founded."

Uribe was not scheduled to meet with any members of Congress and limited his visit to talks with administration officials and to public appearances at the National Press Club and the Brookings Institute. After speaking at Brookings, Uribe told WTTL he could not predict when Congress would vote on the Colombian FTA. "I have to worry every day, but I cannot predict results," he said. "My only commitment is to do the best we can, but I cannot promise results."

On a conference call Sept. 18, Commerce Secretary Carlos Gutierrez warned that "Trade Promotion Authority for Columbia expires January 1, 2009. That will not happen for Panama." Even with such a short time line, Gutierrez said that "Columbia is too important to give up. Congress is controlled by the Democratic party, and they control what goes up for a vote. They could bring it to a vote tomorrow. So that remains where the emphasis remains."