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Lockheed Martin Pays \$4 Million Penalty for ITAR Violations

Lockheed Martin Aug. 1 agreed to pay a \$4 million civil penalty as part of consent agreement with State to settle charges that it disclosed classified and unclassified defense technical data to a customer in the United Arab Emirates without an approved license from the Directorate of Defense Trade Controls (DDTC). The agency's proposed charging letter cited eight alleged violations of the International Traffic in Arms Regulation (ITAR) related to the sale of Hellfire missiles to the UAE Air Force starting in 2003. The release came during negotiations with the UAE Air Force to sell 360 Hellfire Heat missiles and 100 Hellfire Blast missiles, DDTC said.

"In May 2003, the respondent met with a UAE Air Force officer to discuss the possible commercial sale of Hellfire missiles to the UAE," it stated. In later discussions, the UAE officer asked for missile performance specifications. Lockheed compiled the information, made redacted copies of the classified Hellfire specifications and gave the information to the officer. "Despite the Respondent's efforts, the information and 'redacted' specifications exported without authorization by the Respondent still included classified information and sensitive details on the capabilities of the missiles," DDTC alleged.

Under the settlement, Lockheed will pay \$2 million now and \$1 million next August. It will apply the other \$1 million of the penalty over a two-year period to the cost of remedial actions it promised to make in an annex to the consent agreement. Among these corrective actions will be the hiring of an Internal Special Compliance Officer. "The Department considered the Respondent's Voluntary Disclosure and remedial measures as mitigating factors when determining the extent of the charges pursued in this matter," DDTC said. "However, given the national security and foreign policy interests involved, the Department has decided to charge the Respondent with eight violations at this time," it added. This is the third consent agreement Lockheed or one of its subsidiaries has reached with State in the last eight years.

Lamy Moving Quickly to Try and Restart Doha Round Talks

World Trade Organization (WTO) Director General Pascal Lamy is giving up much of his summer vacation to get the collapsed Doha Round talks restarted in September or October. He is flying to India to participate in an Aug. 12-13 development conference he previously agreed to speak at and to hold talks with Indian Commerce Minister Kamal Nath. He will then come to Washington the week of Aug. 18 for talks with U.S. Trade Representative (USTR) Susan Schwab. The main subject for both sets of talks will be how to bridge the differences between

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the U.S. and India over a Special Safeguard Mechanism (SSM) in any final Doha deal, the issue that torpedoed talks in Geneva July 29 (see **WTTL**, Aug. 4, page 1). “The Doha Round is definitely the subject of their discussions and finding the way forward is going to be the focus,” one WTO source told **WTTL**. In Washington, Lamy wants to hear Schwab’s assessment of what happened at the ministerial and to see the way forward, the source said.

Although the ministerial ran asunder over the SSM issue, several diplomatic sources claim the technical side of the dispute could have been worked out if there had been more time. Several technical solutions had already been drafted to bridge the differences, but political stands blocked progress in those discussions.

“If with less time pressure there can be some brainstorming and testing of various SSM scenarios in the next month, it would be feasible to agree on modalities in September or October,” Manuel Teehankee, the Philippine Ambassador to the WTO told **WTTL**. “There has to be some room for refinement to the G-6+1 package for the other countries to take ownership of it, as other countries would be hard pressed to accept an all-or-nothing deal,” he said. The SSM “issue was obviously much more political than technical, so there's not much that can be done in Geneva,” said a high-ranking Latin American diplomat.

Personal friction between Schwab and Nath heightened the disagreement over the SSM issue in the last hours, other sources suggest. The U.S. needs “to send some more rational people - not her - to work out compromise language on the SSM that they can test quietly, not make the whole round fall on it,” a developing country ambassador said. Schwab presented the impasse over SSM as if it “is the end of the world,” the ambassador added, speaking on background. “It's a very small difference between” the U.S. and India on SSM, he said; contending the U.S. has to consider whether it's worth throwing away Doha for such a small difference.

Although India was tagged as the main roadblock to a deal at the ministerial, it represented the views of many of the developing countries that belong to the so-called G-33 group of less developed countries, sources report. These countries were upset with the U.S. stand on SSM because developed countries had been given a Special Safeguard (SSG) for agriculture products in the Uruguay Round. Although the SSG was phased-out over 14 years, G-33 members questioned why they should not have the same protection as developed countries.

The technical proposals that were being discussed included texts offered by Ambassador Crawford Falconer, the chair of the Doha agriculture talks, and other papers that attempted to put caps on how much countries could increase their tariffs when they invoked the SSM. These proposals were complex and tiered depending on the existing or applied rates, but the main U.S. concern was how they would affect specific exports such as poultry, rice and soybeans.

Gary Horlick, an attorney with WilmerHale in Washington and a former U.S. trade official, suggested the resolution of the SSM dispute may be in finding different metrics to apply the mechanism to avoid getting deadlocked on the numbers. “Then both the U.S. and India can say they won,” he told a conference in Aug. 6. While the 140% trigger proposed for the SSM is “way too low,” Horlick said the U.S. will get the benefit of new bindings on farm tariffs by India. He said the chances for a deal on modalities this year still seem good because President Bush wants to sign an agreement before he leaves office and other countries recognize that this is “a better deal than they will get next year with a new administration.”

U.S. Anger with India and China Will Take Time to Cool

U.S. anger about the role China and India played in causing the collapse of the Doha Round mini-ministerial meeting in Geneva July 29 won't cool off quickly, USTR General Counsel Warran Maruyama made clear in a talk Aug. 6 to the American Enterprise Institute. The breakdown over a proposed Special Safeguard Mechanism (SSM) in agriculture occurred because “some key players appeared to play to their domestic constituencies by wrapping

themselves in the mantle of subsistence farming...by seeking to turn SSM into a tool to roll back the previous WTO and GATT commitments,” Maruyama said. “The conflict arose after India and China sought to transform SSM by setting triggers at extremely low levels, so safeguards could be imposed,” he said.

“India insisted that developing countries be able to raise tariffs above rates that have been bound by previous GATT and WTO agreements, effectively breaking existing tariff bindings and reneging on previous Uruguay and Tokyo round commitments,” he argued. India “was joined by China which apparently saw the SSM as an opportunity to change the terms that they’d agreed to as part of their WTO accession,” he added.

Despite the deadlock on SSM, “there was some progress on services and NAMA [non-agriculture market access] sectorals,” he pointed out. “On agriculture, the solidity of developing countries finally splintered, as countries took positions based on their economic interests instead of Third World rhetoric,” Maruyama contended (see story below). “When the talks broke down over SSM for us, this involved an important point of principle,” he said.

“There is a question of how much each participant really wanted to deal,” Maruyama observed. “Brazil was one of the big winners from the Uruguay round and it stood to gain from” the agricultural draft text, he noted. “We are pleased that it stepped up to support Doha modalities,” he added. “In times like this, it is often good to let the dust settle, take some time to chill out, and then and only then try to figure out a plausible path forward,” he said. “Right now, around the world, every sensible trade negotiator’s focus is on finding a nice family vacation to recover” from the negotiations, he said.

Brazil Claims No Split with India at Ministerial Meeting

Ever since a group of countries, which became known as the G-20, joined together at the WTO Ministerial in Cancun in 2003 to counter the U.S. and European Union (EU) in Doha Round agriculture negotiations, there have been questions about how long the group could remain unified considering the divergent interests of its members. When G-20 leader Brazil backed the proposed Lamy text of July 26 at the WTO mini-ministerial in Geneva and G-20 members India and China opposed it, there were claims that the G-20 had splintered (see story above).

Carlos de Abreu, the deputy chief of mission at the Brazilian Embassy in Washington, denies such suggestions, contending the G-20 never had internal agreement on how to handle the issue of a special safeguard mechanism (SSM), the final dispute that led to the collapse of the mini-ministerial July 29 (see **WTTL**, Aug. 4, page 1). “There was not a split between Brazil and India because there never was an agreement between Brazil and India on SSM,” he told an American Enterprise Institute program Aug. 6.

He noted that G-20 members have both offensive and defensive interests in the Doha agriculture talks, while the group of less developed countries known as the G-33 has more defensive interests. “India leads the G-33,” he said. “SSM is actually a banner of the G-33,” he added. “So what happened in Geneva was that when Brazil looked at what was on the table, we felt we could live with it. It was not the ideal thing for us, but we could live with what [WTO Director General Pascal] Lamy had suggested,” Abreu said.

“That was not the case with India. But that doesn’t mean there was a split between Brazil and India. On the contrary, I think [Brazilian] Minister Amorim and [Indian] Minister Kamal Nath had already agreed to continue the G-20. The G-20 is part of the solution, and a case in point is the SSM. The negotiations collapsed on the precise issue on which there was not agreement between the G-20 members,” he argued. Later, speaking to **WTTL**, Abreu said Brazilian President Lula spoke with President Bush after the collapse of the Doha meeting and urged a settlement of the SSM issue, but offered no specific solution. “The U.S. and India have already

agreed on the concept,” Abreu noted. It’s just to agree on the trigger now,” he added. “If the U.S. and India can agree on the nuclear agreement that is so complex, why don’t you try to reach an agreement on something that is technical,” he stated.

Olympics May Mark End of China’s Rest Period

Up until the opening ceremony of the Beijing Olympics Aug. 8, the main goal of Sino-American relations was to avoid any confrontation that might mar China’s shining moment at the center of the world stage. When the last gold medal is awarded, this hiatus in disputes may end, particularly if any unpleasant disturbances occur during the games to hurt China’s poor human rights image. The aftermath of the collapsed Doha Round talks in Geneva July 29 also could cause new tensions between the U.S. and China, which played a key role along with India in causing the collapse. An assertive, post-Olympics China could cause relations to sour quickly.

For now, the chances of legislation to hit China’s manipulation of its currency remains a long shot because of the very short legislative session that will be left when lawmakers return from their August vacations and because of sensitivity about upsetting international financial markets at a time when the system is still fragile (see **WTTL**, July 21, page 5). A new administration and a new Congress in January, however, could see that equation change.

“I think that for the remainder of this year, there is little chance of new legislation passing on China’s currency policies,” Larry Wortzel, chairman of the U.S.-China Economic & Security Review Commission, told **WTTL**. “I think both parties will concentrate on the sub-prime crisis and energy policy,” he said. “Barring any major incident at the Olympics that highlights China’s repression, there will be a few reactions to the Olympics,” Wortzel observed.

“First, events have made it clear, even at this point, that China has a problem with violent Islamic terrorist groups,” he noted. “Beijing can’t possibly hope to control the weather and pollution. I think there will be lots of reporting on China’s serious pollution and environmental problems. I also think these conditions will ultimately affect performance by athletes. Finally, the intrusive nature of China’s security services and their domestic spying will become more apparent, as will restrictions on press freedoms,” Wortzel said.

* * * Briefs * * *

NAFTA: On July 23, Productos Laminados de Monterrey and Prolamsa filed first request for binational panel review under NAFTA of ITA’s final antidumping determination on light-walled rectangular pipe and tube from Mexico, NAFTA Secretariat announced in July 31 Federal Register.

EXPORT ENFORCEMENT: Federal judge July 28 sentenced Doli Sharief Pulungan, Indonesian citizen, to four years in prison for conspiracy to export 100 Leupold Mark 4 CQ/T rifle scopes to Indonesia without license from DDTC. Jury convicted him in May on conspiracy charge but found him not guilty of making false statements to government law enforcement officers.

MORE EXPORT ENFORCEMENT: Select Engineering, Inc., of Fitchberg, Mass., and its marketing manager, David Rainville, have reached separate agreements with BIS to settle a single charge related to export of medical equipment to Iran via UAE. Select will pay \$52,800 civil fine. Rainville, who was Select’s vice president of administration and sales and marketing, will pay \$32,500 civil fine.

MORE EXPORT ENFORCEMENT: Ali Amirnazmi, dual U.S.-Iranian citizen, pled not guilty in Philadelphia U.S. District Court July 25 to a 15-count indictment charging him with, among other things, violating IEEPA by doing business with four entities in Iran without OFAC licenses. Amirnazmi operates Trantech Consultants, Inc., in Berwyn, Pa., software company that has developed software system known as ChemPlan for use in making strategic decisions in chemical processing industries.

MORE EXPORT ENFORCEMENT: Government June 24 accepted plea agreement with Mohammad Reza Alavi under which he pled guilty to interstate transportation of stolen goods. Jury trial of Alavi on charge of violating IEEPA ended May 27 in mistrial when jury could not reach verdict on that charge.