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Most Trade Sanctions Don't Work, Report Finds

A new report reviewing the last 100 years of trade sanctions concludes that most of them don't achieve their intended goals. The report, released July 15 by the Petersen Institute, studied more than 200 sanctions and found sanctions worked just 34% of the time, and were least effective when they tried to make major changes or stop military adventures. They succeeded 51% of the time when they sought "modest" changes. The report said a sanction was a success when it "contributed significantly to the partial or full achievement of the foreign policy goal."

> While sanctions have a low success rate, "the costs of failed sanctions were twice as high as compared to the successes," said Kimberly Elliott, one of the report's authors. "Sanctions have costs, hurting innocents and neighbors," said Jeffery Schott, a co-author who called those costs "collateral damage."

The report found that international cooperation doesn't guarantee success, but in recent years multilateral sanctions have had a better record than unilateral U.S. sanctions. Countries that don't participate in imposing sanctions can defeat their goal by "offering assistance to offset" the effects of those sanctions, Elliot said. Financial penalties are more effective than trade sanctions, and targeted sanctions against individuals, regions and parties had the most positive effect with the least amount of damage to both business and the poor and working classes.

The report came just two days before the Senate Banking Committee July 17 approved by a 19-2 vote a bill to impose new sanctions on Iran. If enacted as reported out, the bill would expand the definition of persons covered by the Iran Sanctions Act; expand the definition of "petroleum resources" to include oil and liquid natural gas pipelines, tankers, and construction and maintenance products; make U.S. parent companies liable for circumvention of sanctions by overseas subsidiaries; give states and local governments authority to enact divestment laws aimed at firms doing certain business in Iran; and provide mechanism for imposing new export licensing requirements on countries that are Destination of Possible Diversion Concern.

Restricting Flexibilities Will Be Heart of Doha Talks

The toughest issue facing U.S. negotiators during the Doha Round's mini-ministerial meeting the week of July 21 will be how to limit the "flexibilities" that will allow World Trade Organization (WTO) members to circumvent market-opening commitments in agriculture and non-agriculture market access (NAMA), U.S. Trade Representative (USTR) Susan Schwab said ahead of the talks. Whatever restrictions are placed on the use of such exclusions on paper,

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however, are not likely to prevent countries from spending the next six months trying to clawback their commitments. As a result, any agreement – if there is one – that comes out of the ministerial isn't likely to reflect fully what the final Doha agreement will achieve whenever the round is concluded.

> Schwab told WTTL that she will ask other countries to identify which products they intend to exclude from liberalization under the flexibilities allowed for manufactured goods and the sensitive or special products exemptions allowed for agriculture products. The list of these products, however, probably won't be included in the "July 2008 Package" negotiators hope will come out of the meeting. Schwab said she expects countries to keep their word on how they will apply these exemptions. "A deal is a deal," she said (see **WTTL**, July 14, page 2).

Earlier, Schwab told reporters that the number of outstanding issues in the talks has been narrowed from "an infinite number" in 2004 and 2006. There were some 200 outstanding issues when the chairmen of the agriculture and NAMA negotiations released new texts in May. "Today we estimate there are about 30 outstanding issues," she said. "Thirty is actually a lot of outstanding issues for ministers to address, quite frankly," Schwab added.

"The biggest gaps we have going into next week have to do with developing countries -- that narrow tier of very successful fast-growing, emerging markets – and what their contributions will be and whether their nominal contributions under these formulas will be negated by the exceptions they will be allowed to take," Schwab said. "That, I predict, will be the most heated part of the debate," she stated.

U.S. Industries Wary about Outcome to Doha Talks

Representatives of U.S. agriculture, manufacturing and service industries are convinced they will be "sold out" for other sectors in the coming Doha Round mini-ministerial that formally starts in Geneva July 21. A flurry of statements and letters issued by various trade groups and members of Congress before the start of the talks all raised concerns about the negotiating texts that will form the basis for negotiations. In private, industry executives are even more blunt about their negative expectations for the meeting.

> "Just an agreement to say we have an agreement is pointless," said Frank Vargo, vice president of the National Association of Manufacturers (NAM). He said there must be concrete action from participating countries. "These talks can only really succeed by cutting trade barriers," he said.

While USTR Susan Schwab has continued to promise deep cuts in domestic farm support and subsidies, if other countries open their markets to U.S. farm and manufactured goods, agriculture groups say they are concerned that promised market opening won't occur because developing countries will be able provide less than full liberalization to certain special agriculture products. Service industry sources say they already know that little will come out of the "signaling" conference ministers will hold on July 24 to indicate which services they may open as part of a final deal. USTR officials reportedly have asked the industry to accept the outcome of the signaling sessions quietly and wait for new service offers to be made in the fall.

Doha Talks on Trade Rules to Start in September

If any agreement on agriculture and NAMA comes out of the WTO mini-ministerial the week of July 21, tough negotiations will still lie ahead on possible changes to the trade organization's rules on antidumping, countervailing duties and fisheries subsidies (see **WTTL,** Dec.17, page 1). Uruguay's ambassador to the WTO Guillermo Valles Galmes, who chairs the Doha Round negotiating group on rules, told member July 14 that he won't offer a negotiating text until

agreement is reached in the agriculture and NAMA talks. He said he plans to launch intensive negotiations in September on fisheries and then move on to antidumping and countervailing duty issues. "I should, therefore, start providing draft legal language in those areas where we could find consensus and in areas where convergence could be potentially achieved," he said in a memo to WTO members. "This is the only way to provide all delegations with the assurances they need that their positions are not prejudiced by revised texts," he stated.

> Valles conceded that the text he released last November was intended to provoke discussion and not to offer any specific proposals on antidumping or subsidy rules. Few, if any, delegations thought his paper was balanced, he admitted. "Little, if any, progress has been made since I tabled those texts to find an alternative balance around which members could converge," he said.

On fisheries subsidies, the issue has become complicated because there are no pre-existing WTO rules around which to base talks and because of differences over how to apply any new rules restricting such aid to fishing industries. "We are faced with fundamental challenges, including how we can develop rules that are effective in disciplining subsidies that contribute to overcapacity and over-fishing, while formulating special and differential treatment that addresses the very real concerns of developing members with respect to development priorities, poverty reduction, and livelihood and food security concerns, including for millions of small fishers," he wrote in his memo. "These legitimate concerns can only be heightened by the current crisis of surging food prices," he added.

Jordan, Israel Reopen Call to Allow Cumulation under FTAs

A joint delegation of Jordanian and Israeli officials canvassed Washington the week of July 14 to win support for legislation to amend the free trade agreements (FTAs) the two countries have with the U.S. to permit the cumulation of components from each country to be counted toward the rules of origin in the agreements. Without the changes in the two pacts, the current bilateral trade that links Israel and Jordan through the Qualified Industrial Zone (QIZ) program could dry up when the Jordanian FTA goes into full effect in 2010, Jordanian officials say.

> In addition to wanting to amend the rules of origin in the FTAs, the delegation pressed USTR officials to approve an expansion of the QIZ program to 10 satellite manufacturing facilities in "poverty pockets" where there is high un-employment in Jordan. The delegation said it wants the Bush administration to grant this request before it leaves office, because the QIZ program is expected to end when the Jordanian FTA goes into effect and all Jordanian goods will enter the U.S. tariff-free. Under the program, QIZ-produced products exported to the U.S. must contain 8% Israeli content to get tariff-free treatment.

Under their FTAs, exports from Israel and Jordan must contain 35% domestic content to qualify for tariff-free treatment. The two countries want to amend the rule so that up to 34% of that local content can be from either Israel or Jordan and 1% domestic to qualify. The delegation met with Deputy USTR John Veroneau and officials from State and Commerce, as well as several House members. "Frankly, the support we received [from the Hill] was outstanding" for the expansion of QIZ sites, Jordan's economic counselor Fawaz Bilbeisi told WTTL. State officials told the delegation that "politically, this is exactly what they want," he said.

Bargaining Rather than Hearings May Move Colombia FTA

Legislation to implement the U.S. free trade agreement (FTA) with Colombia may sidestep the normal fast-track rules, which have already been suspended by the House, and come to a vote through a negotiated deal among lawmakers, House Ways and Means Committee Chairman Charles Rangel (D-N.Y.) hinted July 15. After complaining that supporters and opponents of

the Colombia deal have taken extreme positions on the agreement, Rangel said a hearing on the accord probably would not help bring it to a vote. "In all candor, a hearing at this point in time would polarize the Congress rather than trying to see what we can do without the hearing to get the bill to come up," he told a press conference (see **WTTL**, July 14, page 1).

> There are discussions going on about such a deal, he said. "There is discussion, but it really does not include me," Rangel said. The vehicle that is most often discussed for moving Colombia is legislation to renew and expand the Trade Adjustment Assistance (TAA) program. The Senate Finance Committee is expected July 23 to markup a TAA bill that has been negotiated by Finance Chairman Max Baucus (D-Mont.) and Ranking Member Charles Grassley (R-Iowa).

"I don't really think there is any support or opposition to the Colombia trade bill based on the fact that it will lose jobs," Rangel said. The main concern remains charges about the killing of labor leaders in the country. "But the issue is not even addressed," he complained. Later he said action on a Colombia bill is possible, but added wryly, "anything is possible."

Meanwhile, in an effort to boost support for the Colombia FTA, the National Association of Manufacturers issued a press release touting the fact that the U.S. trade balance with all its FTA partners, including NAFTA members Canada and Mexico, edged into a $500 million surplus for the first time in the first half of 2008. This compares to the $26.8 billion trade deficit for all of 2007. The shift was helped by a sharp cut in the deficit with NAFTA partners and larger surpluses with Central America, Singapore and Chile.

U.S. Textile Industry Seeks to Retain Some Import Restraints

The U.S. textile industry isn't about to let 47 years of import restraints go gently into the good night when the last remnant of import quotas end on Jan. 1, 2009, with the termination of safeguard import quotas on Chinese goods. Since the 1961 Short-Term Cotton Agreement and dating back even longer to the woolen tariffs in the 1824 Tariff Act, textile and apparel imports into the U.S. have faced some form of organized restriction or high tariffs. To keep some form restraint in place, the textile industry has gotten language added to an appropriations bill report that would urged Commerce to establish an import monitoring program on Chinese textile and apparel and to extend the current monitoring of imports from Vietnam.

> The non-binding request was added to a bill report that the House Appropriations subcommittee on Commerce and Justice approved June 25 to accompany its fiscal 2009 appropriations measure, which would provide funding for the International Trade Administration (ITA). "The Committee expects ITA to undertake apparel import monitoring, including socks, focusing on prices of imports from China and Vietnam and whether their state-run industries are illegally pricing products and dumping in the U.S. market," the report says.

The bill report stirred up concerns among apparel importers and retailers. In a letter to House Appropriations Committee Chairman David Obey (D-Wis.), four trade groups said, "We are concerned that this is primarily intended to chill and micro-manage trade by encouraging the movement of sourcing to other countries with no apparent gain to the United States."

Industry sources also say new orders for apparel from China are already slowing because of the higher cost of shipping goods across the Pacific, as well as rising wages and inflation in China. Instead of China, new orders are going to Mexico, which has become more competitive with China, and to Central America, the Caribbean and Andean Pact countries that benefit from free trade agreements or trade preferences.

Ways and Means Committee Chairman Charles Rangel (D-N.Y) told reporters July 15 that textile legislation "is not on our agenda for this session." He also said trade preference

programs, including the Generalized System of Preferences (GSP) and the Andean Trade Preferences Act (ATPA), that are likely to get extended for only one year. Renewing trade preferences "is a high priority, but not for this year," he said.

Financial Crisis Dims Chances for China Legislation This Year

The political rhetoric and heated statements about China's manipulation of its currency probably won't lead to legislation this year to impose sanctions on Beijing for keeping the value of the rinmimbi depressed because of congressional and business community worries that a move on currency now might exacerbate problems in the U.S. financial market. Ways and Means Chairman Charles Rangel (D-N.Y.) July 15 said business community support for China currency legislation has weakened because of concerns about the economy. He said the U.S. has to be stronger in enforcing trade agreements, "but on the other hand, with the economy as fragile as it is, a lot of businesses support what we are doing privately, but don't want at this point in time to get involved with some confrontation with the People's Republic of China."

> Rangel said Ways and Means has been working on a China bill but admitted that "Where that bill goes in this Congress I cannot tell you." Without business support, it would be difficult to get a bill enacted, he noted. "We don't want our bill to be charged with causing disruption" in the economy, Rangel said.

The cooling of the attack on China also is seen in the decision of Ways and Means to withdraw requests it had made to the International Trade Commission (ITC) to conduct studies of Chinese trade practices. The ITC in the July 18 Federal Register announced that at the committee's request it was terminating its Section 332 investigations into trade and investment trends in Asia and the Pacific and Chinese government policies that affect selected U.S. trade sectors.

Meanwhile, Rangel and Rep. Sander Levin (D-Mich.) July 17 introduced their long-anticipated trade enforcement bill (H.R. 6530). The measure would create an Office of Congressional Trade Enforcer which would investigate unfair foreign trade practices and recommend cases to the USTR for action. The bill also would revive the lapsed "Super 301" provisions of the Trade Act to force the White House to prioritize significant barriers to U.S. trade and to work to eliminate them. Among other provisions are sections clearly making nonmarket economies subject to the countervailing duty law and revising trade law to address a court ruling in *Bratsk* that makes it more difficult for domestic industries to prove injury from imports.

Economists Warn about Value-Added Imports from China

U.S. industries could soon see increased competition from advanced technology products from China and not just low-valued goods, witnesses told a July 16 hearing of the U.S.-China Economic and Security Review Commission. They told the commission that China is increasing its spending on research and development and is looking for niche markets where it would not have to compete directly with American industry.

> The U.S. already has a $62 billion trade deficit with China in advanced technology parts (ATP), noted Charles McMillion, president and chief economist with MBG Information Services. The U.S. should expect to see imports from China of "assembled vehicles over the next three years," he testified. McMillion said the Chinese aerospace industry has become profitable in the last two years. While the U.S. has a deficit with China in ATP, it has increasingly become an exporter of raw materials to China, including scrap metal, paper, soybeans, corn, other agricultural products, and minerals, he pointed out.

Chinese spending on R&D is expected to rise to 2.5% of China's GDP by 2020 from 1.47% now, said Kathleen Walsh, a professor at the U.S. Naval War College. "China has doubled its

R&D centers since 2002," she reported. Walsh suggested that the U.S. and China should enter discussions about R&D to limit the overlap in investment. She estimated that 20% of U.S. and Chinese R&D now overlap. Areas of potential cooperation are in biotechnology, nanotechnology, healthcare, and space," she said. Other witnesses warned about the possibility that China will block U.S. firms from benefitting from the results of its R&D in the future.

* * * Briefs * * *

ITAR: DDTC in July 18 Federal Register amended ITAR to limit validity period for registration as defense manufacturer to one year and eliminated two-year option. Fee remains $1,750. Exporters have complained that limiting registrations to one year will increase DDTC's work load at time when presidential executive order is trying to lighten its load and speed up action on licenses (see **WTTL,** June 23, page 1).

TRADE PEOPLE: Louis K. Rothberg, who has played key role in defense export licensing policy and foreign investment reviews for many years as associate counsel for international cooperative programs with U.S. Army, will retire July 31 after more than 20 years in government. He will be joining law firm of Dilworth Paxson LLP in D.C. as of Aug. 18. After move, he can be reached at (202) 452-0900 and at lrothberg@dilworthlaw.com.

FCPA:Justice July 11 issued FCPA advisory opinion to TRACE International, Inc., the anti-bribery montoring organization, saying it would not prosecute group under FCPA for paying for travel, meals and lodging for 20 Chinese journalists who work for Chinese-government operated media outlets to come to Shanghai for press conference on results from TRACE's Bribeline system which collects information on bribes demanded by government officials around world.

EXPORT ENFORCEMENT: Platte River Associates of Boulder, Colo., was subject July 15 in Denver U.S. District Court of criminal information charging it with violating Trading with the Enemy Act by providing computer software and training for mapping oil and gas deposits in Cuba's territorial waters without obtaining license from OFAC.

MORE EXPORT ENFORCEMENT: Judge in L.A. U.S. District Court July 17 imposed $250,000 criminal fine on Air Shunt Instruments, Inc., of Chatsworth, Calif., after firm pled guilty to one count of making a false statement on Shipper's Export Declaration (SED). In plea agreement, firm had admitted that it filed SED for shipment of gyroscope to Thailand and had falsely stated item was eligible for License Exception NLR (no license required) when its sales manager knew it was on USML and needed license. John Nakkashian, who was firm's vice president for international sales, was subject of separate indictment charging him with violating Arms Export Control Act. Justice press release said he is fugitive from law.

MORE EXPORT ENFORCEMENT: Advanced Orientation Systems, Inc. of Linden, N.J., has reached settlement with BIS to pay civil penalty of $31,500 to resolve single charge that it exported 11 tiltometers, which are classified as EAR99, to Mayrow General Trading in United Arab Emirates without export license. Mayrow has been subject of General Order since June 5, 2006. BIS will allow company to pay $15,000 of fine and will suspend balance for one year and then waive fine, if AOS remains in compliance.

SHRIMP: WTO Appellate Body July 16 upheld most of findings and conclusions of dispute-settlement panel in complaint by Thailand against U.S. imposition of enhanced continuous bond requirement (EBR) on imports of warm-water shrimp that is subject to antidumping order. Body said application of EBR is inconsistent with Anti-Dumping Agreement and recommended that U.S. bring its measure into conformity with obligations of agreement.

AUTO PARTS: WTO dispute-settlement panel July 18 released report in favor of U.S., Canadian and EU complaints that China's import restrictions on auto parts violate WTO rules. "The Panel concludes that, to the extent that the measures listed above are inconsistent with the GATT 1994 and China's commitment under its Working Party Report, they have nullified or impaired benefits accruing to the United States under those agreements," report concluded. "Accordingly, the Panel recommends that the Dispute Settlement Body request China to bring these inconsistent measures as listed above into conformity with its obligations under the GATT 1994 and the WTO Agreement," it said.

WOVEN SACKS: ITC July 18 voted 6-0 in final determination that U.S. makers of laminated woven sacks are being injured by dumped and subsidized imports from China.