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New Democrats to Press Obama to Support Trade Deals

Pro-trade new Democrats, represented by the Democratic Leadership Council (DLC), are reaching out to advisors to Sen. Barack Obama (D-Ill.) to try to convince the presumptive Democratic presidential nominee that support for trade deals is compatible with his economic agenda. DLC officials have talked already with some of Obama's aides, some of whom have been involved in the past with the organization and with the Progressive Policy Institute. At a press conference releasing a new report on "Winning in the World Economy", which calls for supporting multilateral talks and new trade liberalization in key sectors, DLC President Al From said he will discuss the paper's trade proposals with Obama's staff.

Rep. Greg Meeks (D-N.Y.), who co-authored the report with Edward Gresser, said he will personally reach out to Obama's advisors. "I will reach out. I don't think that we are necessarily in opposition to some of the things that Mr. Obama has said," Meeks said. "If you listen to him, he always talks about competitiveness. That's what we're about. If he's the next president, he has to make sure how we remain competitive," he added. "What happens is, people get caught up on the word trade and they think it is one thing as opposed to looking beneath and seeing what we are really talking about," the New York Democrat said.

Gresser pointed to a July 7 speech Obama made on the economy as signaling his interest in trade. "It is state of the art of the Obama campaign," he noted. Flom, who admitted that Obamas "has been a little overheated in his rhetoric," said Obama will be the next and will have to take actions to help the economy, including on trade.

The DLC paper calls for conclusion of the Doha Round but also a shifting away from bilateral free trade agreements and toward multilateral and sectoral talks that focus on key growth sectors such as services, environmental goods and services, medical industries, and standards. It also advocates eliminating tariffs on goods from least developed countries and on "life necessities" not made in the U.S., such as shoes, clothes and luggage.

No Votes on FTAs Until Lame-Duck Session of Congress

If Congress ever decides to allow a vote on the pending free trade agreements (FTAs) with Colombia, Panama and Korea, no vote will come before the presidential election and a lame-duck session. Although Democratic leaders are saying they don't want to have a lame-duck session, the slow pace of action on many key pieces of legislation, particularly appropriations

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bills, is likely to make an end of the year session inevitable. "It has been my thought all along that nothing is going to happen until the presidential elections are over," Rep. Greg Meeks (D-N.Y.) told WTTL July 9. "So the question is whether or not we can create a climate where something possibly might happen in a lame-duck session," said Meeks, who has been a strong, if lonely, Democratic support of the Colombia FTA.

Meeks said enactment of Trade Adjustment Assistance (TAA) and other measures that the Democrats had wanted on housing and the economy are key to getting votes on Colombia and the other FTAs. "If we get a good TAA and other things the leadership had talked about at that time, then I think it is easier to talk about Colombia," Meeks said. "To deal with Colombia right now without talking about TAA and the other issues that presented themselves before the rule vote, we are not going anywhere," he said; adding, "We have to resolve some of those issues."

Meeks faulted the Bush administration for stopping its outreach to Democrats who have supported the Colombia pact and for its open criticism of Speaker of the House Nancy Pelosi (D-Calif.). "Here I am, a big advocate for Colombia, and at one time there was constant communication, but there are times now that I have called to set up a meeting and the meetings are not happening anymore," Meeks told WTTL. He also criticized administration statements about Pelosi. "You just can't continue to insult our leadership and then [have me] say okay I'm going to go with you against my leadership. That just doesn't work. It doesn't make sense. I think Colombia is the best thing to do, but my leadership is my leadership," Meeks said.

Commerce Under Secretary Christopher Padilla says the administration supports a new TAA law but does not want to link it to vote on the Colombia FTA. "The administration wants a bipartisan agreement on TAA, we just don't want to link [the two]," he told WTTL. "Technology not trade is why jobs disappear," he said. Earlier, speaking at a program in Washington, he said: "Senator Baucus has been negotiating in good faith with Senator Grassley on TAA. We think TAA is a good program and should be renewed. We also think we need to move ahead on FTAs. It's not clear to me that a TAA bill passing the Senate would do anything to get movement forward in the House on a Columbia Free Trade Agreement."

Finance Committee Chairman Max Baucus (D-Mont.) has said an agreement on TAA must occur before there is any action on FTAs. Padilla isn't sure a TAA bill would help get votes on the FTAs. "It's hard to have a dialogue when you don't know what they want," he said.

Ministers Lower Expectations for Doha Round Meeting

Ahead of the Doha Round mini-ministerial that formally starts July 21 in Geneva, trade ministers and negotiators are playing the old game of lowering expectations in the hope that anything they achieve will look better than expected. New draft negotiating texts released July 10 for the agriculture and non-agriculture market access (NAMA) talks reveal no major agreements in advance of the meeting but offer a package that could form the basis for an agreement that will keep the round from being declared completely dead (see stories page 3). Whatever progress, if any, the ministers can eke out of the meeting, hardly anyone in the trade community expects the agreement to allow the Doha Round to be completed this year, and some are predicting another three or four years of talks.

Unless some delegations decide to walk out on the talks, which could last until July 26, the goal of the meeting will be to adopt what will be called the "July 2008 Package." The package would be intended to take the talks to another stage of technical work but also to salvage the round and save face for the ministers, since no one wants to be said to be responsible for killing the round.

Sources say the package may produce a redesigned look, namely consensus on equally distributing the unhappiness of any outcome. Before the ministerial, energy in Geneva was flagging. NAMA talks chairman Don Stephenson is headed back to Canada in August. Agriculture

group chairman Crawford Falconer July 10 said: "Part of me doesn't really want to spend much more time on this stuff, if you can possibly avoid it. I dare say quite a few members feel the same way." Two other negotiators privately admitted that at least half the participating countries would prefer the round to fail. The mood in Geneva has gradually morphed from resignation to the desire to escape from the city.

The ministerial will begin informally as ministers start to arrive in Geneva July 18. Bilateral meetings likely will start July 20 in missions and at the WTO. A "Heads of Delegation" meeting will be held July 21 followed by a formal meeting of the Trade Negotiations Committee (TNC).

Small groups and "green room" meetings chaired by WTO Director General Pascal Lamy will follow morning TNC meetings every day. The various groups, such as the G-20 and G-33, will meet in the mornings and at lunchtime. The rough timetable calls for a six-day meeting, but it could run longer or end earlier. Senior officials on July 14 and July 18 will prepare for the services "signaling" conference, which is likely to be held mid-way in the talks on July 23, if it's a five-day meeting, or July 25, if it's an eight-day meeting.

Doha Farm Text Tries to Focus Ministers on Political Deal

New Zealand Ambassador Crawford Falconer, chairman of the Doha Round agriculture talks, says the latest draft negotiating text he released July 10 is designed to keep ministers out of the technical details and focused on political decisions when they meet in Geneva starting July 19. The text is in a "cleaner and more straightforward state for decision making," he told reporters. Falconer said no technical obstacles stand in the way of key political decisions.

"I think they are in a range now that's close enough for ministers to take decisions, if they're in the mood to take those decisions," Falconer said. The big, political issues on domestic support are not technically complicated, Falconer said. Changes throughout the revised text are relatively minor, he admitted.

The most significant changes in the text are on special products, which can be excluded from full tariff cuts, where the choice has been sharply focused, Falconer said. "It is much simpler ...and the range is closer," he said. The text incorporates two views of special products within a single, two-tier structure which would either allow between 10% and 18% of products to be declared special for food or livelihood security or rural development reasons. Small and vulnerable economies (SVE) and recently acceded members (RAMs) would have more favorable conditions. A not-yet-agreed upon proposal would provide "pretty unlimited access" to the special safeguard mechanism (SSM) in the agreement to SVEs.

The text also streamlines options and texts on "de minimis" domestic support, decoupled income support and structural adjustment and rural development programs in the "green box." It also updated a possible partial cap on tariffs, in-quota tariff rates, export credit and food aid. The text also includes revisions on meaning of commercially significant, sensitive products for developed countries, tariff quotas, and improved drafting in a number of areas.

Addition of Sectoral Language in NAMA Text Could Help Deal

A revised negotiating text for the Doha Round's non-agriculture market access (NAMA) talks has narrowed differences on proposed cuts in industrial tariffs and offered new language on 14 potential sectoral deals, setting the stage for a possible agreement on NAMA when trade ministers meet in Geneva July 21-25. The addition of provisions on sectoral deals is a key demand from U.S. industries, but could still face resistance from some developing countries that have opposed linking tariff-cutting formulas with sectoral agreements. "While we are cautiously optimistic about the expanded language on sectoral tariff liberalization agreements,

we remain disappointed in the unchanged developing country formula and flexibility provisions contained in this draft,” said National Association of Manufacturers President John Engler.

The latest NAMA text released on July 10 is “simpler, cleaner,” said Canadian Ambassador Don Stephenson, who chairs the NAMA talks. “We're down to a decision on the numbers” for most modalities, he said. “The choices ... are clear,” he added. There is “very wide convergence nearing consensus on the structure of the so-called sliding scale between the coefficients and the flexibilities,” Stephenson said. “A majority of members accept those numbers as the range on which to negotiate,” he said (see **WTTL**, June 30, page 2).

Fourteen sectoral initiatives were identified in the paper, although a mechanical linkage between sectoral agreements and tariff-cutting formulas has been eliminated, Stephenson explained. The discussion now is of “a political linkage between sectorals and the rest of the NAMA modalities, the overall balance in NAMA,” he told reporters after releasing his draft.

Convergence was found recently on the markup for unbound tariffs and the implementation period for developed and developing countries, Stephenson said. He also reported that the NAMA group agreed that possible additional flexibilities beyond a longer period for implementing tariff cuts should be available for recently acceded members (RAM) when the formulas, coefficients and flexibilities are agreed. New provisions also seek to bridge differences over cutting tariffs from bound rates or applied rates by using applied rates but adding 25 percentage points to create a new basis for formula cuts.

Stephenson said he is “relative confident” about convergence, but not consensus, for an exemption for customs unions that have a common external tariff and particularly the South American group known as Mercosur. Argentina, Brazil, Paraguay and Uruguay would get an exemption based on “a common list of flexibilities in their schedules” and calculated using “the percentage for the value of trade limitation using the total value of Brazil's non-agricultural imports,” the draft text said.

Industry Fast-Track Proposal Aims to Rebuild Trust on Trade

A draft bill that the National Foreign Trade Council (NFTC) unveiled July 10 to renew the president’s fast-track negotiating authority proposes creation of a new Joint Committee on Trade in Congress to give lawmakers a greater say at the start of future trade talks and to rebuild trust between Capitol Hill and the White House. The NFTC released the draft with no expectation that it would be introduced or dealt with this year. NFTC President Bill Reinsch said one of the goals of the draft measure is to counterbalance other bills that have been introduced that would curtail future trade talks under what has become known as Trade Promotion Authority (TPA).

The proposed committee would include members from key committees in the House and Senate and would be chaired alternately by the chairmen of the Senate Finance Committee and House Ways and Means Committee. To ensure that other legislative issues and jurisdictions are considered before any talks start, the committee also would include members from the Judiciary, Agriculture, Foreign Affairs, Foreign Relations, Small Business, Banking, and Energy and Commerce committees. The joint committee would have to vote to approve any new bilateral talks a president proposes before the talks can start.

The draft bill calls for future fast-track legislation to run for four years and coincide with a presidential term. While not including the specific sectoral negotiating goals of past fast-track measures, the draft proposes greater focus on trade issues that reflect modern commercial practices, including global supply chains, investment, regulations, labor and the environment. It would specifically authorize a two-track approach to future talks to permit either sectoral

trade negotiations, such as the Information Technology Agreement, or full multilateral talks. The proposal also would give the president authority to eliminate duties on imports where there is no domestic production, sparing Congress the need to pass annual miscellaneous tariff bills.

Retailers Claim New China Quotas Are Politically Motivated

Apparel importers and retailers attacked Customs for its July 10 announcement that it was charging China's apparel import quota an extra four million dozen items to account for illegal shipments that circumvented the quotas in 2006 and 2007. "This is politics. Pure and simple," declared Laura E. Jones, executive director of the U.S. Association of Importers of Textiles and Apparel (USA-ITA). "With the quotas set to end in less than six months, CBP has to justify the resources it has dedicated to rummaging through foreign factories and then detaining and seizing apparel shipments since 2006," she said in a statement.

Customs and Border Protection said more than 900 individual shipments containing more than four million dozen apparel items were declared to CBP as products of countries other than China in 2006 and 2007. Customs found that these actually were from China and should have been charged against China's quota levels. "We will continue to work with members of the trade community and other federal agencies to pursue importers who make false declarations in order to circumvent import quotas," said a statement by CBP Commissioner Ralph Basham.

The additional charges will produce higher "fill rates" for ten specific quota groups but won't cause any of them to be over filled. The additional charges represent about \$80 million in apparel imports out of total U.S. apparel imports during those two years of \$145 billion. "What we don't know is how much of this is about sloppy paperwork by foreign factories and how much is the result of smuggling or misrepresentation of origin. But either way, we do know that CBP is under pressure from the U.S. textile industry to prove that it is protecting them," Jones said. "The numbers involved, though, are insignificant. Legitimate trade, which is the bulk of business, will be unaffected," she added.

Administration Looks Toward Future Asia Trade Pact

In its push to get Congress to approve the U.S.-Korea Free Trade Agreement (KORUS), the Bush administration is raising the dire specter of the United States getting left out of an Asia-Pacific trade bloc dominated by China. "A hesitant, timid, and inwardly-focused America could give rise to an economic 'Pax Sinica' in which China has the opportunities to shape Asia's economic architecture as it would prefer," declared Commerce Under Secretary for International Trade Christopher Padilla July 7. "Others in Asia might have little choice but to accommodate themselves to this economic reality," he said in a speech to the American Enterprise Institute.

Padilla cited the growing number of trade agreements being reached among Asian nations, including China, Japan and Korea. Although many of these pacts are not full free trade agreements like those negotiated by Washington, the next president should seek talks on a Free Trade Area of the Asia Pacific (FTAAP) to counter deals that don't include the U.S., Padilla advocated. "Our strategy must be to work toward an FTAAP to achieve APEC's [Asia Pacific Economic Cooperation] core agenda," he said. "In 2011, the United States will host APEC for the first time in 18 years, providing a unique opportunity to set an agenda for economic openness in Asia," he said.

Padilla complained that Congress has not held hearings on KORUS and some members have focused on only what he called two minor issues, beef and automobiles. The deal is being "held hostage to election year politics," he said. Speaking to reporters afterward, Padilla said it is important to hold a hearing. "The discussion we are having of the Korea trade agreement

is in the context of two individual issues,” he said. “But a hearing on the agreement overall would put it in the proper context to say this is more than just a beef deal or auto deal; it’s a deal about an entire economy and our economic position in East Asia,” Padilla stated.

CIT Opens Door to Constitutional Challenge of Tariffs

Importers have the right to challenge tariff classifications on constitutional grounds, but the Court of International Trade (CIT) July 3 rejected a complaint that Totes-Isotoner filed claiming that the higher tariff on “men’s leather gloves” than on “other leather gloves” was “sexual discrimination” and denied it the constitutional right to equal protection. The decision (Slip Op. 08-73) by a panel of three CIT judges said Totes had standing to bring its claim but dismissed the suit because “Complaint does not plead sufficient facts to state a claim of unconstitutional discrimination.” The tariff on men’s gloves is 14% ad valorem; the duty on gloves “for other persons” is 12.6%.

The opinion, written by Judge Donald Pogue, concedes that the classification of goods may suggest discrimination but it does not show it. “As pleaded, we simply are not informed of a discriminatory purpose or intent or of the character of the discrimination that Totes seeks to remedy. We are left to hypothesize: Is the challenged discrimination based on the baggage of sexual stereotypes? Does it unconstitutionally distribute the benefits and burdens of taxation? Is it prohibited intentional discrimination? Because the Complaint, as presently stated, does not ‘show’ what the basis of Totes’ entitlement is, it must be dismissed, without prejudice, for failure to state a claim,” the court ruled.

* * * Briefs * * *

TRADE FIGURES: Exports of merchandise in May soared 18.7% over May 2007 to record \$110.8 billion, Commerce reported July 11. Services exports jumped 16% over same month last year to record \$46.7 billion. Goods imports, driven by energy products, rose 13.2% over last May to record \$183.3 billion, as services imports gained 9% over year ago to \$34 billion.

EXPORT ENFORCEMENT: Riad Skaff, naturalized U.S. citizen from Lebanon who was former ground services coordinator at O’Hare International Airport, was sentenced July 9 in Chicago U.S. District Court to two years in prison for using his position at airport to help smuggle \$396,000 in cash and illegally export weapons scopes, military night-vision goggles, and cellular phone jammer. He had pleaded guilty to nine-count indictment in August 2007. Skaff smuggled money and items to passengers after they had gone through TSA screening.

ITC: Commission named Administrative Law Judge Paul Luckern to be chief ALJ. It appointed Robert Rogers as new ALJ. Rogers served as ALJ for Medicare Hearings and Appeals in California for last year, and earlier held ALJ posts with Federal Energy Regulatory Commission and Social Security Administration.

STEEL NAILS: ITC July 9 voted 6-0 in final determination that imports of dumped steel nails from China are injuring U.S. domestic industry.

NORTH KOREA: BIS July 8 posted additional policy guidance on exports to North Korea on its website (see WTTL, July 7, page 3).

COUNTERFEITS: BIS July 8 said it was launching study of scope and impact counterfeit electronics have on U.S. supply chain, defense readiness and industrial capabilities. Study was requested by U.S. Navy, Naval Air Systems Command (NAVAIR) under Defense Production Act. Industry executives have also raised concerns about counterfeit semiconductors at BIS technical advisory committee meeting.

AUSTRALIA GROUP: BIS in July 8 Federal Register issued final rule amending EAR to implement list changes adopted at April 2008 plenary meeting of Australia Group, multilateral regime on chemicals and biologicals. Changes apply to description of avian influenza, advance notification and reporting requirements for exports under Chemical Weapons Convention, and addition of Republic of Congo and Guinea-Bissau to list of State Parties to convention.