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## Little Change in Trade Seen From Easing of N. Korea Sanctions

For most U.S. exporters, President Bush's June 26 proclamation ending North Korea's designation as terrorist-supporting country under the Trading With the Enemies Act (TWEA) will have little impact. Importers will be able to start importing from North Korea, although there seems little to import from the impoverished country. Even Bush National Security Advisory Stephen Hadley concedes the move is most symbolic in response to Pyongyang's promise to end nuclear weapons development and turn over information on its past nuclear program.

When asked what impact the White House announcement will have on trade and North Korea's economy, Hadley said, "At this phase, very little, very little." He said there are other reasons why North Korea is not particularly attractive at this time, including remaining U.S. and UN sanctions. "So, this is not opening the door, at this point in time, for commercial relations," he said.

In addition to ending North Korea's designation under TWEA, Bush sent a memorandum to the secretary of State directing her to remove North Korea from the list of state sponsors of terrorism in 45 days. "We will work through the six-party talks to develop a comprehensive and rigorous verification protocol," Bush said. "During this period, the United States will carefully observe North Korea's actions -- and act accordingly," he added. Bush also issued an executive order maintaining certain other sanctions on North Korea. The order retains restrictions on blocked property of North Korea and certain North Koreans and maintains the bar on U.S. persons registering vessels in North Korea, obtaining authorizations for vessels flying the North Korean flag, or leasing, operating or insuring North Korean flagged vessels.

While these changes might not have a practical impact for U.S. companies, they show a willingness by the U.S. to respond to cooperation from "rogue" regimes, the law firm of Baker & McKenzie said in an alert to clients. "We suspect that the impetus behind these changes is not only to encourage continued cooperation by North Korea and its re-entry into the global community but also to send a message to other countries, most notably Iran, that the United States can act swiftly to provide tangible benefits in response to cooperative steps," it added.

## Call for Doha Ministerial Greeted with Guarded Skepticism

World Trade Organization (WTO) Director General Pascal Lamy's call for trade ministers to meet in Geneva July 21 to hammer out an agreement on the "modalities" for agriculture and non-agriculture market access (NAMA) in the Doha Round comes with no certainty that the

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meeting will be successful. There is widespread skepticism betting against a deal in July and the completion of the round this year. On June 27 Lamy admitted that the chance of reaching a deal this year is about 50% if modalities are agreed on in July and much less than 50% if there is no deal in July. Others say the failure of the July meeting would put the round into indefinite stasis or lead to its collapse entirely.

Ministers from 35 to 40 countries will start gathering Saturday July 19 for bilateral talks and informal meetings. While the main goal for the talks is a horizontal agreement balancing concession in agriculture and NAMA, other issues that could up end the talks are also likely to be raised, including services, cotton, rules, the treatment of customs unions, and Trade-Related Intellectual Property Rights Protection (TRIPs) (see **WTTL**, June 16, page 3).

“On services, we have a basis for the text to be adopted by ministers,” claimed a June 27 statement by the group of countries known as the G-20. Ministers must prepare for the services signaling conference and act on rules negotiations, the statement said. The group also wants ministers to include TRIPs in the horizontal process. The Convention on Biodiversity “must be adequately prepared for decision-making by ministers in July,” the G-20 said.

The specter of the coming U.S. presidential election hangs over the negotiations. The big time pressure is the U.S. elections, a Latin American diplomat told **WTTL**. Although President Bush has pressed to conclude Doha negotiations before the end of his term, “You don't see the Americans mobilized in a way that really shows that they're willing to do it no matter what -- far from it,” he said. Negotiators “don't really see this big pressure from the U.S.,” he added. He said there is also concern about the impact that French President Sarkozy will have on the round when France takes over the presidency of the European Union (EU) on June 30. EU sources, however, downplay that concern. “France has been a serious player and will live with the results if they are balanced,” one EU source said.

New draft texts on agriculture and NAMA are expected in the next few weeks from the chairmen of those talks. Canadian Ambassador Don Stephenson, who has chaired the NAMA talks, is set to return to Ottawa in August at the end his tour in Geneva. If a deal is reached on NAMA before he leaves, his departure will not have a negative impact on the negotiations, several sources agreed. If no deal is reached, his leaving won't matter because the talks will probably be dead after that, they said (see story below).

## **Doha NAMA Deal Won't Be Enough for U.S. Industry**

For manufacturers in industrialized nations, the main question to be answered at the ministerial starting July 21 is: What will Brazil, China and India offer on non-agriculture market access (NAMA)? Because manufacturers are concerned that any NAMA deal may have too many loopholes allowing the three countries to provide less new market access than a trade deal would appear to offer on paper, they want to couple the NAMA agreement with commitments from the three to join several key sectoral, zero-tariff deals.

Of the three countries, Brazil may be the closest to being ready to making new concessions in NAMA, sources suggest. The key for Brazil has been getting an agreement that would give special exceptions to the common external tariffs imposed by customs unions, such as Mercosur, the Southern Cone trade group to which Brazil belongs with Argentina. “There is a basis for an acceptable agreement,” a European Union (EU) source told **WTTL**.

Ahead of the ministerial, however, China, Brazil and India, as well as other advanced developing countries, seem to be hardening their positions, seeking greater flexibility to exempt more products from any tariff-cutting commitments and also higher coefficients that would mean shallower cuts in tariffs. “This may be a tactical move,” one source said. “They may be just waiting for the discussions [at the ministerial] to show their cards,” he said. U.S. industry is

pressing for China, Brazil and India to join the zero-tariff sectorals on chemicals, industrial machinery, electric and electronic products and wood and paper. The EU also wants sectorals on chemicals and machinery, but adds jewelry to its list of demands. For manufacturing industries, the sectorals are seen as the only way to get around the problem of countries being able to make tariff cuts from their official "bound" tariff rates rather than their actual "applied" rates, which are generally much lower than their bound rates.

Even with low coefficients under the modalities being discussed in the negotiations, the tariff cuts would only bring tariffs in many advanced developed countries down to the levels they already apply. As a result, the cuts would not lead to increased trade, industry representatives contend. A joint statement by business groups from eight countries said a NAMA deal must lead to increased market opening in advanced developing countries and not give them the "flexibility" to exclude large sections of their tariff schedules.

"Our joint message is a clear one -- if negotiators give in to the impulse to lessen ambition and don't take the steps that will open key markets around the world, it will be a real setback for the global economy and the Doha Round, and manufacturers can't be expected to support that kind of outcome," said John Engler, president of the National Manufacturers Association (NAM), one of the groups joining in the statement.

## Negotiations Seek Stronger Agreement on Protecting IPR

Talks aimed at reaching a binding Anti-Counterfeiting Trade Agreement (ACTA), with a strong law enforcement mechanism at international borders, are revealing differences among countries on what should be covered under the accord and what penalties should be imposed on violators. The ACTA supposedly would go beyond the rules currently in the WTO agreement on Trade-Related Intellectual Property Rights (TRIPs). The talks, which started at the beginning of June in Geneva, continued June 23 at a meeting hosted by the European Commission (EC) in Brussels. Eleven countries and the European Union (EU) are participating so far.

"Japan is really driving this process" with the EU and the U.S. firmly supporting the idea, said Stefan Krawczyk, deputy regional director at the International Federation of the Phonographic Industry. The talks have focused on a wider range of IPR violations than currently in the TRIPs accord, as well as such issues as peer-to-peer file sharing and Internet service provider liability.

Trademark, copyright and other rights holders dominated the June 23 meeting, fleshing out suggestions for negotiations, sources reported. Companies and groups aligned on geographical origin, patents, software, telecom, consumer and political issues also attended. Some participants reportedly want to exclude patents from the ACTA, arguing that patent infringement is not usually dealt with through enforcement authorities. They see it as a civil matter between patent owners and infringers, one participant said. "It was not really clear whether the [EC] bought that really, so I think they will try to steer around the issue whilst keeping patents on board, but maybe excluding them from certain parts" of the agreement, he noted.

Rights holders, supported by the music and film industries, "said if this agreement doesn't include anything on criminal procedures and criminal sanctions, then you might as well not have the agreement," Krawczyk said. They feel an enforcement-focused agreement should deal with cyber-counterfeiting, including sales of counterfeit trademarked items on auction sites, peer-to-peer downloading, and illegal copyright sites with illegal music, films or games.

Internet service providers said they are worried about their potential liabilities for being a vehicle for infringements, one source said. Consumer groups at the June 23 meeting also said they are concerned about the possibility of Internet piracy being covered by the agreement, because the jury is still out on what is and isn't Internet piracy. An EC representative said there is illegal activity on the Internet and laws are basically clear about what is legal or illegal

in terms of copyright infringement. The next round of discussions is planned for July 16 – 18 and will continue discussions on border measures and civil enforcement rights. By September, criminal and administrative measures could be tackled, a participant said.

## **BIS Needs More Information to Judge Offsets, GAO Says**

BIS needs to collect more information from defense firms on the impact of offsets in sales to foreign governments and especially on how such deals effect U.S. employment, the Government Accountability Office (GAO) said in a report released June 26. Under the Defense Production Act (DPA), BIS, which has been delegate the task from Commerce, tracks offset trade and issues an annual report on its effects on U.S. industry. “Commerce’s efforts to quantify the employment effects of offsets are based on limited data,” said the GAO (Report No. 08-854).

The industrial surveys rely on aggregate data from the aerospace industry and don’t cover key sectors. “Further, the most recent annual report on offsets noted that its analysis does not include the potential effects of nearly \$1 billion of technology transfer, training, and overseas investment offset transactions, representing nearly 24 percent of average annual offset transactions,” the GAO said.

“While Commerce acknowledged that it could have requested documentation for all of the nearly 700 weapon systems and components contracts for the 5-year period (1998 through 2002), documentation was requested for only two weapon systems from each of the 13 U.S. prime contractors,” the government auditors noted. GAO recommended that BIS update its offset regulations and “request more specific industry information from prime contractors that would improve the assessment of the economic effects of offsets.”

## **Korean Beef Deal Won’t Change Fate of FTA**

The June 21 deal to allow most U.S. beef to be exported to Korea will ease tensions between the U.S. and Korea, but won’t do much to speed congressional consideration of the U.S.-Korea Free Trade Agreement (KORUS). Chances for a KORUS deal getting a vote this year remain slim to nil, congressional sources say. Senate Finance Committee Chairman Max Baucus (D-Mont.), who has made the opening of the Korean market to U.S. beef a mandatory requirement for his support for the FTA, greeted the announced deal with caution. Even with the beef issue resolved, opposition to the accord because of its auto trade provisions remains strong in the House. “Cows and cars are different things,” one source told WTTL.

“I’ve been very clear that Korea should accept imports of all U.S. beef, whether it’s bone-in or boneless, regardless of the age of the cattle, and international scientific standards say I’m right,” Baucus said in a statement. “The implications of this agreement set an unfortunate precedent for U.S. beef trade with Korea and other countries. I will review it closely,” he added.

### **\* \* \* Briefs \* \* \***

BIS: Senate Banking Committee June 25 approved nomination of Christopher Wall to be BIS assistant secretary for export administration (see **WTTL**, June 9, page 3). When Senate will vote still uncertain, committee sources say.

WTO: Cape Verde has approved its accession protocol and will become 153<sup>rd</sup> WTO member July 23.

VIETNAM: President Bush and Vietnamese Prime Minister Nguyen Tan Dung issued joint statement June 25 saying U.S. and Vietnam plan to launch talks on Bilateral Investment Treaty. They also confirmed process already underway to consider granting Hanoi GSP benefits (see **WTTL**, June 23, page 4). No mention of U.S. textile monitoring program on imports from Vietnam.

LAWN GROOMERS: Agri-Fab, Inc. June 24 filed petitions at ITA and ITC seeking antidumping and countervailing duty investigations on tow behind lawn groomers from China.