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

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EXPORT REFORM COALITION MEETS WITH WHITE HOUSE OFFICIALS

The Coalition for Security and Competitiveness, which is seeking reforms in licensing procedures for both defense and dual-use exports, may get a report on what the Bush administration intends to do with its proposals by the end of summer or early fall. The outlook for a response was one of the issues discussed at a July 12 White House meeting that David McCormick, deputy assistant to the president for national security, held with coalition leaders John Engler, the president of the National Manufacturers Association (NAM), and John Douglass, president of the Aerospace Industries Association (AIA).

An interagency team of officials from Commerce, Defense and State have been reviewing the coalition's 19 proposals for changes in license handling at State's Directorate of Defense Trade Controls (DDTC) and the Bureau of Industry and Security (BIS). The coalition carefully crafted its proposals so they can be adopted without the need for legislation (see **WTTL**, March 12, page 3).

Industry representatives have met with officials from the three departments. They have also been discussing the proposals with congressional staffers. At the White House meeting, McCormick reportedly didn't tell Douglass and Engler which of the proposals the administration might be willing to adopt or when. "They had a good exchange of ideas but he did not get into a lot of specifics with them," one source reported. "We did not receive an indication of when any decisions would be made by the administration, but we did get positive feedback on the merits of the initiative," an AIA spokesman told **WTTL**.

McCormick, the former BIS under secretary, clearly understands export control issues from his days at the agency and favors some of the changes, according to industry sources. President Bush, however, has said he intends to nominate McCormick to be under secretary of the Treasury for international affairs. So there is a question about how much he can do on the proposals before he leaves for Treasury or how much the Bush administration can accomplish before it leaves office in 18 months. McCormick's Senate confirmation process hasn't started yet. His successor, Daniel Price, who was trade lawyer with Sidley Austin in Washington, reportedly has been participating already in the discussions on the proposed export licensing reforms.

PELOSI CLAIMS VOTE ON PERU, PANAMA FTAs IS STILL COMING

Amid complaints that House Democrats are renegeing on their agreement with the Bush administration to support pending free trade agreements (FTAs) in exchange for the addition of new language on labor, the environment and drug patents, House Speaker Nancy Pelosi is trying to

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play down the delayed votes on the Panama and Peru FTAs. “I think those will come up,” she told WTTL July 12. “We just have a few more things to tuck away. But I think Mr. Rangel and Mr. Levin, working with the administration, have made good progress, and I’m optimistic,” she said. “Mr. Rangel told me yesterday that he thinks we will probably be able to get something accomplished soon,” Pelosi told WTTL. “He’s going to South America during the August recess,” she added.

Administration trade officials thought the deal with congressional Democrats in May, along with the willingness of Peru and Panama to amend their FTAs, would open the way for consideration of those two pacts before Congress starts its August recess. House Democratic leaders made it clear in a June 29 press statement that those two accords won’t come up until the fall and the deals with Colombia and South Korea face other problems that make action on their FTAs doubtful in this Congress (see **WTTL**, July 2, page 4).

The delay in congressional action on the Peru and Panama FTAs prompted U.S. Trade Representative (USTR) Susan Schwab to write to Pelosi July 6 to urge Congress to “show its good faith and commitment to the May 10 bipartisan trade agreement.” Schwab complained that Democrats are considering new conditions “that would be interpreted as an effort to stall the U.S. approval process and add unnecessary and provocative conditions even after our Latin American friends and Asian FTA partners have acted in good faith to meet new U.S. demands.”

“We are deeply concerned to learn that some Members are considering imposing unprecedented new pre-conditions on our trading partners which would further delay Congressional consideration of these important agreements,” Schwab told Pelosi. “In particular, we understand that some may want to insist that our trading partners go beyond ratification of the agreement and make changes to their domestic laws before Congress even acts on the FTAs,” she added.

“Unilaterally requiring another sovereign country to change its domestic laws before the U.S. Congress approves a trade agreement would be a fundamental break with U.S. law, policy and practice,” Schwab continued. “No past Administration or Congress – Democratic or Republican – has taken such a step. Nor would the United States agree to such a procedure if demanded by another country,” she declared.

U.S. OFFICIALS QUESTION COMPLIANCE REFORMS AT NORINCO

The efforts of Norinco, the Chinese conglomerate, to get off the State Department’s sanctions list have still not impressed department officials, according to Donald Mahley, acting deputy assistant secretary of State for threat reduction and export controls. Norinco is still one of the “greatest serial proliferators in China,” Mahley told the U.S.-China Economic and Security Review Commission July 12. “Norinco recently has been trying to argue that its reorganization has really tried to change its mode of operating and could we please give them more things that it can do to try to get off the list,” Mahley noted. He said the U.S. has seen structural changes at Norinco. “Certainly, structural changes are a necessary precursor to behavioral changes,” Mahley told the commission.

“They now have in place some structures internally in the company [so] that they could police their own activities for nonproliferation much better than they could,” he continued. “I would have to say, however, that the jury is very much still out on that. Have I seen Norinco actually cut down a potential export that would have been a proliferation export and therefore not do it? No, I have not seen that,” Mahley stated. “They have certainly given themselves a structure and a PR program in which they have every opportunity to make amends for some of the things they have done, but I have not yet seen action,” he stated.

David Sedney, deputy assistant secretary of Defense for East Asia, noted that the Norinco experience reflects the thinking of other companies in China about the consequences of U.S.

proliferation sanctions. "What people on the marketing side of these companies realize is that looking forward as China becomes a more global player, in which market are you going to make the most money," Sedney told the commission. "Is it selling on the margins to Iran or is it going to be more access to the U.S. market," he said. "That is the tug and pull going on right now. So the existence of our sanctions is beginning to have an effect. If we can hold out the prospects for real rewards for good behavior and as long as we have the capability in place to make sure it's true, I think we have the start of something but just a start," he said.

Both Mahley and Sedney provided a mixed report on China's efforts to stop proliferation activities of Chinese companies. China's "attitude has improved," Mahley said, noting the adoption on nonproliferation laws in the country. The lack of transparency, however, has prevented the U.S. from telling whether these laws have been implemented. Moreover, the role of the Chinese government in these activities is unclear. In some cases, when the U.S. has alerted Beijing about proliferators, "the Chinese government has simply not acted," Mahley said. "These are matters that trouble us very deeply," he added.

BIS REVIEWING FIRST REQUESTS FOR CHINA VEU STATUS

BIS has begun to receive and review the first applications for Validated End-User (VEUs) certifications under the new China rule and should be publishing its first approvals by the end of summer or early fall, BIS Under Secretary Mario Mancuso told WTTL. The requests are "at various stages of the process," Mancuso said. "Some have already formally applied; others are in the process of applying," he added. "We are excited by the interest," he said.

Several dozen firms reportedly have expressed interest in the VEU process. The pending cases "cut across multiple ownerships and they cut across multiple industries," Mancuso noted. Mancuso has touted the VEU as one of the most significant provisions in the new China rule and claimed it will remove export licensing requirements for millions of dollars in trade with China. He has called it a "passport to prosperity"(see **WTTL**, June 25, page 2).

Mancuso said other countries have approached BIS and are very interested in the VEU. The question of adding additional countries besides China to the VEU mechanism is being discussed in the interagency process. "Under the right circumstances and working with our interagency partners, our goal is to, in a rational and streamline, focused way, roll it out to other places," Mancuso told WTTL. The pace of adding additional countries to the VEU process may be limited by BIS resources to handle VEU applications, he suggested. BIS officials have said previously that they want to extend the VEU process to exports to India. "I think India is a very attractive opportunity, and we just have to figure out the mechanics," Mancuso said.

U.S. TAKES CAUTIOUS APPROACH TO TAIWAN FTA PROPOSAL

The U.S. is trying to put off Taiwan's request for the start of negotiations on a free trade agreement, claiming it's premature to begin such talks without renewal of fast-track trade promotion authority. But the underlying reason for avoiding FTA talks may be concern about how they would affect U.S. relations with the People's Republic of China and Washington's "one-China" policy. The FTA issue came up during the latest meeting of the U.S.-Taiwan Trade and Investment Facilitation Agreement (TIFA) in Washington July 11. "Taiwan did raise the issue of an FTA," reported Deputy USTR Karan Bhatia, who led the U.S. side in the talks.

"We explained to them the state of affairs with respect to Trade Promotion Authority," he noted. "We also described the criteria we generally apply in considering potential partners if and when TPA is reauthorized," he said. "In the absence of TPA, really any discussion of FTAs would be premature," he said. "That was really a very small part of the discussions," Bhatia said. The two sides agreed to create a bilateral Consultative Committee on Agriculture which

will discuss disputes over agriculture trade, the implementation of WTO agriculture rules and adherence to international standards for beef trade. Also discussed were the plans of Taiwan's Ministry of Health to provide more transparency in the setting pharmaceutical reimbursement prices. The Taiwanese also reported on efforts of the Ministry of Education to address the violation of copyrights on textbooks on college campuses in Taiwan.

A reflection of Washington's sensitivity about China's reaction to closer ties between the U.S. and Taiwan was the discussion at the TIFA meeting about the negotiation of a bilateral deal on investment. The proposed accord would be called a Bilateral Investment Agreement (BIA) instead of a Bilateral Investment Treaty (BIT) because of restrictions placed on U.S. dealings with Taiwan under the Taiwan Relations Act.

"On investment, I think we are getting pretty close," Bhatia reported. "We have had some pretty good discussions with our colleagues from Taiwan on what an investment agreement might look like; how it could stimulate investment," he said. "There are a few areas where we need to have further clarifications on what Taiwan's flexibilities would be," Bhatia explained. "We don't want to launch any agreement unless we're pretty confident that we can bring home a high quality agreement," he added.

* * * BRIEFS * * *

STATE: President Bush July 11 said he will nominate Mark Kimmitt to be assistant secretary of State for political-military affairs. Kimmitt currently is deputy assistant secretary of Defense for Middle East.

BRIBERY: Trace, association that focuses on corruption of foreign officials, launched BRIBEnline.org where firms can anonymously report bribery requests by specific governments and agencies but without naming names. Information won't used for law enforcement, but will be compiled into annual report to focus attention on sources of corruption in nations, industries and government organizations.

EXPORT ENFORCEMENT: Littlefuse, Inc., of Des Plaines, Ill., has agreed to pay \$221,100 civil fine to settle 67 BIS charges that it engaged in prohibited acts by exporting ceramic yarn to Philippines and China without approved licenses and also failing to file reports on limited value shipments (LVS). Firm neither admitted nor denied BIS charges.

MORE EXPORT ENFORCEMENT: Nyema Weli of Marietta, Ga., was fined \$35,000 by BIS for attempting to export five armored vehicles to Nigeria without approved export license and failing to maintain required records. Weli will pay only \$2,500. BIS said it will suspend the rest and waive balance if Weli remains in compliance with regulations. He neither admitted nor denied BIS charges.

CUBA: LogicaCMG, Inc., of Lexington, Mass., which had already pled guilty to criminal charges and paid \$50,000 criminal fine and also reached settlement with BIS to pay \$99,000 civil fine, has now reached settlement with Treasury's Office of Foreign Assets Control (OFAC) and agreed to pay additional civil fine of \$220,000. Government had applied successor liability standard to firm for actions of CMG Telecommunications, which it had acquired. CMG had assembled and exported computer system to Cuba without license (see WTTL, May 7, page 4).

STEEL REBARS: ITC July 10 in "sunset" review determined that U.S. industry would be injured if anti-dumping orders were revoked on steel concrete reinforcing bars from Belarus, China, Indonesia, Latvia, Moldova, Poland and Ukraine. It decided injury wouldn't recur if order were lifted on imports for Korea.

CHINA: U.S. and Mexico July 12 formally asked WTO to establish dispute-settlement panel to hear complaints against Chinese subsidies. "Although our two rounds of WTO consultations with China have been constructive, they have not resolved our concerns about China's apparent use of trade-distorting subsidies that it pledged to eliminate upon joining the World Trade Organization," said USTR Spokesman Sean Spicer (see WTTL, Feb. 5, page 1)

SENATE: Sen. John Ensign (R- Nev.) has been named to fill vacant Republican seat on Senate Finance Committee. Vacancy was created by death of Sen. Craig Thomas (R-Wyo.) June 4.

CFIUS: House July 11 passed Senate's CFIUS legislation (S. 556) (see WTTL, July 9, page 4).