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BIS BUDGET REQUEST SEEKS 23% INCREASE IN ENFORCEMENT FUNDING

Almost all of the increased funding President Bush proposed in his 2005 budget Feb. 2 for the Bureau of Industry and Security (BIS) would go to expanding export enforcement activities, including a clampdown on compliance with license conditions (see **WTTL**, Nov. 10, page 1). Enforcement funding would increase to $37 million in the fiscal year starting Oct. 1, 2004, from an estimated $30 million that will be spent in the current year. The entire BIS budget, if enacted by Congress, would increase 12% to $77 million from $68 million.

> The proposed $8.1 million increase in BIS spending would go to programs "to advance export control and enforcement activities," a Commerce statement explained. Of that, $3.8 million will be directed at increasing the staff assigned to the agency's computer evidence recovery program, its intelligence and field support division and field offices in New York, Chicago and Seattle.

Also in that money would be $2.2 million "to develop a comprehensive plan to ensure and verify that exporters adhere to the conditions placed on export licenses," Commerce said. The budget released by the White House identifies performance measures that will be used to judge BIS' performance in the next fiscal year. One measure would be an increase in the number of criminal investigations that it will undertake next year to 275 from the 250 expected this year. As it did last year, the administration is again asking Congress to fund an office of technology evaluation with a proposed $2 million budget.

U.S. WEIGHS WTO COMPLAINT AGAINST CHINA'S SEMICONDUCTOR TAXES

The U.S. is prepared to give China until late April to agree on changing its value-added tax (VAT) policies for semiconductor imports. If no progress is made by then, American officials are ready to take a complaint to the World Trade Organization (WTO).

> The April deadline is geared to a planned meeting of the high-level U.S.-China Joint Commission on Commerce and Trade (JCCT). "We are actively preparing a case" to take to the WTO, Deputy Assistant U.S. Trade Representative Charles Freeman III told the U.S.-China Economic and Security Review Commission Feb. 5. U.S. officials have held talks with their Chinese counterparts on the issue, he reported. "We are going to give it one last shot," Freeman said.

The semiconductor industry has complained that China imposes a 17% VAT on imported and domestically produced chips and integrated circuits but gives a rebate to Chinese producers on

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all of the tax above 3%. "A 14% differential created through WTO inconsistent tax policy is a burden that foreign companies simply can't overcome in selling into the Chinese market," said Anne Craib, director of international trade for the Semiconductor Industry Association, in her prepared testimony. Press reports indicate that China plans to undertake major reform of its tax system, including the VAT, but there is no indication these changes would affect the tax on semiconductors. "This discrimination against imported semiconductors through the VAT rebate is inconsistent with China's WTO obligations," Craib's testimony stated.

> The different tax rules would allegedly violate Article III of the General Agreement on Tariffs & Trade (GATT), which requires members to provide the same "national treatment" to domestic and foreign firms under their tax systems. U.S. industry's complaint has been echoed by chip makers from other countries that participate in the World Semiconductor Council.

China is now the second largest market for semiconductors in the world and is expected to become the second largest market after the U.S. by 2010. Semiconductors are the second largest U.S. export to China after soybeans and are China's number one import, Craib noted. The VAT is contributing to over investment in semiconductor production in China, her text asserted. From about $3.6 billion in new investments from 2000 to 2002, total investments are projected to increase to $12 billion by 2005 and $25 billion by 2013. "This is an unprecedented amount of investment that cannot be justified on commercial terms and is likely to lead to severe overcapacity in the industry in future years," Craib said in her statement.

ITA OFFICIAL CONVINCED LUMBER DUTIES WILL BE SUSTAINED

International Trade Administration (ITA) Assistant Secretary for Import Administration James Jochum says recent rulings emerging from the WTO and NAFTA dispute-settlement systems will allow the U.S. to maintain countervailing duty and antidumping orders on softwood lumber from Canada. If he is correct, Canadian lumber producers may be forced to accept an "interim" agreement with the U.S. to establish a long-term managed market for lumber in North America.

> "I would sum up all the decisions we have received to date as validating our ability to find a subsidy in Canada and validating our methodology for doing so,"Jochum said, citing the WTO Appellate Body ruling which upheld ITA's cross-border comparison of U.S. benchmark prices to evaluate Canadian lumber prices to determine a subsidy (see **WTTL**, Jan. 26, page 2).

"So we feel at this point that we have won some great victories in both NAFTA and the WTO for the first time in this 20 year lumber dispute," he declared. "I don't think there is any doubt that at the end of the day we will have a duty in place that will stick," he said. "The one card to be turned over yet is the ITC remand on injury, and that is something we are all waiting for in mid-March, which could change the course of this litigation," Jochum conceded.

OFFSHORING, OUTSOURCING LOOM AS MAJOR TRADE ISSUES

With a heavy agenda of trade legislation already on their plates, members of Congress this year are expected to add debates on numerous bills that will seek to stem the flow of jobs out of the United States. A recent meeting of legislative assistants to Democratic senators reportedly revealed that offshoring and outsourcing are the number one or two issue of concern to members and the likely target of legislation. "This is looked at as a trade issue because trade is viewed as being responsible," one congressional source said.

One initial bill will be proposed by Sen. Max Baucus (D-Mont.) the week of Feb. 9. He plans to introduce a measure to expand the coverage of the current Trade Adjustment Assistance (TAA) law to cover service workers whose jobs have been lost because their work has moved offshore or to foreign competition. The move to expand TAA comes as the White House budget released Feb. 2 calls for a reduction in total outlays for the program to $1 billion from $1.3 billion. The proposal reflects the merger of traditional TAA with the separate adjustment assistance program for workers who lost their jobs lost due to NAFTA, as well as the addition of workers made eligible for the program in the 2002 Trade Act.

> Offshoring has become a major complaint of the textile industry, which tried to make it an issue in the Democratic primary in South Carolina (see **WTTL**, Jan. 12, page 4). Other manufacturing industries and unions have joined that chorus as more jobs and production have shifted overseas.

Ahead of every presidential elections, there is a surge of expectation that trade will become a major campaign issue. But in the last few elections, trade has generally faded back behind broader economic and national security issues, except in a few geographic areas. The failure of Rep. Dick Gephardt (D-Mo.), one of the staunchest critics of free trade in Congress, to make a significant showing in the primaries raises doubts again about the issue's political weight.

If there is a difference this year, it may be the focus on the offshore movement of white collar service jobs to India, China and low-wage, English-speaking countries. The subject has become regular grist for newspapers, magazines and TV shows. Some local and state law-makers have already grasped this political message and have moved to restrict appropriations to pay for offshore services. Lawmakers in Washington are expected to pick up the debate as well.

Counterbalancing these negative reports is a new paper by Catherine Mann, a senior fellow at the Institute for International Economics. Mann sees the globalization of information technology (IT) software and services overseas as part of the "next wave" of productivity growth. The globalization of IT hardware production created the first wave, lowering prices and helping expand the use of IT products throughout the economy. The globalization of services and software will continue that process, she asserts. "Breaking the links, by limiting globalization of software and services or by restricting IT investment and transformation of activities or by having insufficient skilled workers at home, puts robust and sustained U.S. economic performance at risk," Mann declared.

ITA WILL REORGANIZE IMPORT STAFF TO FOCUS ON CHINA CASES

ITA's Import Administration (IA) office plans to reorganize to have all current and future anti-dumping cases involving Chinese goods directed to a single staff of investigators who have gained experience dealing with imports from China. Currently, IA's staff is divided almost evenly into three divisions to which incoming cases are assigned based mostly on their workloads regardless of the product or country of origin. Historically, China cases have accounted for about 20% of IA's caseload, but last year 50% of orders put in place involved China.

> "It's become a growth industry," said ITA Assistant Secretary for Import Administration James Jochum. As a result, the new China-dedicated staff is likely to get about half of the office's investigators or about 50 people. The 2004 omnibus appropriations bill enacted in January included about $3 million in additional funds to help expand this new China office, Jochum noted.

Because the methodologies used to evaluate imports from non-market economies (NMEs) such as China are so different from other dumping calculations, the office has decided "to put all of our expertise in one place," he told WTTL. The office is likely to handle the limited number of cases for other NME countries as well as China, Jochum said. Some IA investigators who speak Chinese or who are specialists in Chinese affairs will be assigned to the new staff.

"China has not asked us to review their market economy status in a formal way," Jochum pointed out. "That's important, because they would have to file a petition and make the case, with our six-step criteria, that they meet them, and they have not done that," he added. There have been individual requests in specific cases for a ruling that the Chinese industry was a "market-oriented" industry. But Jochum said, "There is a strong presumption that within a non-market economy it is hard to find a market-oriented industry."

TRADE AGENCIES TO SEE SURGE IN SUNSET REVIEW CASE LOAD

After a quiet year in 2003, during which they handled only three "sunset reviews" of existing antidumping and countervailing duty (CVD) orders, U.S. trade agencies – and the Washington trade bar – will see an explosion of work in 2004 and 2005. The increased case load is the result of a second round of reviews for orders in place before enactment of the Uruguay Round Agreements Act (URAA). The act implemented WTO requirements to examine all existing orders every five years to determine whether they should remain in place because the unfair trade practices are continuing and U.S. industry would face injury if the orders were revoked.

> A "transition review" of pre-URAA orders began in 1998. Those orders are now up for a second five-year review. In addition, several post-URAA orders get their first reviews. In 2004, the International Trade Commission (ITC) and ITA will examine 26 sunset reviews, most of which are second-round cases. In 2005, the case load will jump to 46. Orders coming up for review in the coming months include prestressed concrete strand, stainless steel plate, sorbitol, hot-rolled steel, solid urea, and frozen orange juice concentrate.

* * * BRIEFS * * *

EXPORT ENFORCEMENT: Denton Vacuum of Moorestown, N.J., has agreed to pay $7,000 civil fine to settle BIS complaints that it exported sputtering systems in 1999 to Solid State Physics Laboratory in New Delhi, India, without license even though customer was on BIS Entities List. BIS charging letter also said firm had falsely claimed items were GDEST on SED.

MORE EXPORT ENFORCEMENT: BIS imposed $38,000 civil fine on Global Dynamics of Mount Prospect, Ill., to settle charges that on seven occasions from May 2001 to January 2002 firm exported or attempted to export military truck parts to South Korea without licenses. "Most of these exports were unauthorized because they were in excess of the dollar limit on an export license previously issued to Global," BIS explained. Agency agreed to suspend for year and then waive $8,000 of fine.

TEXTILES: USTR's office has given ITC permission to release non-confidential version of its September report assessing impact that end of textile quotas in 2005 will have on foreign producers. Report is expected to be released Feb. 9. Separately, at USTR's request, ITC has agreed to continue previous procedures for reviewing "commercial availability" of fabrics and components for African, Caribbean and Andean producers seeking waiver of rules of origin.

CAFTA: Lawmakers reportedly have told White House not to send up notification of intent to sign CAFTA deal including Dominican Republic until after negotiations with DR are completed. Those talks are likely to go into March. Delayed notice may sink chances that CAFTA will get congressional vote this year. Separately, USTR Robert Zoellick Jan. 29 asked ITC to conduct study on impact of adding DR to CAFTA.

AUSTRALIA: At press time, FTA talks were going into weekend with hopes deal might be signed before USTR Robert Zoellick was to leave Feb. 8 for two-week global trip to push restart of Doha Round.

EAR: BIS Feb. 6 published final rule in Federal Register making corrections and clarifications to 19 sections of EAR, including simpler version of "Export Control Decision Tree."

FSC: President Bush's 2005 budget calls for repeal of FSC/ETI law and replacement with series of tax law changes, including cut in corporate tax rate and permanent extension of R&D tax credit. Budget estimates revenue loss from FSC in 2005 at $5.8 billion and in 2006 at $6.3 billion, higher than previous estimates.

EX-IM BANK: Changes in how government calculates risk of loans and guarantees that Export-Import Bank provides exporters has produced lower risk factor. "All else being equal, this change expands the level of international lending an agency can support with a given appropriation," Bush administration's budget proposal stated Feb. 2. Based on new risk figure, Ex-Im "will be able to generally provide higher lending levels using lower appropriations in 2005," it said, leaving financing authority at $11.5 billion.