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BIS CRACKS DOWN ON SPORTS SHOTGUN, SCOPE EXPORTS

The Bureau of Industry and Security (BIS) has imposed nearly $1 million in fines on three companies that market sports rifles, components and scopes as part of a new enforcement initiative aimed at enforcing the Organization of the Americas (OAS) Firearms Convention of the Americas. Although the convention is intended to prevent the sale of arms to insurgents and drug traffickers in Central and Latin America, the BIS enforcement effort has caught firms shipping to Canada and non-Western Hemisphere locations without approved export licenses.

> In the latest batch of settlement agreements, BassPro of Springfield, Mo., and its American Rod & Gun division agreed to pay a $510,000 civil fine in four installments to resolve BIS charges that it exported various optical sighting devices on 407 occasions without approved license from BIS. It was also charged with one count of failing to keep sales and shipping records. The total value of the exports was about $50,000 (see **WTTL**, Jan. 17, page 4).

In a second settlement, Cabela's Inc., of Sidney, Neb., agreed to pay a $265,000 civil penalty for allegedly exporting various parts and scopes for sports shotguns on 685 occasions without BIS approval. Some of these exports were valued at only $3.99, the BIS charging letter showed. Most were under $100. The exports went to customers in Canada, Argentina, Brazil, Chile, Mexico, Colombia, Bolivia, Venezuela and Uruguay.

BIS also fined North Pass Ltd. $214,500 for allegedly exporting rifle optical sighting devices on 135 occasions without licenses. The firm will be allowed to pay the fine in four installments over the next 10 months. BIS also agreed to suspend $160,875 of the fine until Dec. 31, 2005, and waive it after that, if the firm remains in compliance with U.S. export control rules.

U.S. REJECTS TALKS WITH MERCOSUR TO BREAK FTAA DEADLOCK

Even as Canada was opening trade and investment talks with the four Latin American nations belonging to the Mercosur trade group, the U.S. has rejected such Four Plus One negotiations as an avenue for restarting talks on the moribund Free Trade Areas of the Americas (FTAA). "That is not something that we see in the United States interest," Deputy U.S. Trade Representative (USTR) Peter Allgeier told a business group in Washington Feb. 7. "That is not something you should expect to be launched at this point," he said.

Brazil has floated the idea of market access talks between the U.S. and Mercosur, which comprises Brazil, Argentina, Uruguay and Paraguay, to get the FTAA talks restarted. Allgeier said

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the U.S. would welcome bilateral free trade area talks with more Latin American countries but not limited to market access issues. USTR Robert Zoellick and Brazilian Trade Minister Celso Amorim met and discussed the future of the FTAA talks while they were in Davos, Switzerland, in January during the World Economic Summit. They agreed to have Allgeier and his Brazilian counterpart, Adhemar Bahadian, meet at the end of February to review the current status of FTAA talks, remaining differences and possible ways to get the negotiations moving again.

Although the U.S. has demurred on Four-Plus-One talks, Canadian Trade Minister Jim Peterson launched talks in Ottawa Feb. 7 with Paraguay's Foreign Affairs Minister Leila Rachid de Cowles on a market access deal between Canada and Mercosur. "I believe that this initiative, which is firmly anchored in the FTAA, provides an excellent opportunity to expand on our strong partnership with Mercosur and deepen our commercial relations," Peterson said in a statement.

CRUISE LINES NOT LIABLE FOR PRE-1993 HARBOR MAINTENANCE TAX

In the almost-never-ending litigation over the Harbor Maintenance Tax (HMT), Princess Cruises has won an appellate court ruling barring the government from collecting the tax for layover-only stops the firm's ships made before 1993 when Customs issued a ruling HMT fees. The Court of Appeals for the Federal Circuit (CAFC) Feb. 8 upheld (case nos. 03-1330, 1345) a Court of International Trade (CIT) judgment that collection of the fee "is barred by the retroactivity doctrine," Appellate Chief Judge Paul Michel wrote for the court.

The CAFC also upheld the CIT ruling that Princess was liable for payment of interest on Arriving Passenger Fees (APFs) that a Customs audit had found underpaid. "The trial court's award of prejudgment interest properly accounted for the principle of complete compensation and, therefore, no clear error of judgment occurred," Michel wrote. He also noted that the basis for this decision will apply to a separate pending case involving Carnival Cruise Lines.

CUBA TRADE GROWS DESPITE ADMINISTRATION EFFORTS TO CURB IT

Just released BIS figures show that licensed or notified U.S. exports to Cuba grew to $3.1 billion in the fiscal year that ended Sept. 30, 2004, a 10.5% increase over the previous year. BIS approved 326 licenses valued at $1.6 billion and received 211 notifications for shipments valued at $1.45 billion that didn't need a license. While many BIS approved licenses are low-value shipments that don't need a Shipper's Export Declaration (SED), there appears to be a sharp discrepancy between the value of trade recorded by BIS and Census Bureau trade statistics. Census repored only $400 million in U.S. exports to Cuba in calendar year 2004.

As U.S. trade with Cuba grows, a bipartisan group of senators has again introduced legislation (S. 328) to liberalize trade with Cuba. Co-sponsored by Sens. Max Baucus (D-Mont.), Larry Craig (R-Idaho), Richard Lugar (R-Ind.) and Pat Roberts (R-Kan.), the bill would ease restrictions on business travel to Cuba, clarify rules on advance payments, repeal copyright law provisions found illegal by the WTO, and authorize direct payments to U.S. banks by Cuban customers.

TRADE FIGURES ARE POSITIVE FOR EXPORTERS, AS DEFICIT SET TO SHRINK

American international sales managers were probably happy with the 13.2% jump in merchandise exports in 2004 to a record $807.6 billion and will leave it to economists to debate the meaning of the record $666 billion deficit in goods trade the U.S. reached last year. Goods exports in December topped $100 billion for the first time. Domestic firms facing competition from imports, however, are wondering what all the talk about the decline in dollar has done to help them as they faced a 16.9% surge in merchandise imports to a record $1.47 trillion. The long-expected big shift in trade could come by the middle of 2005, economists predict. Exports should continue to rise and imports start to decline by mid-year, forecasts Frank Vargo, vice president of the National Manufacturers Association. Vargo foresees the trade deficit declining by $50 billion in 2005. According to Federal Reserve Board Chairman Alan Greenspan, some foreign firms were able to offset the rise in the value of their currencies by absorb ing the price increase by cutting profits and hedging their currencies.

Preliminary 2004 v. 2003 U.S. Merchandise Trade Figures
(in billions)

	2004 Exports	2003 Exports	% Change	2004 Imports	2003 Imports	% Change
Total	$807.6	$713.1	13.2%	$1,473.8	$1,260.7	16.9%
BY COUNTRY/REGION						
Canada	190.2	169.9	12.0	255.9	221.6	15.5
Mexico	110.8	97.4	13.7	155.8	138.1	13.0
European Union (25)	172.6	155.2	11.2	282.6	253.0	11.7
Germany	31.4	28.8	8.8	77.2	68.1	13.4
France	21.2	17.1	24.6	31.8	29.2	8.9
United Kingdom	36.0	33.8	6.3	46.4	42.8	8.4
Japan	54.4	52.0	4.6	129.6	118.0	9.8
China	34.7	28.4	22.4	196.7	152.4	29.0
NICs: HK, Singapore, Taiwan, Korea	83.5	71.6	16.6	105.4	92.8	13.6
South/Central America	61.4	51.9	18.2	98.7	78.8	25.3
BY SECTOR						
Agriculture	56.3	55.0	2.4	62.2	55.8	11.3
Aircraft, parts, engines	50.3	46.7	7.7	24.6	24.1	2.1
Autos, parts, engines	88.2	80.7	9.3	228.4	210.2	8.7
Clothing	4.4	5.0	-11.0	72.3	68.2	6.1
Chemicals-Organic	25.9	20.1	28.4	35.2	32.7	7.6
Chemicals-Inorganic	6.2	5.6	11.0	8.3	7.4	12.0
Crude Oil	0.3	0.2	66.7	136.0	101.8	33.6
Iron & Steel	8.0	6.3	27.8	22.4	11.1	102.0
Metalworking Machines	7.0	5.2	34.2	7.1	6.2	13.8
Pharmaceuticals	25.3	20.5	23.4	30.9	25.4	7.1
Semiconductors	47.9	46.1	3.9	26.7	24.6	8.7
Telecommunications	24.1	21.7	18.0	29.5	24.8	18.8
Wood Products	1.8	1.6	13.6	12.3	9.3	32.5

Hedging can delay but not prevent the effect of exchange rates on trade, he said in a speech in London Feb. 4. "We may be approaching a point, if we are not already there, at which exporters to the United States, should the dollar decline further, would no longer choose to absorb a further reduction in profit margins," he said.

The rising value of the dollar seemed to have only a marginal impact on trade with Canada and Europe, including euro-zone countries, and it had no affect on trade with China, which continues to peg its remimbi to the dollar (see table).

Imports from South and Central America also seemed immune from exchange rates due to the heavy share of trade in commodities such as oil that counter-balance the dollar. In some sectors, such as steel, lumber and oil, price increases overwhelmed any advantage gained by the value of the dollar. In others, such as machine tools, chemicals and pharmaceuticals, the dollar may have contributed to stronger exports and shifts in production to the U.S. Even with the 29% growth in imports from China, imports from the Pacific Rim overall grew just 17.5%, close to the total growth in U.S. imports. This supports analysis suggesting that trade from China is replacing some of the trade from Southeast Asia and Japan and forming part of new triangular trade linking China, U.S. and the rest of Asia.

BIS SWIMS AGAINST TIDE OF BUSH BUDGET CUTS

The Bush administration's focus on national security and border protection helped BIS see its proposed budget for fiscal year 2006 increase while most trade agencies saw theirs cut. In the budget sent to Congress Feb. 7, the White House asked for a $10 million increase to $77 million in the agency's funds for the year that will start Oct. 1, 2005. The extra money is for initiatives "to improve BIS' ability to maintain an up-to-date export control list and enhance enforcement activities to ensure sensitive goods and technologies do not fall into the wrong hands," the budget said. Export administration would get $4 million more and export enforcement $2 million extra, if the budget is approved as requested.

At the same time, the Bush administration proposes to reduce the budget for the International Trade Administration, asking for a $396 million budget compared to the expected $398 million to be spent in the current fiscal year. The biggest cut would come in market access and compliance activities. No change is sought in the budget for import administration, even though some trade sources expect a sharp decline in antidumping and countervailing duty cases in 2005.

The USTR's office would see a slight decrease in its budget to $39 million from $42 million, if the Bush budget is passed. The funds for WTO negotiations would remain the same. With major bilateral talks on free trade agreements mostly completed, the cuts would come in activities related to trade coordination and negotiations.

Customs and Border Protection (CBP) also benefitted from the administration's attention to homeland security. The White House is asking Congress to increase the agency's budget by nearly 4.8% to $6.7 billion. The request includes $54.3 million for implementation of the Customs-Trade Partnership Against Terrorism (C-TPAT), with an extra $8.2 million included to increase validation visits to C-TPAT participants. Other additions would go to expand the Container Security Initiative (CSI), continue implementation of the Automated Commercial Environment (ACE) and purchase more radiation detection monitors.

* * * BRIEFS * * *

CAFTA-DR: White House reportedly is reconsidering schedule for sending Central American trade pact to Congress because of concern that it might interfere with President Bush's wish to put focus on Social Security. There appears to be difference of opinion over whether Social Security legislation could be enacted this year. Ways and Means Committee is expected to start hearings on accord in March regardless of administration's decision.

SOFTWOOD LUMBER: Canadian Trade Minister Jim Peterson has announced that Canada will ask WTO Feb. 14 for authority to retaliate against U.S. up to C$4.1 billion for Washington's alleged failure to comply with WTO ruling against ITC's threat-of-injury ruling on softwood lumber from Canada.

BYRD AMENDMENT: CIT Judge Donald Pogue Feb. 7 (Slip Op. 05-17) upheld ITC's and Customs' decision not to include Candle Artisans among firms eligible for Byrd Amendment distribution because it had not waived confidentiality of its support for dumping case against petroleum wax candles from China.

PRIVATIZATION: ITA still hasn't gotten it right on how to determine whether privatization of state-owned company has extinguished previous subsidies subject to countervailing duties (CVDs). In *Allegheny Ludlum v. U.S.*, CIT Judge Donald Pogue (Slip Op. 05-19) Feb. 8 agreed that ITA was correct to revise its valuation methodology to come into compliance with WTO ruling against U.S., but he remanded to Commerce its Section 129 ruling in stainless steel strip from Italy, claiming it was not supported by substantial evidence on record and ITA needed to justify better its use of method. "The WTO Appellate Body decisions have persuasive weight here because nonconformance of U.S. practice may result in retaliatory tariffs against U.S. exporters – a result that negates the U.S.'s benefit from the international agreement," he wrote. That is penalty "Congress presumably would wish to avoid," he added.

BIS DENIAL ORDER: BIS issued temporary denial order in Feb. 7 Federal Register against Pakland PME Corp. and Humayun Khan of Pakistan for their alleged role in exports of spark gaps for be used in nuclear weapons that are subject of criminal case against Asher Karni (see **WTTL**, March 1, 2004, page 3).