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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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16 TRADE GROUPS ASK GUTIERREZ TO STOP WORK ON CHINA RULES

In a unified stand not seen often on export control issues, 16 trade groups wrote to Commerce Secretary Carlos Gutierrez Aug. 2, urging him to suspend work on the Bureau of Industry and Security's (BIS) China catch-all rule (see **WTTL**, July 24, page 1). "We recognize the risks and opportunities that trade with China presents, but we believe this regulation is not clearly integrated into our China policy and will seriously hinder U.S. competitiveness," they said.

"This seems to be part of a scattershot pattern of regulatory developments that includes the 'deemed export' issue and the defense acquisition regulations," they added. Despite several meetings with government officials, the groups said, "We remain unclear as to whether there are items covered by the new regulation that are not already subject to tight controls or else widely available."

In their letter, the groups also expressed concern that the proposed China rule would impose unilateral sanctions because other Wassenaar Arrangement members are not imposing similar measures. "A unilateral control on widely available products will not be effective," they argued. "As we have seen with night vision equipment, a unilateral approach inevitably undermines both U.S. competitiveness and security, encouraging other countries to design U.S. technology out of their products," the letter said.

"We believe that the development and implementation of a broader China policy in conjunction with our allies should balance national security and economic interests," they said. "To that end, we urge you and Secretaries Rice and Rumsfeld to take the lead in suspending work on the current regulation while our China policy is thoroughly reviewed to ensure that export controls are consistent with long-term U.S. objectives," they continued.

INDUSTRY BANDWAGON STARTS TO ROLL FOR FAST-TRACK RENEWAL

Industry sources say the U.S. Trade Representative's (USTR) office is informally encouraging business groups to issue statements in support of extending fast-track negotiating authority, also known as Trade Promotion Authority (TPA). The American Farm Bureau Federation was one of the first groups to call for fast-track renewal along with an extension of the Farm Bill (see **WTTL**, July 31, page 1). On Aug. 2, the AFBF issued another statement but this time along with the National Association of Manufacturers (NAM) and the Coalition of Service Industries (CSI). With suspension of Doha Round talks July 24, all hope has been lost that a multilateral trade pact can be completed this year or early next year in time to bring the implementing legislation to Congress for a fast-track vote before the current law expires July 1, 2007. The

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three trade associations argued that fast-track extension is needed not just for the Doha Round but for several bilateral free trade agreements that could be completed in the next 12 months. "Without TPA, it will be nearly impossible to get these and other important market opening agreements before Congress," said NAM President John Engler in the statement. "The NAM will play a central role in the quest for TPA renewal at the appropriate time," he said.

Even European Union (EU) Trade Commissioner Peter Mandelson is helping the push for fast-track renewal. "Doha is now losing the race against time," he said in a column in the Financial Times July 31. "As things stand, unless George W. Bush persuades Congress to renew his negotiators' mandate, the talks have little prospect of concluding for some years," he declared.

President Bush addressed the talks in a speech in Miami July 31. "In order to make sure that they don't break down permanently, I asked Trade Representative Susan Schwab to continue to work with her counterparts, to continue to discuss ways for the United States to be flexible, particularly on agricultural subsidies, and for our counterparts to be flexible when it comes to achieving fairness when it comes to trade," he said. "We'll do everything we can to get Doha back on track," Bush declared. He noted USTR Susan Schwab's trip to Brazil and her plans for talks with other trade ministers. "Completing the Doha Round is going to demand tough choices. We're willing to make those choices. And others nations should as well," he said.

GAO SAYS MILITARILY CRITICAL TECHNOLOGIES LIST IS OUT OF DATE

The lists of technologies that the government supposedly uses as its guide for developing and implementing export controls to maintain America's military superiority are "of questionable value," declares a new report from the Government Accountability Office (GAO). The Militarily Critical Technologies List (MCTL) and the Developing Science and Technologies List (DSTL) are out of date and, as a result, are not being used as intended, says a GAO report (GAO-06-793). The government's failure to keep the lists up to date "makes U.S. military assets vulnerable to cloning, neutralization, or other action that degrades current and anticipated capabilities," the report asserts.

"With the limited value of the MCTL and DSTL, agencies tend to rely on other information sources to inform export control and DOD policy decisions," the report says. "According to DOD and Department of Commerce export control officials, the MCTL is too broad, difficult to use, and out of date to inform export control proposals or export licensing decisions," it states.

"The Militarily Critical Technologies Program's process for updating the MCTL and DSTL has generated lists that are of questionable value," the GAO states. Working groups of experts from government, industry and academia update the lists. The work is voluntary and some experts don't participate. "Validation of the updates – a critical check to ensure the lists are complete and accurate – also provides little assurance that the lists are of value," GAO says.

LABOR REPORT MAY SLOW GROWTH OF JORDAN'S APPAREL INDUSTRY

The response of U.S. apparel importers and retailers to reports of abusive labor conditions in foreign factories may be a more effective tool in correcting those situations than any provisions in a free trade agreement. Concerned about the negative publicity from these reports, many importers may be shying away from countries where these conditions exist. An example is Jordan, where government officials are concerned that the rapid growth of the apparel assembly industry may slow in reaction to a critical report in May on labor conditions there (see **WTTL**, May 22, page 3). Jordanian officials say they have learned that some U.S. companies have frozen the level of their imports from Jordan following the highly publicized report issued by the National Labor Committee. The leveling off of trade would be in sharp contrast to the sector's rapid growth, which saw exports to the U.S. grow to an expected \$1.3 billion this year

from \$178 million in 2001. If the trade merely flattens, that will be a relief to the Jordanians who were afraid trade would fall after the report received widespread press and political attention. Jordanian apparel exports to the U.S. were up 17% for the first five months of 2006 compared to the year before. Jordanian officials say if there is any change in trade, it would probably appear in the trade figures for September and October.

To counteract the bad publicity, Jordan has launched a program to improve labor conditions in its apparel factories, which employ some 18,500 Jordanians and 35,000 foreign workers. Jordanian Labor Minister Bassem Salem was in Washington Aug. 2-3 to meet with administration officials, members of Congress and their staffs, trade associations, and AFL-CIO President John Sweeney.

“The private sector also realized how dangerous it is to have a situation as it is,” Salem told reporters Aug. 3. He conceded the report “showed the weakness in our ministry.” The report help separate what he called the good guys from the bad guys. The good guys have been placed on a “Golden List” of factories that are recommended to foreign buyers looking for suppliers in Jordan. “The good guys became the policemen of the bad guys,” he said, noting that these firms often alert the Jordanians to bad conditions when they learn about them.

Salem used his visit to Washington to report on Amman’s efforts to correct the conditions cited in the NLC report. Among those steps are: a planned increase in the number of labor inspectors to 180 from 80; creation of a complaint hotline foreign workers can call to report adverse conditions; a joint program with the International Labor Organization to improve social and labor conditions in the factories; and the relocation of workers from the factories cited in the report to other factories with better working conditions. Jordan has lifted a freeze that it place on the import of foreign workers for a short period and has started a training program aimed at preparing Jordanians to take more of the jobs in the apparel sector.

The NLC has issued an update on its original report recognizing the efforts being made by Jordan and the improvements that have been made. “There continue to be concrete and widespread cases of factory improvements on the ground in Jordan, but there have also been setbacks and many factories continue to violate both Jordanian law and core internationally recognized worker rights standards,” the committee said. “We feel that it is especially critical at this time to acknowledge and reward Jordan’s good factories,” it said.

CANADIAN INDUSTRY TO DETAIL CHANGES NEEDED IN LUMBER DEAL

Canadian lumber executives are expected to present a long list of changes they want to see in the latest U.S.-Canada softwood lumber deal when they meet with Canadian Trade Minister David Emerson in Toronto Aug. 9. Emerson has invited a couple dozen executives to the meeting in hopes of making another appeal for their support for the agreement. Testifying to a House of Commons committee and speaking to reporters July 31, Emerson conceded the accord doesn’t have the support of a majority of the Canadian industry. As a result, the government might not be able to bring it to the Parliament for a vote in September as it had planned.

Among the expected demands are: a lengthening of the termination clause beyond three-year period possible under current provisions; revision of quota rules so limits aren’t set on monthly basis; exemption from the deal for lumber from private lands in British Columbia; and changes in the antisurge mechanism.

Emboldened by recent Court of International Trade (CIT) rulings that could overturn the cases and block distribution of funds to the U.S. lumber industry, a majority of Canadian lumber companies now oppose the agreement, one industry representative told WTTL (see **WTTL**, July 24, page 1). The government of Canadian Prime Minister Stephen Harper had intended to make a vote in Parliament a “matter of confidence,” which would mean it would have to call new elections, if the agreement was rejected. With public opinion shifting against the government for other issues, particularly its support for the war in Iraq and Afghanistan, Ottawa reportedly

is reconsidering when and if it should bring the lumber agreement to Parliament for a vote, sources say. Meanwhile, the Canadian win streak at the CIT ended Aug. 2 with a ruling (Slip Op. 06-123) rejecting request for writ of mandamus to order USTR to name U.S. member for Extraordinary Challenge Committee to review the last ITC injury decision.

INDUSTRY TO SUE ILLINOIS OVER SUDAN BUSINESS SANCTIONS

The National Foreign Trade Council (NFTC) and several private pension funds plan to file suit Aug. 7 to overturn an Illinois law that imposes sanctions on banks doing business with firms that do business in Sudan and pension funds that have holdings in such firms. The Illinois law, which several other states reportedly are considering adopting, bars the state from depositing money in banks that lend to companies doing business in Sudan and bars state pension funds from holding stock in designated companies. The pension funds must divest all these holding by next July. The NFTC, which won a Supreme Court ruling in 2000 against Massachusetts' sanctions on Burma, claims the Illinois law infringes on the federal government's foreign policy powers and is preempted by existing federal laws (see **WTTL**, June 26, 2000, page 4).

* * * BRIEFS * * *

USTR: President Bush Aug. 3 nominated John Veroneau to be deputy USTR. He had been USTR General Counsel before returning to private law practice with DLA Piper Rudnick Gray Cary in Washington.

OFAC: Treasury has named Adam Szubin to be new OFAC director. He recently was senior advisor to Treasury under secretary for terrorism. Earlier, Szubin was at Justice where he was counsel to Deputy Attorney General and coordinator of department's effort to combat terrorism financing.

MTCR: BIS amended EAR in July 31 Federal Register to implement changes to Missile Technology Control Regime Annex that regime adopted at its September 2005 Plenary. Among numerous changes is one to correct problem created by 2004 changes. "Even though the U.S. government had consulted with its technical advisory committees before making the proposal to control certain ball bearings for MT reasons under ECCN 2A001 at the Seoul Plenary in 2004, those consultations did not reveal that bearings meeting the MTCR specification have a predominant use in certain machine tools," BIS said in new rules.

PERU: Senate Finance Committee, by 12-7 vote, with one member voting present, gave informal approval July 31 to draft bill to implement U.S.-Peru FTA. No word on when White House will send legislation to Congress, but vote on deal may wait for lame-duck session in December (see **WTTL**, July 31, page 4)

VIETNAM: Senate Finance Committee voted 18-0, with two members voting present, July 31 to support bill (S. 3495) to grant Vietnam PNTR status. Senate vote, however, has been blocked by "holds" placed by Sens. Elizabeth Dole (R-N.C.) and Lindsey Graham (R-S.C.). Dole spokesperson said Dole wants extension of quotas on Vietnamese textile and apparel imports; expanded application of antidumping and countervailing duty laws to Vietnam; and requiring USTR to investigate subsidies of Vietnam's industry.

NAFTA: Binational panel July 28 issued second remand in challenge of ITA's determination in "sunset" review that imports of oil country tubular goods from Mexico would cause renewed dumping if dumping order were revoked. Panel said ITA's decision was "unreasonable."

PENSION PROTECTION ACT: Pension bill (H.R. 4) passed by Senate Aug. 3, after House passed same measure, includes over 200 miscellaneous tariff and trade amendments, plus amendments to CAFTA-DR legislation to include side deals that were made after pact was signed but not in time to get into that bill.

IEEPA: BIS, as expected, revised EAR in Aug. 4 Federal Register to increase fines to \$50,000 per violation as authorized by changes in IEEPA in March (see **WTTL**, July 31, page 4).

ITAR PENALTY: Federal judge in Miami July 24, 2006, sentenced Ko-Suen Moo to 78 months in jail, plus three years of supervised release, and also fined him \$1 million plus forfeit of his share of \$350,000 that was seized during case. Moo pleaded guilty in May to charges related to his attempted acquisition and export of parts for engines used in F-16 fighter jets, Blackhawk helicopters and cruise missiles.

STATE SANCTIONS: State in Aug. 4 Federal Register imposed sanctions on two Korean firms, one Cuban firm, two Indian firms and two Russian firms for violating Iran Nonproliferation Act with exports to Iran.