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FIRST ROUND OF U.S.-KOREAN TRADE TALKS MAKE QUICK PROGRESS

The first week of talks on a Korean-U.S. Free Trade Agreement June 5-9 “hit the ground running,” says the lead U.S. negotiator, Assistant U.S. Trade Representative Wendy Cutler. The talks were able to consolidate draft texts that both sides brought to the table, although the document still contains many bracketed areas indicating a lack of agreement. Negotiators were able to reach preliminary agreements on such issues as trademarks, e-commerce and telecommunications, completing work on about 40% of the issues being discussed, she reports.

Despite this early progress, Cutler says the two countries haven’t started to negotiate on agriculture or textiles. On auto trade, “clearly we have a difference of views,” she told reporters at the end of the week. She also says the U.S. has “grave concerns” about a recent Korean proposal to limit pharmaceutical reimbursements to a “positive list” of approved drugs (see **WTTL**, April 2, page 1).

Cutler says neither side was surprised by the issues raised in the talks. “We’re close trading partners,” she notes. “Many of these issues we have been discussing for years.” The next set of talks are scheduled for the week of July 10 in Seoul. Negotiators plan to hold additional rounds in the fall with the goal of completing negotiations by the end of the year, she says.

CHINESE “RESERVED” ABOUT NEW BIS CHINA POLICY, MCCORMICK REPORTS

The coming Bureau of Industry and Security (BIS) proposal to impose new licensing requirements on exports to China and to expand the “certified end-user” program for Chinese companies drew a “reserved” reaction from Chinese officials during BIS Under Secretary David McCormick’s visit to China in May, McCormick told an audience in Washington June 9 (see **WTTL**, May 1, page 1). McCormick later told reporters that he had not actually shown the Chinese the text of the expected proposal.

“Frankly, we didn’t give them the rule,” he said. “I outlined in very specific terms what we’re trying to accomplish,” McCormick explained. He said their reaction was what would be expected from someone who was presented with something very complex for the first time. The Chinese were “reserved but intrigued,” he said. “The devil will be in the details,” he admitted.

McCormick’s visit to China didn’t affect his plans for proposing new rules to require licenses for 47 items on the Commerce Control List (CCL) if they are to go to military end-uses in China. Even though BIS will allow 120 days for public comment on the proposal, he said BIS

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is likely to issue the regulation with few changes from the proposal. “We wouldn’t put out something there, if we didn’t think it was directionally right,” he said. “If I was a betting person, which I am not, I wouldn’t bet that this would change a whole lot,” he added.

McCormick, who made the same statement in a June 9 article in the Financial Times, stressed the importance of balancing efforts to expand trade with China with the need to prevent the use of U.S. goods and technology in Chinese weapons systems. “We can do both,” he declared. He claimed an economic analysis has found only a small impact on U.S. exports to China from the addition of new restrictions on sales of the 47 CCL categories to military end uses in China. “The estimated cost is small.. the gain to security is substantial,” he asserted.

After his presentation, industry representatives in the audience said they were still skeptical about the coming proposal. One executive said he didn’t expect many companies would take advantage of the certified end-user program, especially given the fact that the BIS liaison officer in Beijing is already overworked trying to conduct post-shipment verifications. Another representative said the proposed interagency review process for certification includes too many conditions that will make it easy for any agency to raise objections and block a certification.

DEMANDS OF DEVELOPING COUNTRIES PRESENT HURDLES TO DOHA DEAL

Since the launch of the Doha Development Agenda (DDA) in November 2001, it has been clear that developing countries would wield significant power to determine the success or failure of the round. As proven at the failed WTO ministerial in Cancun, these nations could easily sink the talks if they don’t feel their concerns are adequately addressed in the final deal. But as the talks approach their hoped-for end, negotiators are still having trouble identifying specific concessions that would meet the demands of these countries in talks on trade and environment, trade and development and trade facilitation.

[**EDITOR’S NOTE:** This week, WTTL presents the second of a three-part series examining the state of play for Doha Round negotiations outside of agriculture and NAMA. WTTL correspondent in Geneva, R. Scott Billquist,, filed this sector-by-sector analysis of the major issues facing talks in these three areas.]

TRADE AND ENVIRONMENT: An agreement in these talks will be difficult because the committee on trade and environment can’t agree on what approach it will take, one diplomat notes. Only after it has decided on an approach and on which products promote environmental goals, can it be accommodated in the NAMA talks, he points out. “The purpose of including negotiations on trade and environment is to ensure that trade policy is more sensitive to environmental policies, and to increase trade in environment-friendly and environment-enhancing goods, services and technologies, as enunciated in paragraph 31 of the Doha Ministerial Declaration” says Philippine Ambassador to the WTO Manuel A.J. Teehankee. There are proposals in the NAMA talks for the elimination of tariffs on a broad list of environmental goods.

Two complications are how to define an environmentally friendly good and whether trade liberalization should be based on a list of products or tied to specific projects, notes a developing country diplomat involved in the talks. He complains that the U.S. and EU proposals give the impression that items come with labels that show exactly how they help the environment and who is benefitting. He also contends the list approach is an idea that is difficult to put into practice.

On the other hand, the project approach also has its critics. “It is difficult to see how much impact the project approach will have in trade terms because there’s not much to prevent a country from reducing unilaterally its tariff when it wants to make a project in this area,” that diplomat contends. This would more or less force a country to do what it should already be doing, he suggests. Neither the project approach nor the list approach will have a big impact, the diplomat says. Special interests could make an agreement on either approach difficult. Any package will likely be very modest and may result in a combination of both approaches, negotiators suggest.

TRADE & DEVELOPMENT: The nature of the “development” leg of the Doha Development Agenda continues to be a difficult subject to address, because it is still not clear what development means, one

ambassador tells WTTL. Given this ambiguity, developing and least developing countries may be able to hold any final Doha deal hostage, if they feel they aren't getting adequate benefits from the agreement. Since many of these countries will be exempt from major commitments coming out of the round, their benefits may come in the form of additional financial aid. Thus, discussions on an Aid-for-Trade component will play an increasingly important role in smoothing out the potential bumps blocking a final accord.

An Aid-for-Trade trade task force is now looking at how to give developing countries assistance to help them adjust to trade liberalization. The task force will hold a meeting in June to review an interim report addressing these issues, advises an ambassador involved in these negotiations. "The challenge is what the Aid-for-Trade mechanism can do," the ambassador says. "Is it to support those who liberalize? Or is it for everybody? Is it just for developing countries, or is it also for countries in transition? And how much money is available? And who will manage this," he asks.

This set of negotiations is also addressing the question of enhancing the "special and differential treatment" (S&D) provisions in current WTO rules. As with other Doha topics, this issue is linked to what's happening in agriculture and NAMA. If there is a breakthrough in those areas, you will feel the "positive reverberation" across all committees, one ambassador notes. This is an area that cuts across all negotiations in the Doha Round. For example, the committee on trade and environment is going through 88 proposals dealing with the application of S&D. "Development issues are not neatly confined to one committee; it pervades the whole process," the ambassador says. So far, S&D discussions have been "positive and constructive," the ambassador reports.

TRADE FACILITATION: Talks on trade facilitation, a new area of WTO negotiations, "have been very productive so far," says John Weekes, senior policy advisor with the Sidley Austin law office in Geneva and a former Canadian trade negotiator. The dual objectives of the negotiations are to establish WTO rules that will help goods get through customs more quickly and efficiently and to assist developing countries improve their customs procedures, technologies and port facilities.

Two days of talks recently in the Negotiating Group on Trade Facilitation yielded measured progress with delegations translating ideas and proposals into draft texts. "As the draft texts come forward, the discussion becomes much more focused as do the differences between the parties," says the chairman of the negotiating group, Tony Miller, who is Hong Kong, China's permanent representative to WTO. "That's the significant step. It means the discussions are getting serious," he contends.

"It's very clear from yesterday's [June 7] meeting that the fundamental concern of developing countries remains the question of technical assistance and capacity building," Miller reports. "Trade facilitation has come along quite well and appears to be insulated from the rest of the game," he says. Members have offered around 60 different proposals. These range from simple procedural matters to reduce fees and charges, at one end of the spectrum, to a more ambitious one for a "single window" for processing data and information, at the other. Some countries in the group are inching toward the idea of writing a freestanding agreement. This has raised questions, such as, how will disagreements be handled.

Many developing countries realize that trade facilitation is a necessary step toward development and is needed to give their farmers and manufacturers access to global markets. Yet it is also a sensitive political issue because customs operations in many countries are marred by bribery, fraud and cronyism. Also, as countries try to raise salaries for customs officers to make them more honest and professional and to install modern technologies to speed cargo, they are also reducing tariffs which are a major source of national revenues. Thus, the cost burden on developing countries is a concern, one diplomat notes. Reports on the cost of implementing trade facilitation measures are due from the Organization for Economic Cooperation and Development (OECD) and World Bank in June. A final question in the talks will be where will the money come from, says Miller, who expects the answer to be part of the Aid-for-Trade package.

SENATE CONFIRMS SCHWAB AFTER SCHUMER LIFTS HOLD

Sometimes it's not what you say but how you say it that matters in Washington. Sen. Charles Schumer (D-N.Y.) lifted his hold and allowed the Senate to confirm Susan Schwab to be USTR June 8 by a voice vote after a more contrite and respectful Schwab promised to work hard to make sure China opens its financial markets to foreign firms. Schumer had blocked Schwab's confirmation because he said he and Sen. Lindsay Graham (R-S.C.) weren't satisfied with the answers she gave during her Senate Finance Committee confirmation hearing or in follow-up written answers to committee questions (see **WTTL**, May 29, page 1). In a letter to Schumer

and Graham May 30, Schwab revisited several questions that dealt specifically with Beijing's implementation of its WTO commitments to open financial services, banking and insurance markets. While China has opened these markets partially with restrictions, it isn't obligated to allow full access to them until Dec. 11, 2006, Schwab noted in her letter. In the meantime, the U.S. continues "to press" China, "monitor" Chinese actions, "hold discussions" with the Chinese, "report" on implementation, "participate" in the WTO review of China's implementation of its WTO obligations, and "raise concerns," Schwab wrote. She said the U.S. will seek additional commitments from Beijing in the Doha Round talks on services.

As far as what the U.S. would do, if Beijing didn't live up to its promises after Dec, 11, she was vague. "USTR is prepared to use the WTO dispute-settlement process whenever we determine that the process would be the most effective way to address the particular issue at hand," Schwab declared. After meeting with Schwab June 7, Schumer said he was willing to accept her statements as a "leap of faith" based on her experience and "on the fact that in this room here today and in the written questions she answered, she had a quite different view, demeanor and outlook than she had at the hearing."

U.S. DOESN'T EXPECT PERU TO SEEK CHANGES IN FREE TRADE DEAL

Despite reports that newly elected Peruvian president Alan Garcia wants to renegotiate parts of the U.S.-Peru Trade Promotion Agreement (TPA), U.S. officials say that is not what they have heard from Lima. "Our understanding from President-elect Garcia's office is that they are not asking for changes," said newly confirmed USTR Susan Schwab June 9.

Meanwhile, an International Trade Commission (ITC) report June 7 on the deal says it will have "a positive effect on the U.S. economy, but this positive effect will likely be small," given the large size of the U.S. market and the tariff-free treatment already given most imports from Peru under the Andean Trade Preferences Act (ATPA). The ITC estimated that U.S. exports to Peru will increase by \$1.1 billion, while U.S. imports from Peru will grow by \$439 million.

The U.S. will benefit more because Peru will drop tariffs averaging 12% to 25%, while the U.S. already provides zero tariffs on most Peruvian goods under ATPA. U.S. industries that will benefit the most are machinery and equipment, chemicals, rubber, plastics, electrical machinery, wheat, rice, pork and poultry. Because of the Peruvian market's small size, the pact will have limited benefits for U.S. service firms, even though Peru is accepting obligations that go beyond its commitments under the WTO General Agreements on Trade in Services, the ITC says.

*** * * BRIEFS * * ***

AIRBUS: New USTR Susan Schwab June 9 said U.S. is still opposed to allowing EU member states to provide launch aid to Airbus to help it develop new A350 aircraft. She reported that U.S. and EU have been holding "good faith" technical talks since start of year "leading up to what could be a solid geopolitical agreement that would benefit both sides." If Europe went ahead with plans to give new help to A350, "I would suggest that is not going to contribute to the negotiations," she said.

DRESSER: There was one more Dresser subsidiary included in self-disclosure and settlement reached with BIS on export violations (see **WTTL**, June 5, page 3). International Valves, Ltd. of Suffolk, U.K., will pay \$3,000 civil fine for one unlicensed export of spare parts to Libya.

RWANDA: U.S. and Rwanda June 7 signed Trade and Investment Framework Agreement that will create consultative mechanism to address trade and investment issues. "Rwanda, in many ways, is a model for what a developing country needs to do to harness trade to advance economic growth and development," said Deputy USTR Karan Bhatia.

CHINA: AFL-CIO June 8 refiled Section 301 petition with USTR's office seeking investigation into Beijing's violation of worker rights. USTR rejected similar petition two years ago.