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PANEL'S REPORT URGES TIGHTER SCRUTINY OF FOREIGN INVESTMENTS

A commission on U.S.-China relations June 15 urged Congress to expand the law that gives Washington the power to review and block foreign acquisitions of U.S. companies. Beyond national security, the Committee on Foreign Investment in the U.S. (CFIUS) should review investments for "national economic security" reasons, recommends the U.S.-China Economic and Security Review Commission. Moreover, the Exon-Florio Act should be amended to move the chairmanship CFIUS from Treasury to Commerce, it suggests.

> While aimed primarily at growing Chinese investment in the U.S., the proposed changes could apply to all foreign investments. "In this regard, the term national economic security should be defined broadly without limitation to particular industries," the commission says in its annual report.

The commission suggests the current CFIUS process may not catch all Chinese investments in the U.S. "Given the increasingly open trading relationship between the United States and China, and the impact of China's investments in the United States, the commission is concerned over the adequacy of CFIUS's reach," it states. The commission's main focus was on China's acquisition of technology that could enhance its military capabilities.

"The U.S. government must develop a coordinated, comprehensive national policy and strategy designed to meet China's challenge to the maintenance of our scientific and technology leadership," the report asserts. "The commission therefore recommends that Congress charge the administration to develop and publish such a strategy in the same way it is presently required to develop and publish a national security strategy that deals with our military and political challenges around the world," it states.

TOUGH HOUSE-SENATE BATTLE LOOMS OVER EXPORT TAX BILLS

The timing and eventual content of legislation to repeal and replace the current Foreign Sales Corporation/Extraterritorial Income Tax laws (FSC/ETI) remain very much uncertain despite House passage June 17 of its version (H.R. 4520) of a new export tax bill. Several contentious provisions added to H.R. 4520 will make coming House-Senate Conference Committee negotiations to merge the House measure with the Senate's (S. 1637) more difficult than expected.

The difficulty of the task is likely to push agreement on final legislation off until an expected lame-duck session of Congress after the November elections. Part of the problem with the House bill was the special-interest tax breaks added during and after the House Ways and

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Means Committee marked up the measure June 14. The additions helped bring in votes that led to House passage by a bipartisan margin of 251-178. "The genius of American politics is accommodation and compromise – and this legislation reflects that mix," Ways and Means Chairman Bill Thomas (R-CA) said in defense of his bill.

> The high price of these tax cuts is likely to generate strong objections from the Senate, which tried to produce a more revenue neutral bill (see **WTTL**, May 17, page 3). Shaving these benefits will be difficult in the face of strong lobbying by their recipients and the need in both houses to hold on to votes to pass the legislation. For example, the House bill gained support from lawmakers in Tennessee, Texas, and Florida because it contains a $9.6 billion bailout for tobacco farmers and a $3.5 billion plan to allow taxpayers to deduct state and local sales taxes.

Working in favor of the legislation is the concern that European Union (EU) retaliatory tariffs, which are rising one percent a month, will finally start to hurt U.S. exporters. EU Trade Commissioner Pascal Lamy praised the House action. "I have repeatedly stated that our objective remains the withdrawal of the U.S. illegal subsidy, and compliance with the WTO's findings," he said in a statement. "It goes without saying that the moment WTO compliant legislation becomes law, the EU will immediately repeal the countermeasures," he added.

The key trade-off in both the House and Senate bills is the enactment of new tax breaks for manufacturers and other businesses to replace the lost FSC/ETI benefits. Both bills would cut taxes for domestic manufacturing, but their methods are very different. The House would phase in a $14.8 billion corporate tax-rate cut from 35% to 32% for manufacturers organized as C-corporations. It would apply to domestic producers, farmers, and small corporations.

The provision, however, has raised concerns because the definition of domestic manufacturing is ambiguous, causing some lawmakers to question whether it would create a loophole that would let companies claim that income from services qualifies for the tax cut. The manufacturing defintion "will be determined as we go forward," Thomas said during the committee markup June 14. The law would need to be clarified through Treasury regulations.

USE OF MARKET-BASED SUPPLIES CUTS DUMPING MARGIN ON FURNITURE

The generally modest preliminary dumping margins the International Trade Administration (ITA) announced June 18 for wooden bedroom furniture from China were the result of the agency's use of market-based prices for the primary component of these products – lumber, which accounts for roughly two-thirds of the cost of furniture. Rather than using surrogate prices for lumber purchases in India, ITA used the actual prices Chinese furniture makers paid for wood bought from market-based suppliers, most of whom were American.

> Although ITA had rejected a request from Chinese producers to treat them as a market-oriented industry (MOI), it agreed to use some data on lumber, paint, veneers and other inputs where these firms were able to show purchases were from market-based sources. "What gets closest to explaining the results that we have are the market-economy purchases," said James Jochum, assistant secretary of Commerce for import administration (see **WTTL**, May 24, page 3).

ITA found preliminary rates for seven mandatory respondents, which account for 40% of U.S. imports from China, and for 82 firms, which represent another 40%, that sought separate rates and filed Section A responses to the agency's antidumping questionnaire. For mandatory respondents, the rate for Dongguan Lung Dong was 7.04%; for Dorbest, 19.24; for the Lacquer Craft, 4.90%; for Markor Tianjin, 8.38%; for Shing Mark, 6.59%; for Starcorp, 24.34%; and for Tech Lane, 9.36%. For the Section A respondents the preliminary rate was an average of 10.92%. The all-other rate was 198.08% for firms that represent about 20% of the imports from China. All these rates are subject to possible revision for clerical errors in the next few weeks, in the final ruling due by November, and in the annual administrative review about a year from now. When the American Furniture Manufacturers Committee for Legal Trade filed its antidimping petition last October, it claimed Chinese furniture imports were being dumped by margins ranging from 158.74% to 440.96%.

> "We were pleased that the Commerce Department rejected the outrageous dumping rates proposed by the domestic furniture manufacturers, and we believe the duties announced today which were far lower than the duties sought by the petitioners show that the petitioners' problems are not the result of Chinese imports," said Mike Veitenheimer, a spokesman for the Furniture Retailers Association and vice president and counsel of The Bombay Company.

U.S.-ANDEAN TRADE TALKS PUT FOCUS ON VISAS AND IPR ISSUES

The second round of talks, which concluded June 18, between the U.S. and three Andean nations on a free trade agreement (FTA) heard representatives from Colombia, Ecuador and Peru insist that any agreement must allow them to protect their small businesses and extend intellectual property rules to allow them to claim protection for "traditional knowledge," "ancestral goods" and certain genetic products found indigenously in the Amazon Basin. They also raised complaints about the difficulties their business executives are facing getting visas to visit the U.S. The Andean negotiators said they would be prepared to table actual proposals in these areas and on market access at the next session of talks to be held in Lima, Peru.

> "We have talked about our desire in these negotiations to see to it that the agreement covers traditional knowledge and access to genetic resources," said Cristian Espinosa, the chief negotiator for Ecuador. "The three Andean countries participating in these negotiations have a huge diversity in their environments and we want to safeguard these treasures," he added.

At a press conference in Atlanta at the end of the talks, Assistant U.S. Trade Representative Regina Vargo acknowledged the concerns the Latin Americans had raised about U.S. visa policies and said she had "heard their clamor" about the problem. But she also conceded that U.S. trade negotiators have limited ability to deal with immigration issues, which is under the jurisdiction of State. She said State officials were participating in the talks.

GLOBAL TEXTILE INDUSTRY WARNS OF CHINESE DOMINANCE

Textile and clothing manufacturers from around the world agreed June 18 to make a concerted effort to get the World Trade Organization (WTO) to stop the scheduled elimination of the global quota system on Jan. 1, 2005. Their immediate goal is to get the issue on the agenda for the WTO General Council meeting July 26-29. Chances for their success may be slight, however, as trade sources in Geneva say the WTO doesn't intend to reopen the quota issue, which was decided as part of the Uruguay Round (see **WTTL**, May 3, page 4).

> Meeting in Brussels, industry representatives from 25 countries adopted a resolution calling on the WTO to convene an emergency meeting to discuss the problems that are expected when the quota system ends. They also reaffirmed their Istanbul Declaration which warns that the end of quotas "will lead to a catastrophic transfer of wealth and the loss of at least 30 million direct jobs."

Although textile and apparel producing countries successfully sought the end of the Multifiber Arrangement (MFA) during the Uruguay Round, the industry claims things have changed significantly since 1995. The primary difference has been China's accession to the WTO and its emergence as the dominating factor in the global textile and apparel market. In Brussels, the National Council of Textile Organizations (NCTO) released a report showing that China has taken 65% of the market share for 25 apparel categories that have already had quotas removed. To prevent that from happening when the rest of the quotas are dropped, the industry asked the

WTO to "implement automatic and seamless transitional safeguard mechanisms in order to prevent massive disruptive surges of trade from a few countries."

EU FARM CHIEF SEES POSITIVE PROSPECTS IN WTO TALKS

Optimism about a deal in the Doha Round agriculture talks may be getting ahead of the details needed to produce real progress in the talks. As a result, when the WTO General Council meets July 26, it may agree on a "framework" for future agriculture negotiations that is still too vague to move the round significantly forward until 2005 (see **WTTL**, June 14, page 1).

> While the U.S. and European Union (EU) have given their general backing to the idea of reducing domestic subsidies, agreement is still missing on export subsidies and market access. While there is emerging support for a mixed formula of tariff and quota cuts – some straight-line and some targeted at tariff peaks – there is no agreement on the details of how the formula will be calculated.

The latest positive comments on the prospects for the talks came June 15 from EU Agriculture Commissioner Franz Fischler. "I think a breakthrough is possible in July, and the EU is ready to do its part to make it happen," he told a news conference in Winnipeg, Canada. "The EU has put its export subsidies on the table. We are offering that at the end of a transition period, the legal basis and the budget for EU export subsidies will gone," Fischler said.

In exchange for dropping its export subsidies, the EU is demanding that the U.S. curtail its food aid and export credit programs and that other countries disband state-trading enterprises, such as the Canadian Wheat Board and the former Australian Wheat Board. Canadians and Australians are resisting this proposal, claiming their STEs aren't export subsidies. There is also strong opposition in the U.S Congress to ending the food aid program both for humanitarians reasons and because the program absorbs large amounts of surplus U.S. food.

* * * BRIEFS * * *

<u>SOFTWOOD LUMBER</u>: With NAFTA binational panel refusing to reconsider its last softwood lumber ruling and rejecting ITC's request for extra time to reopen record, commission June 10 issued second remand decision reaffirming its finding that imports from Canada threaten to injure U.S. industry (see **WTTL**, May 31, page 1). "Overproduction remains a problem in Canada," it ruled. "Thus, we find that subject imports were likely to increase substantially and were entering at prices...that are likely to have a significant depressing or suppressing effect on domestic prices, are likely to increase demand for further imports, and thereby, adversely impact the industy," it found.

<u>AUSTRALIA/MOROCCO</u>: Administration trade officials defended U.S. FTAs with Australia and Morocco at Senate and House hearings June 15-16. Finance Committee Chairman Charles Grassley (R-Iowa) told hearing he is looking forward "to get these agreements implemented before the August recess." Deal with Morocco was formally signed June 15.

<u>TRADE FIGURES</u>: Although off from pace in March, April goods exports were up 14.7% from last April to $65.8 billion. Services exports jumped 17.5% from year ago to $28.2 billion. Merchandise imports in April were up almost 15% from last year to $118.9 billion, as services imports rose 14.8% to $23.3 billion.

<u>ACE</u>: Customs June 14 launched pilot test of periodic payment system as part of planned implmentation of Automated Commercial Environment. Some 350 Customs and trade community representatives will participate in test of system which will provide monthly account statements and let participants pay bills through Automated Clearing House electronic funds transfers.

<u>BAHRAIN</u>: President Bush notified Congress June 15 of his intent to sign U.S.-Bahrain FTA.

<u>ITC</u>: President Bush has swapped chair and vice-chairs at ITC, naming Stephen Koplan chairman for two-year term and Deanna Tanner Okum vice chair for two-year term.

<u>AFRICA</u>: House by voice vote June 14 approved Africa Growth and Opportunity Acceleration Act (H.R. 4103). Identical version was introduced in Senate June 16.