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REPORT BOLSTERS BIS CRACKDOWN ON EXPORT LICENSE CONDITIONS

A Feb. 12 report criticizing how the Bureau of Industry and Secruty (BIS) conducts post-shipment verifications (PSV) may explain why the agency has made compliance with licensing conditions one of its top, new export enforcement priorities (see **WTTL**, Feb. 9, page 1). The report (GAO-04-357) from the General Accounting Office (GAO), the investigatory arm of Congress, has been in the works since last year, and BISers were preparing for it for months.

> GAO auditors examined PSVs conducted from 2000 to 2002. They concluded that U.S. agents conducting the PSVs often lacked training in the technology they were inspecting; some countries, including China and India, limited access to facilities; and BIS wasn't using the results of the PSVs in licensing decisions.

BIS Assistant Secretary for Export Enforcement Julie Myers responded to the GAO report. She said she agreed with GAO on the importance of PSVs but said the auditors made "certain incorrect assumptions" about the purpose of PSVs. "PSVs by their very nature have a narrow focus," she wrote. "They provide an effective way to verify delivery of a U.S.-origin item to an end-user for a stated end-use, but should not be expected to present a comprehensive solution to policing licensed transactions or licensed conditions," she argued.

In addition, she claimed BIS was correcting some of the shortcomings GAO had identified. In particular, BIS has improved the training of the agents who conduct PSVs and issued a new inspection protocol. Myers said BIS had already intended to implement one of the GAO recommendations. BIS currently requires exporters to "inform" consignees of licensing conditions. "However, BIS is planning to strengthen this condition by adding an 'in writing' requirement to the conditions language on licenses," she said.

The GAO criticized BIS for not using the results of PSVs in its licensing conditions even though it has placed 53 companies on a "watch list." Myers said BIS has referred several firms for investigation and plans to add several more to the Unverified List. She also said the agency will focus future PSVs on exports to Hong Kong, Russia, India, Israel and the United Arab Emirates, while continuing bilateral discussions to improved access to end-users in China.

U.S.- AUSTRALIA FTA DEAL COULD ENCOURAGE SPECIAL EXCEPTIONS

The ability of U.S. sugar, beef and dairy interests to carve out special treatment in the U.S.-Australia free trade agreement (FTA) reached Feb. 8 has raised trade community concerns that the deal may set a precedent for other trade-sensitive industries that want to be kept out of

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future trade pacts. The refusal of Washington to budge on these issues during the last three weeks of negotiations almost scuttled the deal. A breakthrough came only after President Bush and Australian Prime Minister Howard spoke on the phone Feb. 7 and gave their approval to a deal that protects politically sensitive interests in both countries.

> The crux of the agreement reflects Australia's willingness to forego any increase in access to the U.S. sugar market and accept small increases in access to the U.S. beef and dairy markets, and Washington's acceptance of only cosmetic improvements in Australia's Pharmaceutical Benefits Scheme (PBS). Outside of these areas, the accord --- once approved by Congress and implemented – would immediately eliminate Australian tariffs on 99% of American manufactured exports and U.S. tariffs on 97% of Australian exports to the U.S.

Senate Finance Committee Chairman Charles Grassley (R-Iowa) praised the accord, but said he was disappointment that sugar was completely left out of the deal. "The agreement could establish a dangerous precedent because it completely excludes a product from the agreement," he said in a statement. He also objected to the exclusion of any state-investor dispute-settlement mechanism, a major priority for the business community. "That seems inconsistent with the negotiating objectives spelled out under Trade Promotion Authortiy," he added.

The deal would cut tariffs to zero immediately for such Australian goods as trucks, canned tuna, and auto parts. It would give Australians access to the U.S. government procurement market and drop tariffs on 66% of its agriculture exports to the U.S., including lamb and cereals. For the first time, the U.S. market would be open to a limited amount of Australian peanuts and avocadoes. Tariffs on "greasy" wool from Australia would go to zero in four years and on other wool over 10 years. Textile and apparel tariffs would phase-out over 15 years.

Although Australian Trade Minister Mark Vaile had insisted for several weeks that Australia could not sign a deal that didn't include an opening of the U.S. beef, dairy and sugar markets, in the end Australia got little or no opening in these sectors (see **WTTL,** Jan. 26, page 3). "When we look at the overall balance of the agreement, there are a number of sensitive issues on both sides that we had to confront and deal with," he told a press conference Feb. 8. But Australia isn't ready to give up completely on the sugar issue and will continue to press the subject in the Doha Round of the World Trade Organization (WTO), he pledged.

The agreement calls for phasing out the above-quota tariff on Australian beef over 18 years. It would increase Australia's share of the quota on beef only slightly, giving it 1.6% of the import market when implemented. That increase, however, won't begin until after U.S. beef exports bounce back to 2003, pre-BSE scare levels or in three years, which ever comes first.

The U.S. refused to change the above-quota tariff on dairy products from Australia and agreed only to an increase in Australia's quota to 2% of U.S. dairy imports. The National Milk Producers Federation called this "a major accomplishment." As Zoellick had insisted in recent weeks, the U.S. made no change in Australia's sugar quota. "Frankly, what we both had to do was deal with sensitivities on both sides in a way that allowed us to achieve a greater good and a comprehensive agreement," Zoellick said at the press conference with Vaile.

EXPORTS TO CHINA SURGED IN 2003 BY 28.5%, LEADING EXPORT RECOVERY

U.S. trade figures for 2003, released Feb. 13, underscore a major shift that is occurring in the pattern of American trade relations with Asia, Europe and North America. The figures show U.S. exports to China jumping 28.5% from the year earlier to $28.4 billion, with imports rising at a slower 22% pace to $152.4 billion. The result was a $124 billion trade deficit, the largest with any country in the world. But looking at the total picture of U.S. trade with Asia, including Japan and Southeast Asia, U.S. imports from the region grew only 6.4%, less than the increases in imports from Canada, the European Union (EU) and South/Central America (see table, page 3). Overall exports to the Pacific Rim were up 5.7%, a better pace than with most trade other markets. The trade figures also show problems in U.S.-Mexico trade compared to other regions, suggesting that Mexico is becoming less competitive, despite the benefits of NAFTA. Exports to Mexico were flat, while they rose a mere 1% to the rest of South and Central America. On the import side, however, imports from the rest of the Americas jumped 13.5%, compared to just a 2.5% increase from Mexico.

Preliminary 2003 v. 2002 U.S. Merchandise Trade Figures
(in billions)

	2003 Exports	2002 Exports	% Change	2003 Imports	2002 Imports	% Change
TOTAL	$713.8	$681.9	+4.6	$1,263.2	$1,164.7	+8.5
BY COUNTRY/REGION						
Canada	169.8	160.9	+5.5	224.2	209.1	+7.2
Mexico	97.5	97.5	---	138.1	134.6	+2.5
European Union	150.5	143.7	+4.8	244.8	225.8	+8.4
Germany	28.8	26.6	+8.3	68.0	62.5	+8.9
France	17.1	19.0	-10.2	29.2	28.2	+3.5
United Kingdom	33.9	33.2	+2	42.7	40.7	+4.7
Japan	52.1	51.4	+1.2	118.0	121.4	-2.8
China	28.4	22.1	+28.5	152.4	125.2	+22
NICs: HK, Singapore, Taiwan, Korea	71.7	69.8	+2.8	92.6	91.9	+1
South/Central America	52.0	51.6	1	78.9	69.5	+13.5
BY SECTOR						
Agriculture	55.1	49.6	+11	55.8	49.7	+12.3
Aircraft, parts, engines	46.9	46.0	+2	24.2	25.5	-5
Autos	80.1	79.0	+1.5	210.1	203.7	+3.1
Clothing	5.0	5.5	-9.6	68.2	63.8	+6.8
Chemicals - Organic	20.1	16.4	+22.5	32.9	30.4	+8.3
Chemicals - Inorganic	5.6	5.5	+2	7.4	6.0	+23.2
Crude Oil	0.15	0.09	+68.4	101.7	79.3	+28.3
Iron & Steel	6.3	5.3	+19.3	11.1	12.9	-14.2
Metalworking Machines	5.2	5.2	--	6.2	5.9	+4.5
Pharmaceuticals	20.5	17.3	+18.3	45.0	40.7	+20
Semiconductors	46.2	42.2	+9.3	24.6	26.0	-5.4
Telecommunications	20.7	22.2	-6.5	24.8	23.1	+7
Wood Products	1.6	1.6	--	9.3	7.9	+18.3

After remaining flat or falling over the previous two years, U.S. exports overall began to grow again in 2003, rising 4.6%. The faster economic recovery in the U.S. compared to our major trading partners still meant U.S. imports grew faster at 8.5%.

The continuing slump in the high-tech sector at the beginning of 2003 dampened export growth for the whole year, particularly for telecommunications, aviation, machine tools and specialty equipment. Semiconductors began to make a strong comeback during the year.

In the broader advanced technology sector, which usually includes research oriented, high-technology products, exports for 2003 barely grew 1%.

This was better than the 10% plunge they suffered in 2004. Hidden in the full-year figures, however, is the sharp jump in exports in the fourth quarter, when this sector enjoyed an 11.6% increase over the same period in 2002.

ITC TEXTILE REPORT PAINTS GLOOMY PICTURE FOR MOST SUPPLIERS

The finally released report from International Trade Commission's (ITC) forecasting the world after the Multifiber Arrangement (MFA) ends in 2005 presents some hard, cold facts of life for most textile and apparel producing countries (ITC Pub. No. 3671). As expected, the ITC confirms what everyone has predicted: China will become the "supplier of choice" for most U.S. importers. The other countries that are likely to remain major suppliers to the U.S. in either fabrics or apparel are India, Korea, Taiwan and Pakistan. For the rest of the world, prospects for continuing to be significant producers are dim. Some countries may remain suppliers of certain fabrics or products based on natural sources of raw material supplies and large labor pools or because they have long-term ties to retailers and apparel importers.

> The ITC forecasts that the following countries are likely to see their exports to the U.S. decline: Sri Lanka, Philippines, Thailand, Malaysia, Mexico, Caribbean, Costa Rica, Haiti, Jamaica, Peru, Egypt, Kenya, Lesotho, Madgascar, Mauritius, and South Africa. Some countries, such as Lesotho, Mauritius, and Haiti will face severe economic hardships because apparel production is their main export.

A few countries may remain "niche" suppliers under special conditions or quick turn-around sources. These include: Hong Kong, Macau, Dominican Republic, Colombia, Bolivia, Ecuador, Israel, and Jordan. Other suppliers have an "uncertain" future based on the decisions of U.S. apparel buyers, political and economic conditions and future potential FTAs. These include Bangladesh, Indonesia, El Salvador, Guatemala, Honduras, Nicaragua, and Turkey.

As the end of the MFA approaches, the U.S. notified the WTO Feb. 11 that it is committed to ending quotas on Jan. 1, 2005, on all goods still covered by quotas allowed under the Agreement on Textiles and Clothing (ATC). "On this date, the United States will eliminate all remaining restrictions under the ATC on such products and the United States will have integrated into GATT 1994 all products listed in the Annex to the ATC," the notice declared.

Despite this assurance, apparel importers and retailers expect a flood of antidumping and countervailing duty complaints in 2005 that are likely to continue restraints on many of these products. Initially, complaints are expected to hit yarn. fabric and home furnishing imports, because textile manufacturers will have unquestioned standing to bring complaints on behalf of the industry. With most apparel firms now importing their goods, there is likely to be a fight over whether future petitions aimed at apparel are filed on behalf of the industry.

* * * BRIEFS * * *

EXPORT ENFORCEMENT: BIS had reached a settlement agreement with Jeffrey Woodbridge of Kent, England to settle agency complaint that he conspired to export hydraulic shears to Libya without approved license and also attempted to evade detection by using firm in Florida to ship products to United Kingdom and Germany. Woodbridge, who is general manager of Sigma Enterprises, which reached separate deal, was charged in his individual capacity and agreed to pay $15,000 civil fine (see **WTTL**, Nov. 17, page 4).

> THAILAND: USTR Robert Zoellick has sent formal notice to Congress that U.S. intends to launch FTA talks with Thailand in 90 days (see **WTTL**, Oct. 27, page 4).

SYRIA: After appearing on fast-track to publication in January, BIS regulation imposing ban on CCL exports to Syria now seems stalled (see **WTTL**, Jan. 12, page 1). Rule had gotten interagency approval and reportedly was waiting for okay at OMB. Continuing U.S. diplomatic efforts with Syria may be using regulation as part of carrot-and-stick to change Damascus' behavior.

WTO: Newly appointed chairs for key committees negotiating Doha Round include: Japanese Ambassador to WTO Shotaro Oshima, who will become chairman of General Council. Amb. Joshua Law of Hong Kong will head TRIPS committee. Amb. Tim Groser of New Zealand will chair Agriculture Committee.

FOREIGN POLICY CONTROLS: BIS Feb. 9 released its annual report justifying continuation of unilateral foreign policy controls, claiming controls were needed even if they aren't preventing foreign availability. Detailed article on report will appear in February issue of our affiliated publication, ***The Export Practitioner***. WTTL subscribers can receive free copy on request.

AVIATION SENSORS: BIS in Feb. 9 Federal Register assumed export licensing jurisdiction for the QSR 11 micromachined angular rate sensor following State's commodity jurisdiction ruling approving move based on policy change it published in January (see **WTTL**, Jan. 19, page 4).

CANADIAN WHEAT: U.S. and Canada are both claiming victory in still unpublished WTO dispute-settlement panel report on U.S. challenge of Canadian Wheat Board practices.