

BRUSSELS MONITOR

A Weekly Review of EU Trade Policy Developments Affecting Japan

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I. WTO Watch

Russia hopes to finalise WTO accession in 2010

Russia, which has been negotiating for 16 years to join the WTO, is the biggest economy outside the 153-nation group. Among the complications is that Russia is negotiating not only for itself. It wants to join the WTO at the same time as two partners in a customs union, Kazakhstan and Belarus, even though the two countries are far less developed economically. Russian First Deputy Prime Minister Igor Shuvalov said Russia aims to finish negotiating its entry into the WTO next year, although various stumbling blocks remain.

The three countries should negotiate on the same schedule and join the WTO at the same time, Mr. Shuvalov said. Of Belarus, Mr. Shuvalov said: "They're ready to change legislation and tariff barriers. They're ready for compromises." WTO officials have said there are no established procedures or precedent for admitting a customs union.

Among the toughest issues remaining in discussions with the US over the WTO are the levels of allowable subsidies for Russian state-owned enterprises.

II. European Union: Trade

Commission published fourth report on potentially trade restrictive measures

The Commission's fourth report on trade restrictive measures and trade distorting tendencies covers the period between 1 June and 1 September 2009 and aims at monitoring compliance with the G-20 standstill commitments with regard to the imposition of new trade restrictive measures in the context of the global economic recession: i.e., the commitments undertaken by the G-20 economies in November 2008 that "within the next 12 months, [they] will refrain from raising new barriers to investment or to trade in goods and services, imposing new export restrictions, or implementing World Trade Organisation inconsistent measures to stimulate exports".

The Commission has found that a number of potentially trade restrictive or trade distorting measures are being put in place. Notably, in Russia, the Commission found the continued imposition of import duty increases on a wide range of goods.

While finding a number of examples of countries failing to keep to their G-20 standstill commitments, the report also comments that over the past few months the economic crisis has started to show signs of bottoming out on the back of an unprecedented global fiscal and monetary policy response.

The Commission's report on potentially trade restrictive measures in the context of the global economic crisis can be accessed at the following link:

http://trade.ec.europa.eu/doclib/docs/2009/september/tradoc_144778.pdf

III. EC Competition

The pressure is on for scrutiny of German pledge of state aid in GM-Magna Opel deal

UK Business Secretary Peter Mandelson sent a letter to Competition Commissioner Neelie Kroes on 24 September, ramping up the pressure to carefully scrutinise a proposed plan for the financing of

General Motors' ailing European subsidiary Opel, and its sister brand manufactured in the UK, Vauxhall. On the same day, Commissioner Kroes spoke out harshly against governments "bribing companies in order to steal or end the jobs of another." One of her spokespersons has commented that Mandelson's letter makes no difference at this stage, as the German pledge of €4.5 billion in state aid will be scrutinised carefully for EU compliance anyway.

Mandelson – himself under pressure from British trade unions over the possible loss of thousands of jobs at the UK's Vauxhall plants – has called on Competition Commissioner Neelie Kroes, by means of a letter questioning the viability of the Magna plan, after GM decided to sell a majority stake in Opel to a consortium led by Canadian car parts supplier Magna. Kroes's speech in New York on 24 September, lashing out at governments who may be bribing companies so as to "steal or end the jobs of another", reflected the Commission's response to Mandelson's latest letter, which indicated they would be carefully studying any state aid being given as part of the Magna plan.

Mandelson's letter questions the viability of the proposed Magna plan, which in his opinion would cost more than rival offers. His opinion is that under Magna's proposal, capacity will be underutilized in highly efficient plants in the UK and Spain, while other less efficient plants will benefit from the plan. He continues to insist (in this he is strongly backed by other EU governments including Spain and Belgium) that the Commission must review the situation so as to "ensure an outcome based on commercial reasons rather than one determined by political interventions and subsidies". A spokesperson for Kroes has commented, pursuant to the letter, that "we are doing it already", adding that the letter would not alter the Commission's approach in this delicate matter.

Ms. Kroes herself spoke bluntly at a conference in New York on 24 September, where she stated that she was "examining carefully" Berlin's conditions for the rescue. "The car industry's difficulties must invoke reform as well as sympathy...Europe's car companies are producing millions (at least 4 million) cars a year more than the European market wants" she declared, adding that "an industry divorced from its customers and wider changes in the world is not sustainable, and its problems cannot be blamed on the crisis...What we want to achieve is a market-based and European solution for those car-makers operating in Europe. We cannot accept one government bribing companies in order to steal or end the jobs of another. We cannot accept companies becoming addicted to aid. Such behaviours are a recipe for a trade war and poverty – not a way out of this recession."

She also commented that "we do not accept geographic operating obligations as a legitimate part of aid...we would not hesitate to halt problematic aid if it comes to our attention. For that reason I am currently examining carefully the conditions for the rescue by Germany of GM's European arm, Opel."

Meanwhile, German Economy Minister Karl-Theodor zu Guttenberg said on 24 September that Germany will seek a "good European solution" over the state aid, and does not expect the European Union to block any deal. "We want to get a good European solution with all our European partners and not have everyone against everyone else," Guttenberg told reporters at an event in Frankfurt. He acknowledged that tying state aid to the preservation of certain plants would violate EU rules, adding: "We do not expect a veto from the European Commission."

Although Kroes's comments had very much to do with the German pledge of state aid as part of the Magna plan, they can also be seen to be aimed at industry in general. In any event, the Commission will be forced to very carefully scrutinise the German-proposed aid, particularly with all the media attention, and pressure from various EU governments, not least the UK's.

IV. European Union: Regulatory

1. European Commission discussion on implementing measures for Euro VI

The Commission has set out a note on implementing measures for the Euro IV legislation for discussion in the Motor Vehicles Emissions Working Group on 22 September 2009. Regulation 595/2009 set out the targets for the type-approval of heavy duty vehicles, referred to as Euro VI and on access to vehicle and maintenance information; however technical specifications are still required to be adopted by means of implementing measures.

Regulation 595/2009 set out the targets for the type-approval of heavy duty vehicles, referred to as Euro VI and on access to vehicle and maintenance information. However Regulation 595/2009 only set out fundamental provisions on vehicle emissions, whereas the technical specifications are still required to be adopted by means of implementing measures. The Motor Vehicles Emissions Working Group (MVEG) meeting of 22 September 2009 discussed these technical specifications.

The MVEG has been provided with a Commission note on Euro VI implementing measures for heavy duty vehicles, which sets out points of discussion, proposals and the state of play with regard to the drafting of the measures themselves. Points up for discussion include: reference fuels; particulate number limit; NH₃ measurement; in-service conformity (PEMS); durability; requirements for vehicles that use a reagent for the exhaust after-treatment system; on board diagnostics; and repair and maintenance information. The general way forward and the timetable for producing the implementing measures were also to be discussed.

2. EU may introduce taxes on energy to reflect CO₂ emissions

The European Commission might propose taxes on energy to reflect CO₂ emissions, it was reported on 24 September 2009. The proposal would be a reform of tax on energy products, in order to reflect the amount of greenhouse gases which they emit. However, countries such as the UK are generally against fiscal measures being taken at the EU level, and there is likely to be a lot of opposition to the Commission proposal, if it is ever made.

The European Commission is working toward reforming the EU's tax on energy products so that it reflects the amount of greenhouse gases they emit. The Commission is considering proposing to the EU's 27 Member States that a minimum tax on energy products such as gasoline and diesel fuel will have to be, in part, based on how much CO₂ these products emit, rather than only on their energy content, a Commission spokeswoman for taxation was said to have stated on 24 September.

The Commission proposal is unlikely to be presented before 2010, however, and in any event, in order to be adopted as law it would have to be supported by the Member States. This is felt to be no easy task, as the UK has already voiced its opposition.

Discussion over a specific tax on carbon emissions is coming from a range of countries including France, China and Japan as one way to limit CO₂ emissions in light of the international summit to be held in Copenhagen this December. The EU wants the summit to yield a new global agreement that will combat global warming and limit it within two degrees Celsius. France is planning on a tax on carbon dioxide emissions by both households and companies starting next year. It intends to levy a

special tax of €17 on each tonne of CO₂ emitted by fossil fuels such as heating oil, gasoline, coal and natural gas.

The tax that is being considered by the European Commission would no doubt have an impact on the cost of energy using products, which in turn might impact on consumer spending. Despite this move for an emissions tax on energy products, some governments dissent. The UK said it would not support any type of carbon tax because, among other things, fiscal policy is a national issue, and many Member States are generally against tax laws being decided at EU level.

V. Dumping Watch

Termination of a partial interim review – finished polyester filament fabrics

On 22 September 2009, the Official Journal published Council Regulation 862/2009 terminating the partial interim review of the anti-dumping measures imposed by Regulation 1487/2005 on imports of certain finished polyester filament fabrics originating in the People's Republic of China.

The product concerned is woven fabrics of synthetic filament yarn containing 85% or more by weight of textured and/or non textured polyester filament, dyed (including dyed white) or printed, originating in the PRC, currently falling within CN codes ex 5407 51 00, 5407 52 00, 5407 54 00, ex 5407 61 10, 5407 61 30, 5407 61 90, ex 5407 69 10, and ex 5407 69 90.

It is recalled that that the measures currently in force are a definitive anti-dumping duty imposed by Council Regulation 1487/2005 as amended following an anti-absorption reinvestigation by Council Regulation 1087/2007.

The request for a partial interim review was lodged by Hüpeden GmbH & Co. KG, an importer located in Germany. The applicant alleged that the product it imports is only used to produce a special adhesive tape for insulation of cables within the wiring harnesses of engines and that the technical and chemical characteristics of this 'tape' grade are different from those of the product concerned as defined in the original investigation. The applicant alleged that 'tape' grade should therefore be considered as being outside the scope of the original investigation and thus not be subject to the duty.

Having determined that sufficient evidence existed to justify the initiation of a partial interim review, the Commission initiated a partial interim review, limited to the examination of the product scope.

It was established during the proceeding that any differences between 'tape' grade and the other types of PFF are not such as to lead to the conclusion that 'tape' grade is a different product with clearly distinguishable basic physical, technical and/or chemical characteristics. It has thus to be concluded that 'tape' grade and other types of PFF constitute a single product within the meaning of the basic Regulation. Therefore, the partial interim review was terminated without amending the anti-dumping measures in force.

Council Regulation 862/2009 entered into force on 23 September 2009.

VI. The Week Ahead

A. Council

- 28-29 September 2009: (poss.) Agriculture and Fisheries Council (Brussels)

B. WTO

- 28-30 September 2009: WTO Public Forum 2009: Global Problems, Global Solutions: Towards Better Global Governance

C. OECD

- 28-29 September 2009: Forum on Tax Administration: Taxpayer Compliance Behaviour, conference organised by the OECD Centre for Tax Policy and Administration in co-operation with the Dutch authorities. The Hague, Netherlands.
- 28-29 September 2009: Tackling the Jobs Crisis: the Labour Market and Social Policy Response, labour and employment ministerial meeting, organised by the Directorate for Employment, Labour and Social Affairs.
- 30 September 2009: Parliamentary Assembly of the Council of Europe, participation of the OECD Secretary-General. Strasbourg, France.
- 30 September – 2 October 2009: Ensuring the Coherence of Reforms: Steering from the Centre of Government, annual meeting of the Network of Senior Officials from Centres of Government, hosted by the government of France, with participation of the OECD Secretary-General.
- 1 October 2009: High-level parliamentary seminar, organised by the OECD Public Affairs division.
- 1-2 October 2009: Labour market integration of the children of immigrants, seminar organised by the Directorate for Employment, Labour and Social Affairs, and the European Union.
- 1-2 October 2009: Sustainable School Buildings: From Concept to Reality, conference organised by the Education Directorate and the Ministry of Education and Sport, Republic of Slovenia. Ljubljana, Republic of Slovenia.
- 2 October 2009: Center for American Progress meets, with participation of OECD. Madrid, Spain.

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