



# WASHINGTON MONITOR

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*A Weekly Review of U.S. Trade Policy Developments Affecting Japan*

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*The Washington Monitor is a product of the Japan Fair Trade Center in cooperation with the international trade practice of the U.S. law firm of Winston & Strawn LLP. All questions concerning its content should be addressed to:*

Washington Monitor  
Winston & Strawn L.L.P.  
1700 K Street, N.W.  
Washington, D.C. 20006  
[rmassony@winston.com](mailto:rmassony@winston.com)

## Trade Briefs

### Finance Committee Considers USTR-Nominee Kirk

On Monday, March 9, the U.S. Senate Committee on Finance held a hearing to consider the nomination of Mayor Ron Kirk to be the U.S. Trade Representative (USTR) in the Obama Administration. Kirk's responses to the Committee's questions were illuminating regarding the Administration's stance on the U.S. trade with China and Japan.

The hearing was abbreviated due to scheduled Senate votes, and Kirk generally avoided tough questioning during his 45 minutes in front of the Committee. In the days leading up to the hearing, there were reports that Kirk had failed to pay some taxes, and some thought that this might imperil his nomination. However, the hearing ended without any substantive discussion of these personal issues.

Kirk's views on international trade are not entirely clear. Mayor Kirk has occasionally commented publicly on trade issues, but not in great depth. He is believed to be generally pro-trade, and his nomination was supported by business leaders. It is difficult to predict what kind of trade policy he would conduct as USTR based on his record. Kirk's stature, or lack thereof, is perhaps a better indicator of the priority the Obama Administration puts on trade. Although Kirk is well respected within the Democratic party, he has not been a major figure on the national stage. It will be difficult for him to match the influence of figures like Secretary of State Hillary Clinton or Treasury Secretary Timothy Geithner. Kirk may be able to develop more influence through a personal relationship with President Obama, but this opportunity is likely to be limited. In general, his choice is likely an indication that Obama does not intend trade policy to be a major priority area.

Kirk's testimony before the Finance Committee should be understood as a reflection of the trade policy of the Obama Administration rather than the personal views of a government functionary. Kirk was nominated on December 26, 2008, and he has had over two months to become acquainted with the policies expected of his office. His own views on trade are not entirely clear and likely not the reason for his nomination.

Kirk's prepared remarks indicate that the Obama Administration will have a different focus on trade policy than its predecessor. While President George W. Bush focused on penning new trade agreements, Kirk said that the Obama Administration would focus on enforcement first. He said, "The first order of business for the Administration on trade is to ensure strong enforcement of the rules." Mayor Kirk asked for Congress's thoughts on how to do so and what resources may be necessary to achieve that goal. As with the bulk of his testimony, he did not offer any specifics on this. Kirk did not say, for instance, which rules were not being sufficiently enforced.

In Kirk's opening statement, he said that he does not have "deal fever" and would not pursue agreements just for the sake of doing so.

Finance Committee Chairman Max Baucus (D-MT) asked Kirk whether the Administration was ready to move on implementing the Panama FTA. Kirk responded that he intended to conduct an expedited review of all pending FTAs but that the Administration's

stated view is that the agreement with Panama is the closest to satisfying the Administration's requirements for ratification.

Ranking Member Chuck Grassley (R-IA) said that the Colombia FTA was his top trade priority and asked Kirk if he would commit to ratification of the agreement in 2009. Kirk said that he welcomed the opportunity to work with Grassley, but he said that he could not commit to any timetable.

Senator Debbie Stabenow (D-MI) said that she could not support the KORUS FTA due to inadequate provisions regarding non-tariff barriers (NTBs) and what she believes is unfair treatment of the American manufacturing sector. Kirk agreed that the KORUS FTA as currently written "simply isn't fair." Kirk said that if the remaining issues are not resolved the Administration is "prepared to step away from that."

In response to a question by Senator Maria Cantwell (D-WA) on possible benchmarks for ratification of the KORUS FTA, Kirk declined to respond with specifics, saying that he would reserve judgment until their policy reviews were completed. He did say that, with respect to the KORUS FTA more generally, the "status quo simply isn't acceptable." After the hearing, Cantwell put out a statement in which, among other things, she reiterated her support for the KORUS FTA.

As a matter of course, nominees respond in writing to committee members questions that they are unable to answer in the during their confirmation hearing. These questions are known as Questions for the Record (QFR). Mayor Kirk's answers to the QFR are mostly guarded and reflect his testimony on Monday. However, some of his responses on Japan are worth noting.

In response to a broad question from Senator Cantwell about U.S. trade policy toward Japan, Kirk said that achieving access to the Japanese market is a priority. Kirk said that he would work towards regulatory reform and to address "bilateral irritants" such as the beef issue and the insurance issue.

Regarding the insurance privatization issue, Kirk said that the USTR was closely monitoring developments in the Japanese insurance industry. He said that he is prepared to "press Japan in all appropriate fora" to provide market access for U.S. insurers.

Senator Olympia Snowe asked about a Japanese retaliatory law that nullifies a valid U.S. court decision obtained by a Maine company, Goss International. The law allows a Japanese printing press producer to recover monies it owes due to the judgment, making the law WTO-inconsistent according to Snowe. Kirk said that he would work with the State Department to urge the Japanese Government to provide fair treatment to Goss.

USTR-nominee Kirk's testimony is the clearest indication yet of the young Obama Administration's stance on trade. It is especially revealing regarding Obama's position on the pending FTAs. Based on Kirk's prepared statement and responses to the Finance Committee, it appears that Obama is going to be very cautious on the trade issue, playing "defense" more than "offense," at least at first. Furthermore, the Obama Administration has been slow to nominate and confirm its trade team, and some believed that this might indicate

a lack of attentiveness to the trade issue. Mayor Kirk's testimony seems to confirm this intuition.

Kirk was approved by the Committee and his nomination will be considered by the full Senate. Kirk's tax issues do not appear to be holding him up, and he is widely expected to be confirmed.

## Dumping Watch

### Time Extension for Preliminary Results in Review of AD Order on SS Sheet and Strip in Coils from Japan and Taiwan

On Friday, March 13, the Department of Commerce (DOC) gave notice that it was extending the time limit for preliminary results in the administrative reviews of the antidumping (AD) duty orders on stainless steel sheet and strip in coils from Japan and Taiwan.

On November 26, 2008, the DOC gave notice of the initiation of administrative reviews of these AD duty orders. At that time, the preliminary results were due on April 2, 2009. Now, the DOC has determined that it is not practicable to complete the preliminary results by this date due to the need for additional information from respondents to complete the DOC's analysis. The DOC has therefore extended the time limit by 120 days, and the preliminary results are now due on July 31, 2009.

### Preliminary Results in Review of AD Order on Hot-Rolled Steel from Japan

On Monday, March 9, the DOC gave notice that it had reached preliminary results in the administrative review of the AD duty order on certain hot-rolled flat-rolled carbon quality steel products (hot-rolled steel) from Japan. The DOC preliminarily determined that adverse facts available should be applied to three respondents.

The DOC published this AD duty order on Japanese hot-rolled steel in June 1999. In June 2008, the DOC gave notice of the opportunity to request an administrative review of this order. The DOC received such a request from the United States Steel Corporation to cover three respondents: JFE Steel Corporation (JFE), Nippon Steel Corporation (Nippon), and Kobe Steel, Ltd. (Kobe). In July 2008, the DOC gave notice that it was initiating an administrative review covering these three producers, and subsequently issued questionnaires to the relevant parties. None of the three respondents submitted any response to the DOC's questionnaires, and the DOC found that this constituted a failure to cooperate. Therefore, the DOC has preliminarily determined that adverse facts available should be applied to JFE, Nippon, and Kobe. The DOC has calculated dumping margins for these respondents to be 40.26%. The DOC will issue assessment instructions to Customs and Border Protection (CBP) within 15 days, and within 120 days the DOC will publish final results of this administrative review.

## Federal Register Notices

### *International Trade Administration*

**[A-570-882] Refined Brown Aluminum Oxide from the People's Republic of China:**  
Notice of Continuation of Antidumping Duty Order *74 FR 10884-10885*, March 13, 2009.

**[A-570-882] Refined Brown Aluminum Oxide from the People's Republic of China:**  
Notice of Extension of Time Limit for the Final Results of Antidumping Duty Administrative Review *74 FR 10885*, March 13, 2009.

**[A-588-845; A-583-831] Stainless Steel Sheet and Strip in Coils from Japan and Taiwan:**  
Notice of Extension of Time Limit for Preliminary Results of the 2007-2008 Administrative Reviews *74 FR 10885-10886*, March 13, 2009.

**[A-570-933] Frontseating Service Valves From the People's Republic of China:** Final Determination of Sales at Less Than Fair Value and Final Negative Determination of Critical Circumstances *74 FR 10886-10890*, March 13, 2009.

**Mission Statement; Aerospace Supplier Development Mission to Canada;** May 5-6, 2009. *74 FR 10890-10892*, March 13, 2009.

**Mission Statement, Executive Trade Mission to Chile and Peru,** June 1-5, 2009. *74 FR 10892-10894*, March 13, 2009.

**[A-274-804] Carbon and Certain Alloy Steel Wire Rod from Trinidad and Tobago;** Final Results of Antidumping Duty Administrative Review *74 FR 10722-10724*, March 12, 2009.

**[A-357-812] Honey from Argentina:** Extension of Time Limit for Final Results of Antidumping Duty Administrative Review *74 FR 10724*, March 12, 2009.

**[A-533-847] 1-Hydroxyethylidene-1, 1-Diphosphonic Acid from India:** Notice of Final Determination of Sales at Less Than Fair Value *74 FR 10543-10545*, March 11, 2009.

**[A-570-934] 1-Hydroxyethylidene-1, 1-Diphosphonic Acid from the People's Republic of China:** Final Determination of Sales at Less Than Fair Value *74 FR 10545-10548*, March 11, 2009.

**[A- 570-881] Malleable Cast Iron Pipe Fittings from the People's Republic of China:** Notice of Rescission of the 2007-2008 Administrative Review of the Antidumping Duty Order *74 FR 10548*, March 11, 2009.

**Cable Television Trade Mission to South Korea** *74 FR 10548-10550*, March 11, 2009.

**Notice and Call for Applications for the Executive Trade Mission to Libya and Algeria** for the Period November 4-8, 2009. *74 FR 10550-10553*, March 11, 2009.

**Revised European Port Infrastructure and Security Trade Mission to Germany, Belgium and Italy,** May 4-8, 2009 *74 FR 10553-10555*, March 11, 2009.

**[A-274-804] Carbon and Certain Alloy Steel Wire Rod From Trinidad and Tobago:** Amended Final Results Pursuant to a Court Decision *74 FR 10238-10239*, March 10, 2009.

**[A-570-881] Malleable Cast Iron Pipe Fittings from the People's Republic of China:** Final Results of Expedited Sunset Review of Antidumping Duty Order. *74 FR 10239*, March 10, 2009.

**University of Wisconsin-Madison, et al., Notice of Consolidated Decision on Applications for Duty-Free Entry of Electron Microscopes** *74 FR 10240*, March 10, 2009.

**[A-331-802] Certain Frozen Warmwater Shrimp from Ecuador:** Preliminary Results of Antidumping Duty Administrative Review *74 FR 9983-9991*, March 9, 2009.

**[A-533-840] Certain Frozen Warmwater Shrimp From India:** Preliminary Results and Preliminary Partial Rescission of Antidumping Duty Administrative Review *74 FR 9991-10000*, March 9, 2009.

**[A-549-822] Certain Frozen Warmwater Shrimp from Thailand:** Preliminary Results of Antidumping Duty Administrative Review *74 FR 10000-10009*, March 9, 2009.

**[A-552-802] Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam:** Preliminary Results, Preliminary Partial Rescission and Request for Revocation, In Part, of the Third Administrative Review *74 FR 10009-10019*, March 9, 2009.

**[A-588-846] Certain Hot-Rolled Flat-Rolled Carbon Quality Steel Products From Japan:** Preliminary Results of Antidumping Duty Administrative Review *74 FR 10019-10022*, March 9, 2009.

**[A-351-825] Stainless Steel Bar From Brazil:** Preliminary Results of Antidumping Duty Administrative Review *74 FR 10022-10025*, March 9, 2009.

**[A-570-893] Third Administrative Review of Frozen Warmwater Shrimp from the People's Republic of China:** Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review *74 FR 10026-10034*, March 9, 2009.

*International Trade Commission*

**[Inv. No. 337-TA-670] In the Matter of Certain Adjustable Keyboard Support Systems and Components Thereof;** Notice of Investigation *74 FR 10963-10964*, March 13, 2009.

**[Investigations Nos. 701-TA-457 (Final) and 731-TA-1153 (Final)] Tow-Behind Lawn Groomers From China** *74 FR 10964-10965*, March 13, 2009.

**Temporary Change to Filing Procedures** *74 FR 10965-10966*, March 13, 2009.

**[Inv. Nos. 731-TA-753, 754, and 756 (Second Review)] Cut-to-Length Carbon Steel Plate From China, Russia, and Ukraine** *74 FR 10614-10615*, March 11, 2009.

**[Investigation No. 731-TA-1020 (Review)] Barium Carbonate From China** *74 FR 10278*, March 10, 2009.

**[Inv. No. 337-TA-669] In the Matter of Certain Optoelectronic Devices, Components Thereof, and Products Containing the Same;** Notice of Investigation *74 FR 10278-10279*, March 10, 2009.

*Office of the U.S. Trade Representative*

**Notice of Cancellation of Meeting of the Industry Trade Advisory Committee on Small and Minority Business (ITAC-11)** *74 FR 10101*, March 9, 2009.

**The Week Ahead**

- The ITC has no scheduled hearings or votes this week.
- On Wednesday, March 18, the Senate Commerce Committee will hold a hearing to consider the nomination of Governor Gary Locke to be Secretary of Commerce.