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Trade Briefs

USTR Releases NTE

On Tuesday, March 31, the U.S. Trade Representative (USTR) released the National Trade Estimate Report (NTE). The report describes significant trade barriers to U.S. goods and investment from the past year as well as the actions taken by the USTR to address those barriers. The report is organized by trading partner, and there is an extensive section on Japan.

USTR Ron Kirk gained confirmation on March 18, and therefore he is only now settling into office. As with the USTR's 2008 Annual Report, this NTE was likely written in large part by career civil servants in the Office of the USTR. Therefore, it does not represent a major departure from the USTR's past assessments.

The section on Japan describes the trade relationship. The section notes that Japan is currently the fourth largest export market for U.S. goods, and it also points out that the U.S.-Japan trade deficit decreased over the past year by \$10.1 billion to \$72.7 billion. The NTE also remarks on the expansion of U.S. foreign direct investment in Japan from \$92.4 billion to \$101.6 billion in 2007.

The section on Japan also notes a number of areas of concern. Specifically, the NTE comments extensively on the following areas:

- **Regulatory Reform Overview.** This includes the U.S.-Japan Regulatory Reform and Competition Policy Initiative.
- **Sectoral Regulatory Reform.** This includes telecommunications, information technologies (IT), medical devices and pharmaceuticals, financial services, and agriculture.
- **Structural Regulatory Reform.** This includes competition policy, transparency, privatization, commercial law, legal system reform, and customs clearance.
- **Import Policies.** This includes import policies on rice, wheat, pork, beef, fish, citrus, dairy, processed food products, wood, building materials, and leather/footwear.
- **Standards, Testing, Labeling, and Certification.** This includes sanitary and phytosanitary measures regarding products like beef, standards on food additives and organic products, building size and designs, biotechnology, and labeling.
- **Government Procurement.** This includes the award of construction, architecture, and engineering contracts.
- **Intellectual Property Rights (IPR) Protection.** This includes patents, copyrights, and border enforcement issues.

- **Services Barriers.** This includes the insurance issue, as well as professional services like healthcare and education.
- **Investment Barriers.** This includes barriers to cross-border mergers and acquisitions.
- **Other Barriers.** This includes autos and auto parts, aerospace products, business aviation, civil aviation, and transport/ports.

This NTE's Japan section is very similar to that in the NTE released last year. Some sections have been condensed or expanded, but it does not appear to raise any surprising new issues.

While this NTE was probably written mostly by career civil servants at the Office of the USTR, these issues are likely to remain as the focus of U.S.-Japan trade policy under USTR Kirk and the Obama Administration.

Buy American Proposed Rules

Interim regulations implementing the "Buy American" provision of the American Reinvestment and Recovery Act (ARRA) were published in Tuesday's Federal Register.

A "Buy American" provision was included in the ARRA, legislation intended to stimulate the economy through, among other things, new federal spending on infrastructure and other public works. The Buy American provision prohibited the use of ARRA funds for the construction, alteration, maintenance, or repair of a public building or public work unless all of the iron, steel, and manufactured goods used in that project are produced in the United States.

Although the Buy American provision of the ARRA indicated that the procurement restrictions would be enforced consistent with U.S. obligations under international trade agreements, the legislation was vague enough that it remained unclear exactly what was intended. The interim regulations provide some clarity on this point.

Of particular relevance to Japanese business interests is how the Buy American provision in the ARRA would incorporate U.S. obligations under the WTO Government Procurement Agreement (GPA), of which Japan is a signatory. The interim regulations make clear that GPA signatories and U.S. free trade agreement partners can expect U.S. government procurement obligations contained within the GPA and various FTAs to apply to ARRA procurement funds. Thus, to the extent Japanese goods and services received non-discriminatory treatment under existing U.S. government procurement practices, that same treatment can be expected with respect to procurement expenditures under the ARRA. Specifically, the interim regulations state that the "Buy American" restrictions of the ARRA (section 1605) "do not apply to Recovery Act designated country construction material." A "Recovery Act designated country" includes those countries that are signatories to the WTO GPA, an FTA partner, or a least developed country. Other limitations such as

value thresholds specified under the U.S. GPA obligations and various FTAs would still apply.

The proposed rules will take effect immediately, as the ARRA spending that is affected by the Buy American provision is expected to begin very soon. Comments have been requested on the interim regulations and are due June 1, 2009.

Dumping Watch

Final Determination in Chinese Line Pipe Case

On Tuesday, March 31, the Department of Commerce gave notice that it had reached its final determination in the antidumping (AD) investigation into certain circular welded carbon quality steel line pipe from China.

On April 3, 2008, a petition concerning imports of this type of line pipe was submitted to the DOC, and the DOC initiated a preliminary investigation. Because China is considered a non-market economy (NME), the investigation used Colombia, India, Indonesia, the Philippines, and Thailand as surrogate countries. In its preliminary determination, the DOC found that this type of line pipe was being sold at less than fair value and calculated dumping margins between 67.83% and 81.52%.

On Tuesday, the DOC announced that it had reached a final determination in agreement with the preliminary determination: this product is being or is likely to be sold in the U.S. at less than fair value. However, the final determination has revise the dumping margins upward. The company-specific rates are now at 73.87% and the China-wide rate is now at 101.10%. Now, the International Trade Commission (ITC) will make an injury determination within 45 days.

Federal Register Notices

International Trade Administration

[A-570-846] Brake Rotors from the People's Republic of China: Notice of Amended Final Results of Administrative Review Pursuant to Court Decision *74 FR 15253-15254*, April 3, 2009.

Request for Public Comment on the Wholly Formed Requirement for Qualifying Woven Fabric Under the Dominican Republic Earned Import Allowance Program *74 FR 15254-15255*, April 3, 2009.

[A-201-830] Notice of Preliminary Results of Antidumping Duty Changed Circumstances Review: Carbon and Certain Alloy Steel Wire Rod From Mexico *74 FR 14957-14959*, April 2, 2009.

[A-421-811] Purified Carboxymethylcellulose From the Netherlands; Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review *74 FR 14959*, April 2, 2009.

[A-580-810] Welded ASTM A-312 Stainless Steel Pipe From South Korea: Extension of Time Limit for Final Results of Antidumping Duty Administrative Review *74 FR 14959-14960*, April 2, 2009.

[C-533-825] Polyethylene Terephthalate (PET) Film, Sheet, and Strip From India: Extension of Time Limit for Preliminary Results of Countervailing Duty Administrative Review *74 FR 14960*, April 2, 2009.

[A-421-807] Certain Hot-Rolled Carbon Steel Flat Products From the Netherlands: Notice of Court Decision Not in Harmony With Final Results of Administrative Review 74 FR 14960-14961, April 2, 2009.

Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Advance Notification of Sunset Reviews 74 FR 14770-14771, April 1, 2009.

Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review 74 FR 14771-14772, April 1, 2009.

[A-570-851] Certain Preserved Mushrooms from the People's Republic of China: Preliminary Results of Antidumping Duty New Shipper Reviews 74 FR 14772-14779, April 1, 2009.

[A-570-935] Certain Circular Welded Carbon Quality Steel Line Pipe from the People's Republic of China: Final Determination of Sales at Less Than Fair Value 74 FR 14514-14518, March 31, 2009.

Childrens Hospital, et al.; Notice of Consolidated Decision on Applications for Duty-Free Entry of Electron Microscopes 74 FR 14518, March 31, 2009.

[C-570-931] Circular Welded Austenitic Stainless Pressure Pipe from the People's Republic of China: Correction to Countervailing Duty Order 74 FR 14518-14519, March 31, 2009.

[A-475-703] Granular Polytetrafluoroethylene Resin From Italy: Final Results of Antidumping Duty Administrative Review 74 FR 14519-14521, March 31, 2009.

Notice of Scope Rulings 74 FR 14521-14524, March 31, 2009.

[A-427-801] Ball Bearings and Parts Thereof from France: Initiation of Antidumping Duty Changed-Circumstances Review 74 FR 14107-14108, March 30, 2009.

International Trade Commission

[Investigation No. 337-TA-631] In the Matter of Certain Liquid Crystal Display Devices and Products Containing the Same; Notice of Commission Decision To Review-in-Part a Final Initial Determination Finding a Violation of Section 337; Request for Written Submissions Regarding Remedy, Bonding, and the Public Interest; and Extension of Target Date 74 FR 15301-15302, April 3, 2009.

[Investigation Nos. 731-TA-1014, 1016, and 1017 (Review)] Polyvinyl Alcohol From China, Japan, and Korea; Determination 74 FR 14999-15000, April 2, 2009.

[Investigation Nos. 701-TA-432 and 731-TA-1024-1028 (Review) and AA1921-188 (Third Review)] Prestressed Concrete Steel Wire Strand from Brazil, India, Japan, Korea, Mexico, and Thailand 74 FR 15000-15001, April 2, 2009.

[Inv. No. 337-TA-605] In the Matter of Certain Semiconductor Chips With Minimized Chip Package Size and Products Containing Same; Notice of Commission Decision To Request Additional Briefing on Remedy and To Extend the Target Date 74 FR 14820-14821, April 1, 2009.

[Inv. No. 337-TA-673] In the Matter of Certain Electronic Devices Including Handheld Wireless Communications Devices; Notice of Investigation 74 FR 14578-14579, March 31, 2009.

[Inv. No. 337-TA-672] In the Matter of Certain Electronic Devices Having Image Capture or Display Functionality and Components Thereof; Notice of Investigation 74
FR 14157, March 30, 2009.

The Week Ahead

- On Tuesday, April 7, the ITC will hold a hearing on the final phase AD and CVD investigations into citric acid and certain citric salts from Canada and China.
- On Wednesday, April 8, the ITC will hold a vote on the final phase AD investigation into frontseating service valves from China.