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Trade Briefs

Developments on Pending FTAs

Last week brought notable developments regarding the pending free trade agreements (FTAs) with Panama, Colombia, and Korea. First, the confirmation process of Demetrios J. Marantis for Deputy U.S. Trade Representative (USTR) gave a clearer picture of how the Obama Administration plans to proceed on the agreements. Second, House Ways and Means Chairman Charlie Rangel (D-NY) commented on the timeframe for passage of the Panama FTA.

On Tuesday, May 5, Marantis was approved by the Senate Finance Committee in a unanimous voice vote for the position of Deputy USTR. As part of his confirmation process, Marantis was asked to appear in front of the Finance Committee as well as respond to written questions in a QFR, or "Questions for the Record." Marantis' QFR, while mostly reflecting the general policies of his soon-to-be superior USTR Ron Kirk, did shed some light on his views about the pending FTAs with Panama, Colombia, and Korea:

- **Panama FTA.** Marantis said that the Panama FTA is a "top priority" for USTR. He said that the Administration would like to move the Panama FTA "relatively quickly."
- **Colombia FTA.** Marantis simply pledged to engage with the Finance Committee and the Congress regarding the Colombia FTA "as soon as possible."
- **Korea FTA.** Marantis said that the KORUS FTA presents both strategic and economic opportunities for both sides, but that autos and beef remain big issues. When asked about the ability of U.S. beef producers to use rendered livestock feed, Marantis said that the FTA does not retain a ban on this practice and that the provisional agreement's stricter rules will be phased out as Koreans gain confidence in U.S. beef. When asked about the renegotiation of auto provisions, Marantis gave a vague answer about consulting with stakeholders to determine an appropriate solution.

Marantis said that it was USTR Kirk's preference to address outstanding issues with these agreements outside of the text. However, Marantis said that USTR will explore "all options" in seeking their ratification.

On Monday, May 4, Chairman Rangel commented on the possibility of congressional consideration of the pending Panama FTA. He expressed doubts that the Congress would move immediately for implementation upon the Obama Administration's resolution of outstanding issues on labor rights and tax law.

The Panama FTA is considered to be the least controversial of the three pending agreements. USTR Kirk has said that he intends to conduct reviews 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. According to reports, the USTR has identified the obstacles to passage for the Panama FTA. Furthermore, it has

already entered talks with the Government of Panama to address these stumbling blocks. The USTR appears to have decided that the Panama FTA can be ratified, and soon.

Regardless, Rangel said that the Administration's successful resolution of outstanding issues would not necessarily lead to an immediate vote for ratification of the agreement. He said that votes—both Democratic and Republican—would need to be counted and constituency groups such as labor unions would need to be consulted before a vote could be scheduled. Rangel was careful to stipulate that he does not believe the FTA is in danger of failure, but that a vote count was important. Rangel allowed that there are some members of his caucus who would never vote for the FTA, calling this a "tragic" and "unfortunate" reality. However, Rangel said that once implementing language was formally submitted, "it would not take a whole lot of time to deal with that," implying that the House would not have to take the full time period allotted by Trade Promotion Authority (fast track) to vote.

These developments appear to be generally positive signs for those in favor of free trade policies. The Administration is moving forward, if slowly, on the pending FTAs. However, these positive signs may not foreshadow a consistent and ongoing push for liberalized trade in the future. It is possible that the push for quick ratification of the Panama FTA would be the Obama Administration's gesture towards pro-trade business groups, allowing them to prove their free trade *bona fides* while not pressing for the more complicated and contentious FTAs with Colombia and Korea.

Dumping Watch

Chinese OCTG CVD and AD Investigations Initiated

On Tuesday, May 5, the Department of Commerce (DOC) gave notice of the initiation of countervailing duty (CVD) and antidumping (AD) duty investigations into oil country tubular goods (OCTG) from China.

On April 8, 2009, AD and CVD petitions were filed against imports of OCTG from China on behalf of Maverick Tube Corporation, TMP Ipsco, V&M Star L.P., Wheatland Tube Corp., Evraz Rocky Mountain Steel, and related union interests. Critical circumstances were also alleged in the petition. The petition alleged subsidies in the form of preferential loans; debt-to-equity swaps, equity infusions, and loan forgiveness; tax programs; VAT programs; land grants and discounts; provision of inputs for less than adequate remuneration; grant programs; other regional programs; and FIE programs. Many of the individual alleged programs under each category raise familiar issues common to prior CVD investigations. However, the allegations raise new issues not before considered in prior investigations.

The petition also alleged dumping. Based on a non-market economy (NME) analysis using Indian surrogate values, the petition alleged an overall dumping margin of 80.72%. In addition, the petition alleged "critical circumstances"—that imports have surged so much and so rapidly that any AD or CVD measures should be imposed retroactively 90 days prior to the date of the preliminary determinations. In this case, the petition seeks an expedited preliminary determination on critical circumstances within 45 days after the filing of the petition, rather than waiting until the Department's preliminary determination on countervailable subsidies or dumping. This request is likely intended to shock the market, and may be part of a broader effort by petitioners to seek preliminary determinations on countervailable subsidies and dumping in as quick a timeframe as possible.

On Tuesday, the DOC gave notice that it is initiating CVD and AD investigations into Chinese OCTG in response to the petitioners' request. The DOC found that the petitioners filed their petition on behalf of the domestic industry, demonstrated sufficient industry support, and properly supported their allegations with adequate evidence. The DOC found that the allegation of critical circumstances was supported with information reasonably available for the purposes of initiating a critical circumstances inquiry. The DOC found that the petitioners' suggestion of using India as a surrogate country was appropriate for the purposes of initiation. The DOC found that there is reason to believe that imports of OCTG from China are being or are likely to be sold at less than fair value and have estimated dumping margins ranging from 36.94% to 99.4%.

The ITC is scheduled to vote on this case on May 22nd. On that day, the ITC will reach either an affirmative or negative determination. However, the rationale behind that decision will not be released until a few weeks later.

Federal Register Notices

International Trade Administration

[A-570-904] Certain Activated Carbon From the People's Republic of China: Notice of Preliminary Results of the Antidumping Duty Administrative Review and Extension of Time Limits for the Final Results *74 FR 21317-21330*, May 7, 2009.

[A-274-804] Carbon and Certain Alloy Steel Wire Rod from Trinidad and Tobago: Extension of Time Limit for the Preliminary Results of Antidumping Duty Administrative Review *74 FR 21330-21331*, May 7, 2009.

[A-570-868] Folding Metal Tables and Chairs from the People's Republic of China: Notice of Extension of Time Limit for the Preliminary Results of the Antidumping Duty Administrative Review *74 FR 21332*, May 7, 2009.

[A-552-806] Polyethylene Retail Carrier Bags from the Socialist Republic of Vietnam: Amended Initiation of Antidumping Duty Investigation *74 FR 21331*, May 7, 2009.

[A-201-805] Certain Circular Welded Non-Alloy Steel Pipe from Mexico: Notice of Partial Rescission of Antidumping Duty Administrative Review *74 FR 20919-20920*, May 6, 2009.

[A-570-868] Affirmative Final Determination of Circumvention of the Antidumping Duty Order on Folding Metal Tables and Chairs from the People's Republic of China *74 FR 20920-20922*, May 6, 2009.

[A-489-807] Certain Steel Concrete Reinforcing Bars From Turkey; Preliminary Results and Preliminary Partial Rescission of Antidumping Duty Administrative Review *74 FR 20911-20915*, May 6, 2009.

[A-570-894] Certain Tissue Paper Products From the People's Republic of China: Affirmative Preliminary Determination of Circumvention of the Antidumping Duty Order *74 FR 20915-20919*, May 6, 2009.

[C-533-821] Certain Hot-Rolled Carbon Steel Flat Products from India: Final Results and Partial Rescission of Countervailing Duty Administrative Review *74 FR 20923-20926*, May 6, 2009.

[A-570-943] Oil Country Tubular Goods From the People's Republic of China: Initiation of Antidumping Duty Investigation *74 FR 20671-20678*, May 5, 2009.

[C-570-944] Certain Oil Country Tubular Goods from the People's Republic of China: Initiation of Countervailing Duty Investigation *74 FR 20671-20678*, May 5, 2009.

[A-570-831] Fresh Garlic From the People's Republic of China: Preliminary Results of New Shipper Reviews *74 FR 20452-20459*, May 4, 2009.

Application(s) for Duty-Free Entry of Scientific Instruments *74 FR 20459*, May 4, 2009.

International Trade Commission

[Inv. No. 337-TA-675] In the Matter of: Certain Wireless Communications Devices and Components Thereof; Notice of Investigation *74 FR 20500-20501*, May 4, 2009.

Office of the U.S. Trade Representative

[Docket No. WTO/DS392/1] WTO Dispute Settlement Proceeding Regarding United States – Certain Measures Affecting Imports of Poultry From China 74 FR 21421-21422, May 7, 2009.

The Week Ahead

- The ITC has no scheduled hearings or votes for this week.
- On Thursday, May 14, the House Subcommittee on Trade will hold a hearing on investment protections in U.S. trade and investment agreements.