



WASHINGTON MONITOR

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

May 19, 2009

Volume 13 Issue 20

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Trade Briefs

Legislation Targeting Currency Manipulation Reintroduced in Senate, House

On May 13, a bipartisan group of U.S. Senators and Congressmen introduced complementary bills directed at curbing foreign currency manipulation. The two pieces of legislation are similar to previously introduced bills from 2005 and 2007 that both failed to pass. However, for a number of reasons, it is possible that this new legislation could succeed. China is considered to be the main target, but it is possible that Japan could be implicated as well.

It was widely expected that Congress would become more active on trade issues this year, and one of the issues believed likely to receive legislative attention was currency manipulation. This issue primarily involves China, since many in Congress believe that China has kept its currency artificially weak to encourage exports, thus leading to the massive trade deficit with China.

Although the focus of this issue is China, it is possible that any initiatives in this area could spill over and affect Japan. In discussions of this issue, Japan and Korea are often mentioned with China as the leading practitioners of currency manipulation. As a practical and political matter, Congress may try to avoid singling out China and may try to find one or two other targets for criticism. It is possible, then, that Japan will be one of those targets in 2009.

In the Senate, the currency manipulation legislation was introduced by Senators Debbie Stabenow (D-MI) and Jim Bunning (R-KY). The House legislation was introduced by Representatives Tim Murphy (R-PA) and Tim Ryan (D-OH), and reportedly has 40 co-sponsors. The House bill and Senate bill are identical.

The legislation identifies the undervaluing of currency by foreign governments as a substantial contributor to trade flow distortions, current account imbalances, and unfair trade competition. Furthermore, the legislation declares that currency manipulation "serves as a subsidy for, and facilitates dumping of, exports." Therefore, the legislation claims that this currency manipulation is actionable as a countervailable subsidy and can be offset by antidumping (AD) duties in a way that is consistent with the agreements of the World Trade Organization (WTO) and the International Monetary Fund (IMF).

The legislation identifies a number of conditions as necessary to conclude that an exporting country is engaging in actionable currency manipulation:

- The real effective exchange rate of the country's currency is undervalued by at least 5%, on average, during the most recent 18-month period for which information is available.
- During that 18-month period, the government of the country has engaged in "large-scale intervention" in foreign exchange markets, including direct transfer of funds or the potential of direct transfer of funds or liabilities.
- During that 18-month period, the country has experienced a "significant and prolonged" global account surplus.

- During that 18-month period, the country's foreign exchange reserves have exceeded the amount necessary to repay its external debt obligations due within the coming 12 months.

According to this legislation, if actionable currency manipulation is found, the undervalued currency can be used to calculate countervailing duties (CVDs) and/or AD duties.

Similar legislation has been introduced in the past but failed to become law. However, given the current political environment it is not certain that the proposed legislation will fail again. First of all, Democrats now control the White House and commanding majorities in both Houses of Congress. Democrats are generally more skeptical of free trade and more protective of domestic industry than Republicans. Furthermore, Treasury Secretary Timothy Geithner clearly identified China as a currency manipulator during his Senate confirmation hearings, something his predecessor Hank Paulson never did. And as a Senator, President Barack Obama signed on to efforts to try to take action against China as a currency manipulator. Second, the economic environment is poisonous for free trade. Unemployment is rising, and opportunistic politicians, industry leaders, and labor unions have taken this opportunity to blame foreign competition for the job losses. Their argument is simple and intuitive, and the November 2008 elections appear to have vindicated their political message. Therefore, protectionist trade measures could prove to be very popular.

On the other hand, there are signs that this legislation may will face some opposition. Perhaps the most significant signal comes from the Obama Administration. On April 15, 2009, the U.S. Treasury Department appeared to contradict Secretary Geithner's previous statements when it released a report on foreign exchange rate policies that did not find China to be manipulating its currency. This could be a sign that the Obama Administration is wary of the diplomatic ramifications of giving America's largest trading partner such a derogatory label. In addition, over the past couple of years, the Commerce Department has consistently refused to even initiate an investigation as to whether alleged currency manipulation by China constituted a countervailable subsidy. Hence, it is quite possible that both Treasury and Commerce could oppose this legislation.

Dumping Watch

Injury Determination in Chinese Line Pipe Case

On Tuesday, May 12, the International Trade Commission (ITC) gave notice that it had reached its injury 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 Department of Commerce (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 March 31, 2009, 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 revised the dumping margins upward. The company-specific rates were recalculated to be 73.87% and the China-wide rate is now at 101.10%.

On May 12, the ITC gave notice of its injury determination. The ITC found that an industry in the U.S. is materially injured or threatened with material injury by reason of imports of the subject merchandise from China. In light of this decision, the DOC will issue an AD duty order on Chinese circular welded carbon quality steel line pipe.

Federal Register Notices

International Trade Administration

[A-549-817] Certain Hot-Rolled Carbon Steel Flat Products from Thailand: Final Results of Antidumping Duty Changed Circumstances Review and Reinstatement in the Antidumping Duty Order *74 FR 22885-22887*, May 15, 2009.

[A-489-501] Certain Welded Carbon Steel Pipe and Tube from Turkey: Notice of Final Results of Antidumping Duty Administrative Review *74 FR 22883-22885*, May 15, 2009.

[A-201-830] Notice of Final Results of Antidumping Duty Changed Circumstances Review: Carbon and Certain Alloy Steel Wire Rod from Mexico *74 FR 22514-22515*, May 13, 2009.

[A-570-935] Certain Circular Welded Carbon Quality Steel Line Pipe from the People's Republic of China: Antidumping Duty Order *74 FR 22515-22517*, May 13, 2009.

[Docket Number: 090416682-9683-01] Mexican Cement Import Licensing System *74 FR 22094-22095*, May 12, 2009.

[A-533-843] Certain Lined Paper Products From India: Notice of Partial Rescission of Antidumping Duty Administrative Review and Extension of Time Limit for the Preliminary Results of Antidumping Duty Administrative Review *74 FR 21781-21783*, May 11, 2009.

International Trade Commission

[Investigation No. 337-TA-670] In the Matter of Certain Adjustable Keyboard Support Systems and Components Thereof; Notice of a Commission Determination Not To Review an Initial Determination Amending the Complaint and Notice of Investigation *74 FR 22963*, May 15, 2009.

[Investigation No. 337-TA-651] In the Matter of Certain Automotive Parts; Notice of Commission Decision Not To Review Two Initial Determinations That Taken Together Terminate the Investigation in Its Entirety; Termination of the Investigation *74 FR 22964*, May 15, 2009.

[Investigation No. 337-TA-659] In the Matter of Certain Prepregs, Laminates, and Finished Circuit Boards; Notice of Commission Determination Not To Review an Initial Determination Granting Complainant's Motion To Withdraw the Complaint as To Guangdong Shengyi Sci. Tech Co., Ltd. and To Terminate the Investigation *74 FR 22964-22965*, May 15, 2009.

[Investigation No. 731-TA-1149 (Final)] Circular Welded Carbon Quality Steel Line Pipe From China *74 FR 22178*, May 12, 2009.

[Inv. No. 337-TA-676] In the Matter of: Certain Lighting Control Devices Including Dimmer Switches and Parts Thereof; Notice of Investigation *74 FR 21820-21821*, May 11, 2009.

[Investigation Nos. 701-TA-407 and 731-TA-902, 904, 905 (Review)(Remand)] Hot-Rolled Steel Products From Kazakhstan, Romania, and South Africa *74 FR 21821-21822*, May 11, 2009.

[Investigation Nos. 701-TA-407 and 731-TA-902, 904, 905 (Review)(Remand)] Hot-Rolled Steel Products From Kazakhstan, Romania, and South Africa *74 FR 21822*, May 11, 2009.

Office of the U.S. Trade Representative

[Docket No. USTR-2008-0036] Additional Delay in Modification of Action Taken in Connection with WTO Dispute Settlement Proceedings on the European Communities' Ban on Imports of U.S. Beef and Beef Products *74 FR 22626*, May 13, 2009.

The Week Ahead

- On Thursday, May 21, the Senate Finance Committee will hold a hearing on the pending free trade agreement with Panama.
- On Friday, May 22, the ITC will hold a commission vote on the preliminary phase countervailing duty (CVD) and antidumping (AD) investigations into oil country tubular goods (OCTG) from China.