



WASHINGTON MONITOR

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

June 9, 2009

Volume 13 Issue 23

Contents

Trade Briefs

- Obama to Speed ARRA Spending, Japan Comments on Buy American Provision

Dumping Watch

- Partial Rescissions of Korean CTL Plate AD and CVD Reviews

The Week Ahead

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

Trade Briefs

Obama to Speed ARRA Spending, Japan Comments on Buy American Provision

President Barack Obama announced that spending included in the nearly \$800 billion American Recovery and Reinvestment Act (ARRA), stimulus legislation passed earlier this year, will be sped up. The ARRA was criticized for its inclusion of a controversial "Buy American" provision, and it remains unclear how this might affect trade relations with major trading partners like Japan. However, Obama's new announcement may be an indicator that stimulus spending—and its possibly unfair trade implications—is on the way.

With great fanfare, Obama announced his Administration's "Roadmap to Recovery," a plan for spending in the second 100 days of his presidency. In what appears to be a reaction to continuing, if slowing, job losses, Obama sought to draw attention to the government's efforts to create jobs. The Roadmap contains the ten "most significant" projects for the second 100 days including spending on new healthcare facilities, the improvement of veterans' medical facilities, adding law enforcement officers, and creating over 100,000 jobs in education. Obama estimated that the government would create 600,000 jobs in the next 100 days.

While the addition of services (jobs in law enforcement and healthcare) are unlikely to have much effect on the U.S.-Japan trade relationship, infrastructure spending that requires raw materials like steel as well as manufactured goods like construction machinery and computer equipment may pose a problem.

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. Interim regulations announced in April provided some clarity on this point. Of particular relevance to Japan 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 made clear that GPA signatories and U.S. free trade agreement partners could 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. However, other limitations such as value thresholds specified under the U.S. GPA obligations and various FTAs would still apply.

Despite these assurances, the Government of Japan has submitted a comment to the General Services Administration (GSA), registering its disappointment with the ARRA's Buy American provisions. The comment says that the Buy American requirements "run counter" to efforts to suppress protectionism during the global recession. The comment also says that the Government of Japan "strongly expects" that Buy American provisions will not be included in future legislation.

The ARRA was passed months ago. However, its main thrust so far has been in areas with the capacity for immediate impact, like tax cuts. Now, it appears that the major spending on items like infrastructure could be on the way. And now, it may be more clear how the ARRA affects America's trade relationships with its partners like Japan.

Dumping Watch

Partial Rescissions of Korean CTL Plate AD and CVD Reviews

Last week, the Department of Commerce (DOC) gave notice that it was partially rescinding administrative reviews of an antidumping (AD) duty order and a countervailing duty (CVD) order on cut-to-length carbon-quality steel plate (CTL plate) from Korea.

AD Review

On Thursday, the DOC gave notice that it would partially rescind the administrative review of the AD duty order on cut-to-length carbon-quality steel plate (CTL plate) from Korea.

On March 24, the DOC initiated this review with regard to Korean CTL plate at the request of interested parties. On April 8, 2009, one of the interested parties, Dongkuk Steel Mill Co., Ltd. (DSM), withdrew its request for review. This withdrawal was within 90 days, and therefore the DOC will rescind the administrative review with regard to DSM.

CVD Review

On Friday, the DOC announced that it would rescind the administrative review of the countervailing duty (CVD) order on CTL plate from Korea. In February, the DOC gave notice of opportunity to request an administrative review of the CVD order on Korean steel plate. Dongkuk Steel Mill Co., Ltd. (DSM) responded, asking that the DOC conduct such a review with respect to DSM's imports of this kind of steel plate during the period of review. DSM asked that the DOC revoke the CVD order based on the absence of subsidies for at least five consecutive years. Consequently, the DOC initiated an administrative review. DSM has now withdrawn its request for an administrative review. Since this withdrawal was within 90 days of the initiation and DSM is the sole respondent, the DOC will rescind the review.

Federal Register Notices

International Trade Administration

[A-580-836] Certain Cut-to-Length Carbon-Quality Steel Plate from the Republic of Korea: Partial Rescission of Antidumping Duty Administrative Review *74 FR 27015-27016*, June 5, 2009.

[A-427-818] Notice of Rescission of Antidumping Duty Administrative Reviews: Low Enriched Uranium From France *74 FR 27014-27015*, June 5, 2009.

[A-489-807] Certain Steel Concrete Reinforcing Bars from Turkey: Notice of Court Decision Not in Harmony with Final Results of Administrative Review *74 FR 27016*, June 5, 2009.

University of Iowa, Notice of Consolidated Decision on Application for Duty-Free Entry of Electron Microscopes *74 FR 27016-27017*, June 5, 2009.

Application(s) for Duty-Free Entry of Scientific Instruments *74 FR 27017*, June 5, 2009.

Application(s) for Duty-Free Entry of Scientific Instruments *74 FR 27017-27018*, June 5, 2009.

Notice of Decision on Applications for Duty-Free Entry of Scientific Instruments *74 FR 27018*, June 5, 2009.

[A-570-831] Fresh Garlic From the People's Republic of China: Extension of Time Limit for the Final Results of New Shipper Reviews *74 FR 26839*, June 4, 2009.

[A-570-893, A-552-802] Certain Frozen Warmwater Shrimp from the People's Republic of China and the Socialist Republic of Vietnam: Notice of Extension of Time Limit for the Final Results of the Third Administrative Reviews *74 FR 26839-26840*, June 4, 2009.

[A-570-901] Certain Lined Paper Products from China: Notice of Intent to Rescind, In Part, Antidumping Duty Administrative Review and Extension of Time Limit for the Preliminary Results of Antidumping Duty Administrative Review *74 FR 26840-26842*, June 4, 2009.

[C-580-837] Certain Cut-to-Length Carbon-Quality Steel Plate from the Republic of Korea: Notice of Rescission of Countervailing Duty Administrative Review *74 FR 26843-26844*, June 4, 2009.

[C-533-821] Certain Hot-Rolled Carbon Steel Flat Products from India: Partial Rescission of Countervailing Duty Administrative Review *74 FR 26847-26848*, June 4, 2009.

[C-357-813] Honey From Argentina: Rescission of Countervailing Duty Administrative Review *74 FR 26842-26843*, June 4, 2009.

[C-552-805] Polyethylene Retail Carrier Bags from the Socialist Republic of Vietnam: Postponement of Preliminary Determination in the Countervailing Duty Investigation *74 FR 26846-26847*, June 4, 2009.

[C-423-809] Stainless Steel Plate in Coils from Belgium: Preliminary Results of Countervailing Duty Administrative Review *74 FR 26844-26846*, June 4, 2009.

[A-570-846] Brake Rotors From the People's Republic of China: Final Results and Partial Rescission of the 2007 Antidumping Duty Administrative Review *74 FR 26371-26373*, June 2, 2009.

[A-533-848] Commodity Matchbooks From India: Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination *74 FR 26366-26371*, June 2, 2009.

[A-489-805] Certain Pasta from Turkey: Notice of Final Results of Antidumping Duty Changed Circumstances Review *74 FR 26373-26374*, June 2, 2009.

District Export Council Nomination Opportunity *74 FR 26374*, June 2, 2009.

Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Advance Notification of Sunset Reviews *74 FR 26204*, June 1, 2009.

Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review *74 FR 26202-26204*, June 1, 2009.

[A-570-933] Notice of Correction to Antidumping Duty Order: Frontseating Service Valves From the People's Republic of China *74 FR 26204-26206*, June 1, 2009.

International Trade Commission

[Investigation No. 337-TA-666] Notice of Commission Decision Not To Review an Initial Determination Correcting the Name of ASUS Computer International in the Complaint and Notice of Investigation; Certain Cold Cathode Fluorescent Lamp ("CCFL") Inverter Circuits and Products Containing the Same *74 FR 27049*, June 5, 2009.

[Investigation No. 337-TA-623] In the Matter of Certain R-134a Coolant (Otherwise Known As 1,1,1,2-Tetrafluoroethane); Notice of Commission Determination To Review the Remand Determination of the Presiding Administrative Law Judge and To Extend the Target Date *74 FR 27048-27049*, June 5, 2009.

[Investigation Nos. 701-TA-465 and 731-TA-1161 (Preliminary)] Certain Steel Grating From China *74 FR 27049-27050*, June 5, 2009.

[USITC SE-09-016] Government in the Sunshine Act Meeting Notice *74 FR 27050*, June 5, 2009.

[Investigation Nos. 701-TA-464 and 731-TA-1160 (Preliminary)] Prestressed Concrete Steel Wire Strand From China *74 FR 26371-26372*, June 3, 2009.

[Investigation No. 337-TA-662] In the Matter of Certain Tunable Laser Chips, Assemblies, and Products Containing Same; Notice of a Commission Determination To Terminate the Investigation *74 FR 26372*, June 3, 2009.

[Investigation No. 731-TA-1013 (Review)] Saccharin From China *74 FR 26257*, June 1, 2009.

The Week Ahead

- The ITC has no scheduled hearings or votes in the upcoming week.