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Trade Briefs

Congress Considers "Cash for Clunkers" Legislation

In response to depressed auto sales and worries about the environmental impact of low-efficiency vehicles, the U.S. Congress is considering so-called "cash for clunkers" legislation that would offer incentives for consumers to trade in their old cars for new cars with better gas mileage. It is unclear whether or not such legislation will be enacted or whether it will limit benefits to domestically-produced autos. It is possible that "cash for clunkers" legislation could hurt foreign automakers who export to the U.S.

President Barack Obama and the Democratic majorities in the U.S. Congress have made environmental policy a priority. To solve the problem of the rise in polluting emissions, they are pushing for higher fuel efficiency standards for passenger vehicles. However, the struggling auto industry fears the costs of engineering vehicles that get better mileage and are still attractive to American consumers. In order to bridge this gap, a bipartisan group of congressmen from the Midwest have proposed that the government offer incentives to get people to sell their old inefficient cars and purchase new, more efficient models, thereby boosting the auto industry and taking heavy polluters off the road.

On Tuesday, June 9, the House of Representatives passed a bill, H.R. 2751, that would offer vouchers toward a new vehicle. The bill was introduced by Rep. Betty Sutton (D-OH). Depending on the type of vehicle traded in and the type of new vehicle purchased, buyers could qualify for \$3,500 to \$4,500. The larger voucher would be reserved for gas mileage gains of 10 miles per gallon from the old car to the new car.

Senators Dianne Feinstein (D-CA) and Susan Collins (R-ME) objected to this legislation, saying that the program's limited requirements mean that it could be used to purchase high-emission sports utility vehicles (SUVs). They proposed higher fuel efficiency standards and the option for consumers to use vouchers toward the purchase of used cars.

Notably, H.R. 2751 and the Feinstein-Collins proposal do not demand that the program be limited to domestically-produced vehicles. Earlier in the year, Sutton introduced similar draft legislation that would offer vouchers only for vehicles assembled in the U.S. or assembled in North America. This earlier legislation may have constituted an import substitution subsidy and would have therefore been inconsistent with U.S. obligations to the World Trade Organization (WTO). Apparently this idea has been scrapped.

There are fresh reports that House and Senate Members agreed on some type of "cash for clunkers" legislation on June 11 that will appear in a \$106 billion war supplemental spending bill. However, the final legislation has not been released and there have been no announcements about specific compromises. The supplemental is expected to be considered on the House floor on June 16. The contours of this legislation could be more clear at that point.

GM Drops Brands, Looks to Restructure

Since GM's bankruptcy on June 1, there have been a number of developments and releases that may impact its domestic and foreign competitors. Specifically, GM has made arrangements to sell some of its brands and it has made a filing with the Securities and Exchange Commission (SEC) that reveals its plans for restructuring. These developments are likely to have an impact on countries like Japan with large automakers and an interest in the U.S. automobile market.

GM Looks to Drop Brands

GM has moved to drop its Saturn, Hummer, and Saab brands. These moves are in line with GM's stated desire to consolidate its efforts around four major nameplates: Chevrolet, Cadillac, Buick, and GMC. Many critics of GM's corporate strategy had pointed to a sprawling product line made up of a wide variety of brands that ended up competing with one another more than they added unique value. Now in restructuring, GM appears to be agreeing with this point.

On June 5, GM announced that it would sell Saturn Corporation to Penske Automotive Group. Penske will be purchasing the brand name and the sales and distribution networks for Saturn. It will not be buying the factories. Penske will contract GM to build out the remaining Saturn models in the pipeline over the next two years. Then the company could go on to move its assembly operations overseas, and some experts believe that this is likely.

Over the past two weeks, it was reported that GM has reached a deal with a Chinese firm, Sichuan Tengzhong Heavy Industrial Machinery Co., on its Hummer brand of vehicles. According to these reports, the deal would keep Hummer's assembly plants and offices in the U.S. and would focus on more efficient vehicles for the future. However, the deal appears to be in trouble due to "resistance" from the Chinese Commerce Ministry.

According to reports, GM has reached a preliminary agreement to sell Saab to Swedish automaker Koenigsegg. The deal is contingent on financing from the European Investment Bank that will be guaranteed by the Swedish government.

SEC Filing Reveals Details of Restructuring Plan

In conjunction with GM's bankruptcy filing, GM and the U.S. Treasury filed with the Securities and Exchange Commission (SEC) documents detailing certain aspects of their restructuring plan. This plan, which made headlines on June 1, must be approved by the Bankruptcy Court. Accordingly, there is not complete certainty that the plan as-filed will be the ultimate resolution. It is nevertheless likely that the new GM will be structured similar to the proposal jointly made with the government.

President Obama has announced the intention to make about \$30 billion available for the restructuring plan. Under the terms of the sale, an entity formed by the Treasury ("New GM") will purchase nearly all of the assets from GM. As consideration, the U.S. government will have debt owed, common equity, and perpetual preferred stock interests in the New GM. First, there is debt that will be assumed by the New GM. Under the plan, the New GM will owe the government \$6.7 billion; in addition, the Old GM will be obligated to pay back \$950 million in debt that will not be assumed by the new company. The

Canadian and Ontario governments will also be owed \$1.3 billion. It does not appear as though the terms for repayment have been specified.

The plan also outlines the planned allocation for the New GM's outstanding common and perpetual preferred stock. The government will own 60.8% of the common stock; Canada will own 11.7%; a newly created UAW association will gain 17.5%; and the Old GM will be given 10% of the stock. The government will also purchase \$2.1 billion of preferred stock with a 9% dividend. With this stake, the government will have the right to appoint the initial directors, other than the one selected by the UAW association and one by the Canadian government.

In response to the government's large ownership interest, President Obama has outlined four general "Principles for Managing Ownership Stake." Generally, the principles express (1) the desire to reduce the government's equity interest as quickly as is practicable; (2) the right to set upfront conditions for restructuring or management; (3) the independence of New GM to make its own decisions moving forward, including the requirement that no government employees serve on the board or be employed; and (4) the expectation that the government will only vote on core governance issues as a common shareholder.

Under a separately agreed upon arrangement, the United States is assisting GM in ensuring that all warranties are honored. President Obama and GM announced that warranty claims will be honored during the restructuring. Under the plan, GM partially funds a special-purpose company that will pay covered warranty claims. The total amount of cash contributed to the entity will equal 125% of the expected cost of warranty service on each vehicle. GM contributed 15% of the expected cost from company funds and the government provided additional funds to cover the remaining 110%. This general framework also applied to Chrysler.

Currently, the GM Warranty program has \$409.8 million in cash, which it estimates to cover the 125% of projected costs. Of this total, GM contributed \$49.2 million and the government contributed \$360.6 million. Under the terms of this agreement, the interest rate equals the three-month LIBOR rate plus 3.5% and will mature 36 months after GM's restructuring period.

The bankruptcy process is likely to be opaque, and it could take months, but it is likely that the New GM that emerges from bankruptcy will be organized along these lines, with the U.S. government holding a commanding equity stake in the automaker. Therefore, the U.S. government is set for a major intrusion in the private sector. With these equity shares, the U.S. government will be able to appoint board members. In theory, the U.S. could use its majority share to make virtually any decision for the company. This brings up a number of conflicts of interest that could hurt competition—such as that from Japanese automakers like Toyota and Honda—in the U.S. automobile market.

Dumping Watch

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

On June 11, the Department of Commerce (DOC) gave notice that it had reached final results in the administrative review of the antidumping (AD) duty order on certain hot-rolled flat-rolled carbon quality steel products (hot-rolled steel) from Japan. The DOC's final results were the same as those found in the preliminary review.

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. The DOC subsequently reached a preliminary determination that adverse facts available should be applied to JFE, Nippon, and Kobe. The DOC calculated preliminary dumping margins for these respondents to be 40.26%.

No interested parties provided comments on those preliminary results. Therefore, in its final results, the DOC has made no changes to the dumping margins calculated in its preliminary determination. The DOC will issue appropriate assessment instructions to Customs and Border Protection (CBP) within 15 days.

Preliminary Results in AD Review of Polyester Staple Fiber from Korea

On June 9, the DOC gave notice of preliminary results in the administrative review of the AD duty order on certain polyester staple fiber (PSF) from Korea.

In May 2000, the DOC issued an AD duty order on Korea PSF. In May 2008, the DOC gave notice of opportunity to request an administrative review. In response, Huvis Corporation (Huvis) and three petitioners (Wellman, Inc., and DAK Americas LLC, and Invista, S.a.r.L.) requested such a review. On July 1, the DOC gave notice of the initiation of an administrative review with respect to Huvis.

On Tuesday, the DOC published its preliminary results of this review regarding the AD order on PSF from Korea: the DOC preliminarily found sales of the subject merchandise below normal value. The dumping margin was calculated to be 1.50% for Huvis. The all-other rate will remain at 7.91%.

Federal Register Notices

International Trade Administration

[A-331-802] Certain Frozen Warmwater Shrimp from Ecuador: Notice of Extension of Time Limit for the Final Results of the Third Administrative Review *74 FR 28018*, June 12, 2009.

[A-588-846] Certain Hot-Rolled Flat-Rolled Carbon-Quality Steel Products From Japan: Final Results of Antidumping Duty Administrative Review *74 FR 27775-27777*, June 11, 2009.

[A-570-909] Certain Steel Nails From the People's Republic of China: Extension of Time Limit for the Preliminary Results of the New Shipper Review *74 FR 27777*, June 11, 2009.

[A-427-801] Ball Bearings and Parts Thereof from France: Preliminary Results of Changed-Circumstances Review *74 FR 27280-27281*, June 9, 2009.

[A-580-839] Certain Polyester Staple Fiber from the Republic of Korea: Preliminary Results of the 2007/2008 Antidumping Duty Administrative Review *74 FR 27281-27286*, June 9, 2009.

[A-570-898] Chlorinated Isocyanurates from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review *74 FR 27104-27109*, June 8, 2009.

[A-570-848] Freshwater Crawfish Tail Meat From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review and Intent to Rescind Review in Part *74 FR 27109-27114*, June 8, 2009.

[A-570-803] Heavy Forged Hand Tools, With or Without Handles From the People's Republic of China (Axes and Adzes): Rescission of Antidumping Duty Administrative Review *74 FR 27103-27104*, June 8, 2009.

[A-570-832] Pure Magnesium from the People's Republic of China: Preliminary Results of 2007-2008 Antidumping Duty Administrative Review *74 FR 27090-27097*, June 8, 2009.

[A-570-878] Continuation of Antidumping Duty Order on Saccharin from the People's Republic of China *74 FR 27089-27090*, June 8, 2009.

[A-423-808] Stainless Steel Plate in Coils from Belgium: Preliminary Results of Antidumping Duty Administrative Review *74 FR 27097-27103*, June 8, 2009.

International Trade Commission

[Investigation Nos. 701-TA-466 and 731-TA-1162 (Preliminary)] Wire Decking from China Determinations *74 FR 27559-27560*, June 10, 2009.

[Inv. No. 337-TA-677] In the Matter of Certain Course Management System Software Products; Notice of Investigation *74 FR 27345-27346*, June 9, 2009.

[USITC SE-09-017] Government in the Sunshine Act Meeting Notice *74 FR 27346*, June 9, 2009.

[Inv. No. 337-TA-665] In the Matter of Certain Semiconductor Integrated Circuits and Products Containing Same; Notice of Commission Determination Not To Review an Initial Determination Granting-in-Part and Denying-in-Part Complainant's Motion for Leave To Amend the Complaint and Notice of Investigation *74 FR 27181*, June 8, 2009.

The Week Ahead

- On June 15, the ITC held a commission vote on the five-year sunset review concerning the AD duty order on frozen fish fillets from Vietnam.

- On June 16, the ITC will hold a hearing on the final phase AD investigation into tow-behind lawn groomers from China.
- On June 17, the ITC will hold a preliminary conference on the CVD and AD investigations into concrete steel wire strand from China.
- On June 18, the ITC will hold a vote on the safeguard investigation into passenger vehicle and light truck tires from China.
- On June 19, the ITC will hold a preliminary conference on the CVD and AD investigations into steel grating from China.