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Trade Briefs

Senate Finance Committee Holds Hearing on Trade Implications of Climate Change Legislation

On July 8, the Senate Finance Committee held a hearing on "Climate Change Legislation: International Trade Implications." The hearing touched on border measures, permit allocations, and other trade-related aspects of proposed initiatives intended to curb pollution-causing emissions.

The House passed the American Clean Energy and Security Act (ACES) which includes the possible future imposition of border measures on imports from countries that are not sufficiently addressing polluting emissions. This hearing appears to have been designed to inform Finance Committee members of the potential drawbacks and benefits of such border measures for their eventual consideration of climate change legislation.

Senate Finance Committee Chairman Max Baucus (D-MT) did not attend due to his ongoing work on healthcare reform. Therefore, the hearing was chaired by Committee Member John Kerry (D-MA). Ranking Member Charles Grassley (R-IA) attended, as did Senators Debbie Stabenow (D-MI), Jim Bunning (R-KY), Maria Cantwell (D-WA), Kent Conrad (D-ND).

Three witnesses testified to the Committee on their expectations of the trade implications of climate change legislation: Loren Yager, Ph. D, Director, International Affairs and Trade, Government Accountability Office (GAO); Eileen Claussen, President, Pew Center on Global Climate Change; and Gary Horlick, J.D. M.A., Law Offices of Gary Horlick.

Yager spoke on behalf of the GAO and based his comments on a GAO report issued to the Finance Committee. Yager focused mostly on the possible adverse effects of climate change legislation on vulnerable industries, and he did not dwell on the specific issue of border measures. However, he did warn of "carbon leakage," whereby laws that limit domestic carbon emissions could simply cause other countries to add capacity and produce even more polluting emissions.

Claussen focused on the Pew Center's recommendations for addressing competitiveness concerns with new climate change legislation. Pew recommends that the executive negotiate a new multilateral climate agreement in order to avoid punitive border measures. She said that unilateral border measures would have limited effectiveness and would certainly invite retaliation. Furthermore, depending on how they are written, they could violate World Trade Organization (WTO) rules. Finally, the imposition of border measures would likely have a negative impact on trade and international relations.

Horlick's comments centered on international trade issues in the climate change debate. He emphasized that while some border measures would be WTO consistent, they would have to be carefully designed such that they do not advantage certain industries in the U.S. Horlick warned of the difficulty in designing permit allocations to domestic producers, saying that they could be seen by the WTO as actionable subsidies. Horlick also said that it was essential for all major emitters to cooperate in reducing emissions, and that it may make more sense strategically to forgo threats of border measures in the hopes that a

international agreement could be reached. Finally, he warned of the mechanical difficulties of enforcing climate change policies if every country were to implement its own cap-and-trade policies and its own limits on emissions. He gave the example of the Apple iPod, pointing out that its components were sourced from nearly two dozen countries. Would each component be subject to different rates based on its home countries' emissions?

Horlick pointed out that the major emerging emitters—India and China—would likely retaliate against U.S. border measures by basing emission standards on a per capita basis. The U.S. is by far the highest emitter per capita, and per capita-based border measures from India and China could significantly hurt U.S. businesses' competitiveness in these large economies.

Kerry said that he acknowledged the difficulties with carbon leakage and the drawbacks to border measures. However, Kerry said that the U.S. must lead on climate change if it expects other countries to join in reducing emissions. He appeared resigned to the necessity of a kind of trigger for punitive border measures in the event that other countries do not join.

Grassley said that he was generally skeptical of the use of tariffs, and that he feared the possibility of detrimental effects of legislation like the ACES Act. He did not speak for long as he was forced to leave for a vote.

Stabenow questioned the witnesses on how to design compliance mechanisms for foreign countries in the event that an international agreement were reached. She said that she was concerned that other nations would sign an agreement, and then the U.S. would be left without a way to enforce that agreement.

Bunning pointed out how fast China was building coal-fired power plants, wondering if there was any way to stop their momentum in emitting more carbon.

The passage of the ACES bill in the House has put the onus on the Senate to come up with companion climate change legislation, and the fight to write a Senate version is likely to be highly contentious. Carbon leakage, competitiveness for domestic industry, and international trade will all be major issues of debate.

Dumping Watch

Preliminary Determination in AD Review re Korean PET Film

On July 6, the Department of Commerce (DOC) gave notice that it had reached a preliminary determination in the administrative review of polyethylene terephthalate film, sheet and strip (PET film) from Korea. The AD order on Korean PET film was initiated in 1991. In June 2008, the DOC received timely requests from three petitioners—Kolon Industries, Inc. (Kolon), Dupont Teijin Films, Mitsubishi Polyester Film, Inc., and Toray Plastics America Inc.—for an administrative review of this AD order. And on July 30, 2008, the DOC initiated an administrative review for Kolon. On July 6, the DOC announced the preliminary results in its review with regard to Kolon. The DOC found a weighted-average dumping margin of 0.15%, which is *de minimis*. Therefore, the DOC preliminarily determined that Kolon did not make sales below normal value. The DOC will issue final results of this review within 120 days.

Federal Register Notices

International Trade Administration

Application(s) for Duty-Free Entry of Scientific Instruments 74 FR 33207-33208, July 10, 2009.

[A-552-801] Continuation of Antidumping Duty Order on Certain Frozen Fish Fillets From the Socialist Republic of Vietnam 74 FR 33208, July 10, 2009.

[A-557-813] Polyethylene Retail Carrier Bags From Malaysia: Preliminary Results of Antidumping Duty Administrative Review 74 FR 32880-32884, July 9, 2009.

[A-549-821] Polyethylene Retail Carrier Bags from Thailand: Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review 74 FR 32885, July 9, 2009.

[A-570-886] Polyethylene Retail Carrier Bags From the People's Republic of China: Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review 74 FR 32884-32885, July 9, 2009.

[A-570-806] Silicon Metal From the People's Republic of China: Preliminary Results and Preliminary Rescission, in Part, of Antidumping Duty Administrative Review 74 FR 32885-32890, July 9, 2009.

Application(s) for Duty-Free Entry of Scientific Instruments 74 FR 32890, July 9, 2009.

Notice of Consolidated Decision on Applications for Duty-Free Entry of Electron Microscopes; U.S. Food and Drug Administration, et al. 74 FR 32891, July 9, 2009.

[University of Chicago, et al.] Notice of Decision on Applications for Duty-Free Entry of Scientific Instruments 74 FR 32891-32892, July 9, 2009.

[Docket No. I.D. GF001] Grants to Manufacturers of Certain Worsted Wool Fabrics 74 FR 32530-32532, July 8, 2009.

[A-583-816] Certain Stainless Steel Butt-Weld Pipe Fittings From Taiwan: Preliminary Results of Antidumping Duty Administrative Review, Notice of Intent To Rescind in Part, and Notice of Intent Not To Revoke Order in Part 74 FR 32532-32539, July 8, 2009.

[A-570-601] Tapered Roller Bearings and Parts Thereof, Finished or Unfinished, from the People's Republic of China: Preliminary Results of the 2007-2008 Administrative Review of the Antidumping Duty Order *74 FR 32539-32545*, July 8, 2009.

[A-357-812] Honey from Argentina: Final Results of Antidumping Duty Administrative Review and Determination to Revoke Order in Part *74 FR 32107-32109*, July 7, 2009.

[A-570-868] Folding Metal Tables and Chairs from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review *74 FR 32118-32125*, July 7, 2009.

[A-570-905] Certain Polyester Staple Fiber from the People's Republic of China: Notice of Preliminary Results of the Antidumping Duty Administrative Review and Extension of Time Limit for the Final Results *74 FR 32125-32131*, July 7, 2009.

[A-549-822] Certain Frozen and Canned Warmwater Shrimp from Thailand: Notice of Court Decision Not in Harmony With Final Determination of Sales at Less Than Fair Value *74 FR 31911-31912*, July 6, 2009.

[A-570-891] Hand Trucks and Certain Parts Thereof from the People's Republic of China: Notice of Rescission of Antidumping Duty New Shipper Review *74 FR 31911*, July 6, 2009.

[C-357-819] Ni-Resist Piston Inserts From Argentina: Preliminary Affirmative Countervailing Duty Determination *74 FR 31914-31918*, July 6, 2009.

[C-580-862] Ni-Resist Piston Inserts from the Republic of Korea: Preliminary Negative Countervailing Duty Determination *74 FR 31919-31922*, July 6, 2009.

[A-580-807] Polyethylene Terephthalate Film, Sheet, and Strip From the Republic of Korea: Preliminary Results of Antidumping Duty Administrative Review *74 FR 31922-31926*, July 6, 2009.

International Trade Commission

[Investigation No. 332-345] Recent Trends in U.S. Services Trade, 2010 Annual Report *74 FR 32952-32953*, July 9, 2009.

[Investigation No. 731-TA-1163 (Preliminary)] Woven Electric Blankets From China *74 FR 32192-32193*, July 7, 2009.

[Inv. No. 337-TA-543 (Remand Proceeding) (Enforcement Proceeding)] In the Matter of Certain Baseband Processor Chips and Chipsets, Transmitter and Receiver (Radio) Chips, Power Control Chips, and Products Containing Same, Including Cellular Telephone Handsets; Notice of Commission Determination Not To Review an Initial Determination Terminating the Investigation Based on a Settlement Agreement *74 FR 31975-31976*, July 6, 2009.

[Investigation No. 731-TA-1012 (Review)] Certain Frozen Fish Fillets From Vietnam; Determination *74 FR 31975*, July 6, 2009.

Office of the U.S. Trade Representative

Generalized System of Preferences (GSP): Notice of the Results of the 2008 Annual Product Reviews *74 FR 33013-33014*, July 10, 2009.

[Docket No. WTO/DS392/2] WTO Dispute Settlement Proceeding Regarding United States--Certain Measures Affecting Imports of Poultry From China 74 FR 32682-32684, July 8, 2009.

[Docket No. WTO/DS394] WTO Dispute Settlement Proceeding Regarding China--Measures Related to the Exportation of Various Raw Materials 74 FR 32217-32219, July 7, 2009.

The Week Ahead

- On July 15, the ITC will hold a vote on final phase CVD and AD investigations into tow-behind lawn groomers from China.
- On July 16, the ITC will hold a hearing on final phase CVD and AD investigations into kitchen appliance shelving and racks from China.