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Trade Briefs

Foreign Manufacturers Legal Accountability Act of 2009 Introduced

On August 6, a bipartisan group of U.S. Senators introduced the Foreign Manufacturers Legal Accountability Act of 2009 (S. 1606). The legislation requires foreign manufacturers of products who wish to import their products into the U.S. to establish registered agents in the U.S. who can accept service of legal actions against these manufacturers. If enacted, S. 1606 would add a significant new requirement for those looking to engage in the trade of merchandise with the U.S.

This legislation was introduced by a powerful bipartisan group of Senators on the Judiciary Committee: Sheldon Whitehouse (D-RI), Jeff Sessions (R-AL), and Dick Durbin (D-IL). The Senators wrote this legislation in response to a Judiciary subcommittee hearing regarding the difficulties faced by U.S. plaintiffs in pursuing the manufacturers of defective Chinese drywall. The plaintiffs alleged that the Chinese manufacturers used technical legal defenses in order to avoid compensating those who had been injured by their defective products. These Senators were moved by the testimony at this hearing. Furthermore, they now argue that the difficulty of taking legal action against foreign manufacturers is unfair to domestic manufacturers, as they are fully liable and within easy reach of the U.S. legal system.

S. 1606 addresses this issue by requiring each foreign manufacturer of covered products to register an agent in the U.S. who is authorized to accept service of process for that manufacturer. The registered agent must be located in a U.S. state with a substantial connection to the importation, distribution, or sale of the products of the manufacturer.

The covered products in S. 1606 are:

- Drugs, devices, and cosmetics;
- Biological products;
- Consumer products;
- Chemical substances; and
- Pesticides.

This requirement will be limited to foreign manufacturers that produce these covered products in excess of a minimum value or quantity established by the head of the applicable enforcement agency.

S. 1606 has been introduced and referred to the Senate Finance Committee. At this time, it is not clear whether or not this measure will be adopted. However, this bill does appear to have real bipartisan support. The case over defective Chinese drywall has gotten a significant amount of attention, and this bill would likely be a popular remedy.

Dumping Watch

Final Rescission of AD Administrative Review regarding Chinese Hot-Rolled Flat Steel Products

On August 11, the Department of Commerce (DOC) gave notice of final rescission of the administrative review of the antidumping (AD) duty order on certain hot-rolled flat steel products from China. On December 24, 2008, the DOC gave notice of initiation of an administrative review of hot-rolled products from China. The administrative review covered two groups of Chinese producers/importers: Angang Steel Company, Ltd., Angang Group International Trade Corporation, New Iron and Steel Co., Ltd., Angang Group Hong Kong Co., Ltd., Anshan Iron & Steel Group, and all affiliated entities (collectively "Angang"); and Shanghai Baosteel Group Corporation, Baosteel Group International Trade Corp., and Baoshan Iron and Steel Co., Ltd. (collectively "Baosteel"). Angang and Baosteel subsequently submitted letters to the DOC stating that they had no entries of subject merchandise to the U.S. during the period of review. ArcelorMittal, a petitioner, withdrew its request for review for the two companies. As ArcelorMittal was the only petitioner to request a review of Angang, the DOC announced on June 26, 2009, that it would rescind the administrative review with respect to Angang. Also, during the preliminary review, the DOC reviewed Customs and Border Protection (CBP) documents regarding Baosteel's entries and found no evidence of entries during the period of review. On June 26, the DOC preliminarily rescinded the review with respect to Baosteel. On August 11, the DOC published notice that in its final review it did not find information on the record indicating that Baosteel made sales to the U.S. of the subject merchandise during the period of review. Therefore, the DOC is rescinding the review of the AD order with respect to Baosteel. The DOC will issue assessment instructions to the CBP within 15 days.

Affirmative Final Determination of Circumvention of AD Order on Cut-to-Length Carbon Steel Plate from China

On August 12, the Department of Commerce (DOC) published in the *Federal Register* notice of its final determination of circumvention of the antidumping (AD) duty order on certain cut-to-length carbon steel plate (CTL plate) from China. The DOC issued an affirmative determination in this case. The DOC initiated this AD circumvention inquiry in October 2008 in response to a request from five domestic interested parties—Nucor Corporation, SSAB N.A.D., Evraz NA Claymont Steel, Evraz NA Oregon Steel Mills, and Arcelor Mittal USA Inc.—to investigate the imports of the subject merchandise from Tianjin Iron and Steel Co., Ltd. (Tianjin) and Toyota Tsusho America, Inc. (Toyota Tsusho). The petitioners alleged that Tianjin and Toyota Tsusho had circumvented existing AD duty orders by modifying their products so that they fell outside of the scope of the order. Specifically, they alleged that these companies added boron to make up more than 0.0008 % of their steel by weight such that the product could be classified as an "alloy." Toyota Tsusho notified the DOC that it would not respond to its questionnaire. Tianjin did respond, arguing that the addition of boron allows for more stable mechanical properties. In its preliminary determination, the DOC disagreed with Tianjin's argument, finding that Tianjin's submitted information does not support this conclusion. Furthermore, the DOC preliminarily found that the addition of trace amounts of boron at an insignificant cost coincided with the imposition of the AD order on cut-to-length carbon steel plate. Therefore, the DOC preliminarily determined that imports of the merchandise are within the class or kind of merchandise

subject to the AD order. This affirmative preliminary determination applied to both Tianjin and Toyota Tsusho. None of the parties submitted comments in response to the preliminary determination, and on August 12 the DOC announced that it continues to determine that imports of the inquiry merchandise are circumventing the order on CTL plate from China. The DOC will instruct Customs and Border Protection (CBP) to continue to require a cash deposit of estimated duties for each unliquidated entry of the inquiry product.

Federal Register Notices

International Trade Administration

Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation;
Opportunity to Request Administrative Review *74 FR 41120*, August 14, 2009.

[A-475-818] Certain Pasta From Italy: Notice of Final Results of Antidumping Duty Changed Circumstances Review and Revocation, in Part *74 FR 41120-41121*, August 14, 2009.

[A-570-851] Certain Preserved Mushrooms From the People's Republic of China: Notice of Rescission of Antidumping Duty Administrative Review *74 FR 41123-41124*, August 14, 2009.

[A-570-836] Glycine From the People's Republic of China: Final Results of Antidumping Duty Administrative Review *74 FR 41121-41123*, August 14, 2009.

Medical Trade Mission to India *74 FR 41125-41127*, August 14, 2009.

[A-475-059] Pressure Sensitive Plastic Tape From Italy: Final Results of Expedited Sunset Review *74 FR 40811-40812*, August 13, 2009.

[C-570-950] Wire Decking from the People's Republic of China: Notice of Postponement of Preliminary Determination in the Countervailing Duty Investigation *74 FR 40812*, August 13, 2009.

[A-570-849] Affirmative Final Determination of Circumvention of the Antidumping Duty Order on Certain Cut-to-Length Carbon Steel Plate From the People's Republic of China *74 FR 40565*, August 12, 2009.

[C-570-946] Prestressed Concrete Steel Wire Strand From the People's Republic of China: Notice of Postponement of Preliminary Determination in the Countervailing Duty Investigation *74 FR 40567-40568*, August 12, 2009.

[A-570-865] Certain Hot-Rolled Carbon Steel Flat Products from the People's Republic of China: Final Rescission of Antidumping Duty Administrative Review *74 FR 40165-40167*, August 11, 2009.

[A-351-840] Certain Orange Juice from Brazil: Final Results of Antidumping Duty Administrative Review *74 FR 40167-40168*, August 11, 2009.

The Manufacturing Council: Meeting of the Manufacturing Council *74 FR 40170*, August 11, 2009.

University of Texas at Austin, et al.; Notice of Consolidated Decision on Applications for Duty-Free Entry of Electron Microscopes *74 FR 39918*, August 10, 2009.

National Renewable Energy Laboratory, et al.; Notice of Decision on Applications for Duty-Free Entry of Scientific Instruments 74 FR 39918-39919, August 10, 2009.

[A-821-819] Magnesium Metal From the Russian Federation: Final Results and Partial Rescission of Antidumping Duty Administrative Review 74 FR 39919-39920, August 10, 2009.

[C-570-948] Certain Steel Grating from the People's Republic of China: Postponement of Preliminary Determination in the Countervailing Duty Investigation 74 FR 39921, August 10, 2009.

[A-570-849] Certain Cut-to-Length Carbon Steel Plate From the People's Republic of China: Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review 74 FR 39921-39928, August 10, 2009.

[A-549-821] Polyethylene Retail Carrier Bags from Thailand: Preliminary Results of Antidumping Duty Administrative Review 74 FR 39928-39933, August 10, 2009.

[A-588-602] Carbon Steel Butt-Weld Pipe Fittings from Japan: Rescission of Antidumping Duty Administrative Review 74 FR 39934, August 10, 2009.

Withdrawal of Application for Duty-Free Entry of Scientific Instruments 74 FR 39934, August 10, 2009.

International Trade Commission

[Investigation No. 337-TA-675] In the Matter of Certain Wireless Communications Devices and Components Thereof; Notice of Commission Determination Not To Review an Initial Determination Granting a Joint Motion To Terminate the Investigation Based on Withdrawal of the Complainant; Termination of the Investigation 74 FR 41164, August 14, 2009.

[Inv. No. 337-TA-660] Notice of Commission Determination Not To Review an Initial Determination Terminating the Investigation Based on a Settlement Agreement and Withdrawal of the Complaint; Request for Briefing on Bonding and the Public Interest; In the Matter of Certain Active Comfort Footwear 74 FR 40811-40812, August 13, 2009.

Investigation No. AA1921-167 (Third Review); Pressure Sensitive Plastic Tape From Italy 74 FR 40811-40812, August 13, 2009.

[Inv. No. 337-TA-649] Notice of Commission Determination Not To Review an Initial Determination Granting Complainant's Motion To Terminate the Investigation; Termination of Investigation; In the Matter of Certain Semiconductor Chips With Minimized Chip Package Size and Products Containing Same (IV) 74 FR 40811-40812, August 13, 2009.

[Investigation No. 332-345] Shifts in U.S. Merchandise Trade 2008 74 FR 40811-40812, August 13, 2009.

[USITC SE-09-024] Government in the Sunshine Act Meeting Notice 74 FR 40846, August 13, 2009.

[Investigation No. 337-TA-676] In the Matter of Certain Lighting Control Devices Including Dimmer Switches and Parts Thereof; Notice of Commission Decision Not To Review an Initial Determination Terminating the Investigation Based on a Consent Order 74 FR 39969, August 10, 2009.

[Investigation Nos. 701-TA-468 and 731-TA-1166-1167 (Preliminary)] Certain Magnesia Carbon Bricks From China and Mexico 74 FR 39969-39970, August 10, 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 Reverse the Remand Determination of the Presiding Administrative Law Judge and To Terminate the Investigation in Its Entirety With a Finding of No Violation 74 FR 39968-39969, August 10, 2009.

[USITC SE-09-023] Government in the Sunshine Act Meeting Notice 74 FR 39970-39971, August 10, 2009.

Office of the U.S. Trade Representative

[Docket No. USTR-2009-0022] Implementation of the U.S.-EC Beef Hormones Memorandum of Understanding 74 FR 40864-40867, August 13, 2009.

The Week Ahead

- On August 18, the ITC will hold a commission vote on the final phase AD and CVD investigations into kitchen appliance shelving and racks from China.
- On August 19, the ITC will hold a preliminary conference regarding the AD and CVD investigations of magnesia carbon bricks from China and Mexico.
- On August 21, the ITC will hold a commission vote on the preliminary phase AD and CVD investigations into ribbons from China and Taiwan.