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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 Imposes Duties on Chinese Tires

On September 11, President Barack Obama announced that he would impose an increased duty on light truck and passenger vehicle tires from China in response to a Section 421 investigation. Obama announced that he would impose a duty over three years. Obama chose to impose a lower level of duties—35% in the first year, 30% in the second year, 25% in the third year—than those recommended by the U.S. Trade Representative (USTR) Ron Kirk.

421 Investigations

A 421 investigation is an investigation under the authority of Section 421 of the Trade Act of 1974. It is a China-specific safeguard for imported products. As part of China's accession to the WTO, China accepted transitional remedies to address import surges into other countries that cause market disruption. Section 421 is such a remedy. When Section 421 was imposed, many believed that these investigations would become more prevalent than antidumping (AD) investigations against China. 421 investigations can be done cheaper and faster than AD investigations, and they only require a finding of "material injury" as opposed to the World Trade Organization (WTO) requirement of "serious injury." However, this did not prove to be the case under President Bush.

The President has discretion on imposing a remedy, except in a case where denying the relief would have an adverse impact on the greater U.S. economy greater than the positive impact of the remedy. This language is ambiguous, and Bush denied relief in many cases by arguing that imposition of a remedy was not in the nation's interest. Often, Bush cited diplomatic concerns or potential harm to other industries when denying relief. The result was that Bush unilaterally defanged Section 421.

During the campaign, Obama specifically opposed Bush's use—or lack thereof—of Section 421. It was expected, then, that the use of 421 investigations would increase under Obama. Obama's willingness to impose a 421 duty could embolden petitioners, starting a trend toward more such investigations.

Chinese Tires

In the petition filed with the International Trade Commission (ITC), the USW asked for relief from the government for what it called a "dramatic surge" of tires from China. Specifically, the USW alleged that imports from China increased 215 percent by volume and 295 percent by value from 2004 through 2008. Accordingly, the USW claimed, the importation of tires clearly satisfied the requirement of a "surge" in imports.

The ITC initiated an investigation, and on June 18, 2009, voted to affirm the petitioners' claims. On June 30, the ITC proposed a specific remedy: duties over three years, with a rate of 55% for the first year, 45% for the second year, and 35% for the third year.

Now, Obama has instituted a lesser penalty: 35% for the first year, 30% for the second year, and 25% for the third year.

It is likely that Obama was trying to do his best to satisfy two groups with distinct interests: his constituents in organized labor and the leadership of China. By imposing a duty, he was fulfilling a campaign promise to be tough on China. By cutting the amount of duties proposed, he was showing that he was reluctant to impose tough trade sanctions. This apparent hair-splitting is unlikely to satisfy China's leadership. Also, it will certainly raise fears of more frequent and intense trade actions by petitioners in the future.

Dumping Watch

Preliminary Results of AD, CVD Reviews regarding Corrosion-Resistant Flat Steel Products from Korea

On September 8, the Department of Commerce (DOC) gave notice of preliminary results in its administrative reviews of antidumping (AD) and countervailing duty (CVD) orders on corrosion-resistant flat steel products (CORE) from Korea.

The companies subject to the AD review are LG Chem., Ltd. (LG Chem), Haewon MSC Co., Ltd. (Haewon), Dongbu Steel Co., Ltd. (Dongbu), Hyundai HYSCO Ltd. (HYSCO), Pohang Iron and Steel Co., Ltd. and Pohang Coated Steel Co., Ltd. (collectively, POSCO), and Union Steel Manufacturing Co., Ltd. (Union). On September 8, the DOC gave notice that it had preliminarily determined that Union made sales below normal value, while HYSCO and POSCO have not made sales below normal value. Also, the DOC preliminarily determined margins for companies that were not selected for individual review. Based on this preliminary determination, the DOC calculated the following weighted-average dumping margins: HYSCO at 0.43% (de minimis); POSCO at 0.16% (de minimis); Union at 3.94%; and average rate applicable to LG Chem, Haewon, and Dongbu at 3.94%.

The companies subject to the CVD review are Dongbu, POSCO, and HYSCO. The DOC found that the following programs conferred countervailable subsidies during the period of review: Asset Revaluation Under Article 56(2) of the Tax Reduction and Exemption Control Act (TERCL), Research and Development Grants Under the Industrial Development Act (IDA), R&D Grants Under the Promotion of Industrial Technology Innovation Act, Short-Term Export Financing, Reduction in Taxes for Operation in Regional and National Industrial Complexes, and other subsidies related to operations at Asan Bay. On September 8, the DOC preliminarily calculated subsidy rates for each producer/exporter at the following rates: Dongbu at 0.21%, HYSCO at 0.04%, and POSCO at 0.01%. These are all de minimis.

Federal Register Notices

International Trade Administration

University of Oklahoma, et al., Notice of Consolidated Decision on Applications for Duty-Free Entry of Electron Microscopes 74 FR 46741-46742, September 11, 2009.

[Inv. No. 337-TA-617] In the Matter of Certain Digital Televisions and Certain Products Containing Same and Methods of Using Same; Enforcement Proceeding; Notice of Institution of Formal Enforcement Proceeding 74 FR 46793-46794, September 11, 2009.

[A-570-893] Third Administrative Review of Frozen Warmwater Shrimp From the People's Republic of China: Final Results and Partial Rescission of Antidumping Duty Administrative Review 74 FR 46565-46568, September 10, 2009.

[A-533-820] Hot-Rolled Carbon Steel Products From India: Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review 74 FR 46569, September 10, 2009.

Request for Applicants for the Appointment to the United States-India CEO Forum 74 FR 46571-46572, September 10, 2009.

[A-357-812] Honey From Argentina: Notice of Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review *74 FR 46418*, September 9, 2009.

[A-570-888] Floor-Standing, Metal-Top Ironing Tables and Certain Parts Thereof from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review *74 FR 46083-46087*, September 8, 2009.

[C-580-818] Corrosion-Resistant Carbon Steel Flat Products From the Republic of Korea: Preliminary Results of Countervailing Duty Administrative Review *74 FR 46100-46110*, September 8, 2009.

[A-580-816] Certain Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea: Notice of Preliminary Results of the Antidumping Duty Administrative Review *74 FR 46110-46115*, September 8, 2009.

International Trade Commission

[USITC SE-09-025] Government in the Sunshine Act Meeting Notice *74 FR 46617*, September 10, 2009.

[Investigation Nos. 701-TA-458 and 731-TA-1154 (Final)] Certain Kitchen Appliance Shelving and Racks From China *74 FR 46464*, September 9, 2009.

[Inv. No. 337-TA-686] In the Matter of Certain Bulk Welding Wire Containers and Components Thereof and Welding Wire; Notice of Investigation *74 FR 46223-46224*, September 8, 2009.

[Investigation Nos. 701-TA-467 and 731-TA-1164-1165 (Preliminary)] Narrow Woven Ribbons With Woven Selvedge From China and Taiwan *74 FR 46224*, September 8, 2009.

Office of the U.S. Trade Representative

[Docket No. WTO/DS382] WTO Dispute Settlement Proceeding Regarding United States--Anti-Dumping Administrative Reviews and Other Measures Related to Imports of Certain Orange Juice From Brazil *74 FR 46830-46831*, September 11, 2009.

The Week Ahead

- On September 17, the ITC will hold a hearing on the final phase CVD investigations into Ni-Resist Piston Inserts from Argentina and Korea.