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Contents

Trade Briefs

- The Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 and the U.S. Department of Treasury Seek to Curtail Iran's Nuclear Ambitions Through Extensive Sanctions

Dumping Watch

- Notice of Rescission of Antidumping Duty Administrative Review for Certain Large Diameter Carbon and Alloy Seamless Standard, Line, and Pressure Pipe from Japan
- Notice of Rescission of Antidumping Duty Administrative Review for Welded Large Diameter Line Pipe from Japan

The Week Ahead

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Trade Briefs

On June 24, 2010 the House and Senate overwhelmingly approved the conference report on Iranian sanctions legislation and the President signed the bill into law on July 1, 2010. The Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (CISADA) amended the original Iran Sanctions Act of 1996 by improving diplomatic efforts against Iran through the expansion of economic sanctions. The act has severe ramifications for countries or individuals who chose to trade or conduct business in Iran's energy sector. The Obama administration successfully lobbied for new waivers and exemptions within the conference report which would allow greater flexibility when targeting companies for sanctionable activities. The waivers are an important part of the Act as they will be applied, on a case by case basis, to partners working with the United States in order to derail Iran's nuclear ambitions. While the Administration failed to achieve "blanket waivers," exemptions can be granted once it is found that sanctionable activities do exist. These exemptions will allow the President to narrow the scope of people and companies who are actively involved in or helping facilitate Iran's nuclear development.

In addition, the United States Department of Treasury announced its own set of designations targeting Iran's nuclear and missile programs. The Department instituted sanctions on Iran's financial sector, shipping industry, and the Islamic Revolutionary Guard Corps (IRGC). Its purpose is to "freeze the assets of proliferators of weapons of mass destruction and their supporters." This report will focus specifically on the effects of the CISADA and the Department of Treasury sanctions.

Comprehensive Iran Sanctions Accountability and Divestment Act of 2010

The CISADA is an expansion of sanctions under the Iran Sanctions Act of 1996. It introduces three new sanctions (to the original six) and requires the President to impose three (up from two) sanctions out of the nine. The sanctions are as follows:

1. Denial of Export-Import Bank assistance for exports;
2. Denial of U.S. export licenses or other specific permission under the United States export control laws;
3. Denial of certain loans from United States financial institutions;
4. Prohibitions on a sanctioned person that is a financial institution, including designation as a primary dealer and as a repository of government funds;
5. Ban on United States Government procurement of goods and services;
6. Restrictions on imports in accordance with the International Emergency Economic Powers Act;

7. **Prohibition of foreign exchange transactions subject to U.S. jurisdiction that involve sanctioned entities;**
8. **Prohibition on transfers of credit or payments between, by, through or to financial institutions that are subject to U.S. jurisdiction and that involve any interest of sanctioned entities;**
9. **Prohibition on transacting (e.g. acquiring, holding, withholding, using, transferring, withdrawing, transporting, importing, exporting) or exercising any right, power, privilege with respect to property subject to the jurisdiction of the U.S. to which a sanctioned entity has an interest.**

Petroleum Sector

The Act employs sanctions with respect to the development of petroleum resources, production of refined petroleum products, and exportation of refined products to Iran. In the case of development, the President will impose three sanctions if a person/entity makes a single investment of \$20 million or more or a combined investment of at least \$5 million which exceeds the \$20 million mark in a twelve month period.

In the production field, the President will again impose three sanctions on a person if that person sells, leases, or provides Iran goods, services, or technology which has a fair market value (FMV) of \$1 million or an aggregate FMV of \$5 million over a twelve month period.

Furthermore, if a person is found exporting refined petroleum products to Iran in the amount of \$1 million or more than those actions will be deemed sanctionable. The act expands the definition of “United States person” as an entity that is organized under the laws of the United States, any state or territory and increases the amount of sanctions the President can impose on foreign companies.

The bill also requires that any U.S. government contractor identify that it does not engage in the restricted activities outlined above. If the contractor submits false certification, the contract will be terminated and the contractor will be subjected to three years debarment. In addition, the CISADA forbids any executive agency from entering into procurement projects with a person or entity that exports sensitive technologies to Iran. These also qualify for the presidential waiver and exemption if deemed crucial to the security interests of the United States

Expansion of Existing Sanctions

The CISADA continues to restrict imports from Iran with limited exceptions on informational materials. It codifies the restriction of exports of goods, services, technology from the United States to Iran, but provides exceptions for exports of food, medicine, parts and components (especially for those of aircrafts) to ensure safety of air travel, hardware, and the transfer of information.

Probably one of the most extensive changes is the freezing of assets belonging to individuals designated by the President as being involved in Iran's nuclear activities. It targets Iranian diplomats, representatives of other governments, military or quasi-governmental institutions such as Iran's Revolutionary Guard Corps (IRGC) and freezes assets and transfers to family members or associates acting on behalf of the designated person.

New Restrictions on both Foreign and Domestic Financial Institutions

The new bill imposes new restrictions on both foreign and domestic financial institutions that are independent of petroleum related sanctions. CISADA enlists the Secretary of Treasury to announce regulations which prohibit or impose strict conditions on the holding of payable through accounts in the United States by a foreign financial institution engaged in sanctionable activities. The activities are defined as:

- Facilitating the efforts of the Government of Iran (or IRGC) to acquire/develop weapons of mass destruction or delivery of these weapons to foreign terrorist organizations which support international terrorism;
- Facilitating the activities of a person subject to financial sanctions pursuant to the UN Security Council Resolutions;
- Engaging in money laundering to facilitate the activities above;
- Facilitating efforts by the Central Bank of Iran or any other Iranian financial institution to carry out activities described above;
- Facilitating significant transactions or providing financial services for the IRGC or any of its affiliates whose property is blocked under the International Emergency Economic Powers Act or for a financial institution whose property is blocked in connection with Iran's weapons activities or support for international terrorism.

For domestic financial institutions the bill expands the scope of these prohibitions by including foreign subsidiaries of U.S. companies. It also introduces the following requirements:

- Perform an audit of activities regulated by the Bill that may be carried out by a foreign financial institution;
- Report to the Department of the Treasury with respect to transactions or other financial services provided with respect to any such activity;
- Certify that the foreign financial institution is not knowingly engaged in any such activity;

- Establish due diligence policies, procedures, and controls to detect whether the Secretary of the Treasury has found the foreign financial institution to knowingly engage in such activity.

This is one area where the Secretary of Treasury may waive the provisions to foreign and domestic financial institutions if he/she determines and submits a report to Congress deeming it necessary for the security of the United States.

Prevention of Diversion of Certain Goods, Services, and Technology to Iran

The bill requires the Director of National Intelligence to submit to the President and cabinet officials a report that identifies each country the government believes is allowing the diversion of goods, services, and technologies to Iranian end-users or Iranian intermediaries through their territory.

The bill identifies these as goods, services, and technologies originating from the United States which would make a material contribution to Iran's weapons development or support international terrorism and are on the Commerce Control List or U.S. Munitions List or prohibited by the UN Security Council Resolutions.

The President shall designate a country as a Destination of Diversion Concern if he/she determines that the government allows substantial diversion of goods, services, and technologies to Iran. The President must also list which goods are being diverted which will require licenses in order to export these goods, services, and technologies to the designated country. The license requirement may be delayed in 12 month increments so long as the designation country works with the United States to strengthen export controls.

United States Treasury Department Sanctions

The Department of the Treasury issued over fifteen designations of people, firms or quasi-governmental institutions which are actively involved in Iran's nuclear and missile programs. The following have been identified and will be isolated from the U.S. financial and commercial systems:

- Post Bank of Iran for providing financial services to, and acting on behalf of, Bank Sepah
- Islamic Revolutionary Guard Corps (IRGC) entities and individuals
 - IRGC Air Force and IRGC Missile Command, both which have ties to Iran's ballistic missile program

- Rah Sahel and Sepanir Oil and Gas Engineering Co. for their ties to Khatam al-Anbiya Construction
- Mohammad Ali Jafari
- Mohammad Reza Naqdi
- Islamic Republic of Iran Shipping Lines (IRISL)
 - Hafiz Darya Shipping Company (HDS Lines)
 - Soroush Sarzamin Asatir Ship Management Company
 - Safiran Payam Darya (SAPID) Shipping Company
 - Seibow Limited (Hong Kong based)
 - Seibow Logistics (Hong Kong based)

As a result, all transactions involving any of the designees and any U.S. person is prohibited. All assets of the designees are officially frozen.

Post Bank has repeatedly been acting on behalf of Bank Sepah which was accused in 2007 of supporting Iran's missile industry. Iran has been identified as using Post Bank to facilitate international trade and business on behalf of Bank Sepah between Iran's defense industries and overseas beneficiaries. It has also been accused of facilitating business with Hong Kong Electronics and its overseas beneficiaries which were designated by the Treasury in June 2009.

While the Treasury has already designated the IRGC as a weapons proliferator, it is specifically targeting the IRGC Air Force and the IRGC Missile Command which are key elements of Iran's ballistic missile capability. Rah Sahel and Sepanir Oil and Gas Engineering Co. are two subsidiaries of Khatam al-Anbiya Construction Headquarters, the engineering arm of the IRGC. Mohammad Ali Jarfari, the Commander-in-Chief of the IRGC, and Mohammed Reza Naqdi, head of the IRGC's Basij Resistance Force, have also been designated by the Treasury.

The Department also designated five front companies of the Islamic Republic of Iran Shipping Lines (IRISL) which have evaded sanctions. It also identified 27 new shipping vessels associated with IRISL and updated 71 vessels which may have changed names. All companies listed above (except Seibow Limited and Seibow Logistics) share corporate officers with the shipping lines and therefore play a role in concealing shipments of military related goods.

Effects of the Treasury Designations and the CISADA

These sanctions will undoubtedly affect people and companies throughout the world, however, it is still too early to tell how much of an impact these designations will have. The Treasury has focused mainly on the use of “smart sanctions” which hone in on Iran sponsored terrorist groups as well as the Iranian nuclear program and the financial institutions associated with them. This has proven to be a successful mechanism in the past and has limited the detrimental effects on the Iranian people and foreign firms operating within the country. Multinational companies based in Europe and Asia, with extensive operations in various sectors of the Iranian economy, will likely suffer the most and need to distinguish, over time, whether they want to operate in Iran or the United States. The passing of the CISADA has only expedited that process.

It has been noted that there is a high degree of cooperation between the United States and the United Kingdom when designating these sanctions. The Treasury listed over a dozen of UK based companies (e.g. Kala Naft London and Iranian Oil Company) which would require cooperation and coordination with British intelligence organizations and Her Majesty’s Treasury. The European Union has also passed its own sanctions which includes a ban on investments, technical assistance and technology transfers to Iran’s oil and gas industry, however, it still needs to workout the specific targets and products.

Dumping Watch

Notice of Issuance of a Countervailing Duty Order on Pre-Stressed Concrete Steel Wire Strand from the People’s Republic of China:

On July 7, 2010 the Department of Commerce (DOC) and International Trade Commission (ITC) gave notice that they are issuing a countervailing (CVD) duty order on pre-stressed concrete steel wire strand (PC Strand) from the People’s Republic of China (PRC). The ITC informed the DOC on June 22, 2010 that U.S. producers do suffer from material injury from the importation of this product. The Federal Register Notice is attached.

The Department published its final determination in the CVD investigation of PC Strand on May 21, 2010 and on June 19, 2010 petitioners submitted ministerial errors with respect to the DOC’s duty calculations. The DOC sided with the petitioners and the duty calculated for Fasten Group Corporation (Fasten Corp.), Fasten Group Import & Export Co., Ltd. (Fasten I&E), Jiangyin Hongsheng Co. Ltd. (Hongsheng), Jiangyin Fasten Steel (Fasten Steel), Jiangyin Hongyu Metal Products Co., Ltd. (Hongyu Metal), and Jiangyin Walsin Steel Cable Col, Ltd. (Walsin) has changed from 8.85 percent to 9.42 percent. The rate for Xinhua Metal Products Company Ltd. (Xinhua), Xinyu Iron and Steel Joint Stock Limited Company (Xinyu), and Xingang Iron and Steel Joint Stock Limited Liability Company (Xingang) will remain the same at 45.85 percent. The all others rate for companies not investigated is a simple average of the two responding firms’ rate at 27.64 percent.

The DOC will direct Customs and Border Patrol to reinstitute suspension of liquidation on June 22, 2010, the date the final determination was issued.

Notice of Rescission of Antidumping Duty Administrative Review for Welded Large Diameter Line Pipe from Japan:

Today, the Department of Commerce (DOC) published a notice rescinding the antidumping (AD) administrative review on welded large diameter line pipe from Japan. The Federal Register notice is attached.

On January 29, 2010 the DOC initiated an antidumping administrative review which covered the following four producers/exporters of welded large diameter line pipe from Japan:

- JFE Steel Corporation
- Nippon Steel Corporation
- Sumitomo Corporation
- Sumitomo Metals Industries Ltd. (also known as Sumitomo Metals Pipe & Tube Company)

On March 1, 2010 the DOC received word on behalf of Sumitomo Corporation and Sumitomo Metals Industries that they had neither made any exports, sales, or entries into the United States of the subject merchandise during the period of review. In April 2010, U.S. Steel withdrew its request for review of JFE Steel Corporation for the subject merchandise and therefore JFE Steel Corporation had not submitted responses to the Department's questionnaire. On April 14, 2010 the DOC received notice from Nippon Steel Corporation that it also had not made entries or sales of the product during the period. On June 1, 2010 U.S. Steel withdrew its request for administrative review for all companies.

Federal Register Notices

International Trade Administration

[A-405-803] Purified Carboxymethylcellulose from Finland: Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review *75 FR 39207-39208*, July 8, 2010.

[A-583-833] Polyester Staple Fiber from Taiwan: Final Results of Changed Circumstances Antidumping Duty Administrative Review *75 FR 39208*, July 8, 2010.

[C-570-946] Pre-Stressed Concrete Steel Wire Strand from the People's Republic of China: Notice of Amended Final Affirmative Countervailing Duty Determination and Notice of Countervailing Duty Order *75 FR 38977-38978*, July 7, 2010.

[A-570-886, A-557-813, A-549-821] Polyethylene Retail Carrier Bags from the People's Republic of China, Malaysia, and Thailand: Continuation of Antidumping Duty Orders 75 FR 38978-38979, July 7, 2010.

[A-570-863] Honey from the People's Republic of China: Extension of Time Limit for the Preliminary Results for New Shipper Review 75 FR 38980, July 7, 2010.

[A-570-827] Certain Cased Pencils from the People's Republic of China: Final Results of the Antidumping Duty Administrative Review 75 FR 38980-38983, July 7, 2010.

[A-570-896, A-821-819] Magnesium Metal from the People's Republic of China and the Russian Federation: Final Results of the Expedited Sunset Reviews of the Antidumping Duty Orders 75 FR 38983-38984, July 7, 2010.

[A-552-801] Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Final Results of the Fifth New Shipper Review 75 FR 38985-38986, July 7, 2010.

[A-570-831] Fresh Garlic from the People's Republic of China: Initiation of New Shipper Review 75 FR 38986-38988, July 7, 2010.

[A-588-857] Welded Large Diameter Line Pipe from Japan: Notice of Rescission of Antidumping Duty Administrative Review 75 FR 38989-38991, July 7, 2010.

[A-588-850] Certain Large Diameter Carbon and Alloy Seamless Standard Line and Pressure Pipe from Japan: Rescission of Antidumping Duty Administrative Review 75 FR 38781-38783, July 6, 2010.

[A-570-831] Fresh Garlic from the People's Republic of China: Extension of Time Limit for the Final Results of New Shipper Review 75 FR 38778-38779, July 6, 2010.

International Trade Commission

[Investigation No. 337-TA-725] In the Matter of Certain Caskets; Notice of Investigation 75 FR 39276-39277, July 8, 2010.

[Investigation No. 731-TA-1070B (Review)] Certain Tissue Paper Products from China; Determination 75 FR 39277-39278, July 8, 2010.

[Investigation No. 731-TA-44 (Third Review)] Sorbitol from France ; Determination 75 FR 39277, July 8, 2010.

The Week Ahead

- There are no hearings or votes scheduled for the week of July 19th – 23rd.