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Ros-Lehtinen Questions Export Control Reforms

House Foreign Affairs Committee Chairman Rep. Ileana Ros-Lehtinen (R-Fla.) threw cold water on the Obama administration's export control reform initiative May 12, telling a hearing she is not convinced the reform plan is worthwhile. Her objections could become a major obstacle to completing the final stages of the ambitious initiative because any required implementing legislation to create a single export licensing agency, single export control list and single enforcement office would have to go through her committee. "To date, a compelling case has not been made for the wholesale restructuring of our current system, especially one that would include the creation of a costly and perhaps unaccountable new federal bureaucracy," she said.

"The administration should reconsider this time-consuming exercise and focus on common sense reforms upon which we can all agree," she declared. "We are particularly concerned that the pace and scope of the ongoing 'list review'...is straining the system and its personnel to the breaking point," she said.

Ros-Lehtinen said she will introduce her own bill "to clarify that generic parts and components need not be regulated in the same manner as the more sensitive defense articles." Such a measure could undercut the administration's reform effort. She also said she will seek a "short-term extension" of the lapsed Export Administration Act (EAA). Ranking Democrat Howard Berman (D-Calif.) told the hearing he also intends to introduce a bill he has been working on for two years to update and revise the EAA. Ros-Lehtinen also raised concerns about how the administration would notify the committee under Section 38(f) of the Arms Export Control Act about the thousands of potential changes to the U.S. Munitions List and the move of many items to the Commerce Control List (see **WTTL**, April 25, page 1).

Despite Ros-Lehtinen's objections, most committee members indicated support for the reform effort. There was particular interest in a delayed report from Defense on the impact controls have had on the U.S. commercial satellite industry. Testifying at the hearing were Under Secretary of State Ellen Tauscher, Under Secretary of Commerce Eric Hirschhorn and Principal Deputy Under Secretary of Defense James Miller Jr.

U.S., China Agree on More Promises at S&ED

A week after complaining that China isn't meeting its past commitments on trade, investment and intellectual property protection, Obama administration officials praised new promises the Chinese made on trade, investment and intellectual property protection at the end of the latest



Security and Economic Dialogue (S&ED) talks May 9-10 in Washington (see **WTTL**, May 9, page 2). “We do not expect to find agreement on every issue,” Secretary of State Hillary Clinton told a post-S&ED press conference. “I do think we have a deeper understanding of the viewpoint of the other. I think we have had such an open dialogue on every issue, that we have built trust because we’re not keeping any issue under the table or off the agenda,” she said.

The two-track talks produced numerous agreements on both security and economic issues, including defense consultations, customs cooperation, energy, climate change, disaster relief, maritime security and investment. A key achievement was the establishment of the U.S.-China Strategic Security Dialogue that will involve both diplomatic and defense officials from the two countries.

As with past S&ED meetings, as well as the Joint Commission on Commerce and Trade (JCCT), many announced conclusions involved future tense Chinese promises to address U.S. complaints, particularly on U.S. investment in China and financial services. On the sensitive issue of China’s currency policies, the meeting produced a mild statement. “Both countries pledge to work together with other countries to maintain the stability of international monetary environment. The United States pledges to maintain vigilance against excess volatility in exchange rates, and China pledges to continue to enhance RMB exchange rate flexibility,” Treasury Secretary Tim Geithner and Chinese Vice Premier Wang Qishan said in a joint statement.

The U.S. committed to giving “full consideration to China’s request that it be treated fairly as the United States reforms its export control system.” It also said it “will continue discussions, including technical discussions, on the export control status of designated parts, components, and other items of interest.” On implementation of antidumping and countervailing duty laws, the two countries said they “will consult through the JCCT in a cooperative manner to work towards China’s Market Economy Status in an expeditious and comprehensive way.” The U.S. also pledged “to give full and serious consideration to all ‘market oriented industry’ claims made by Chinese parties in U.S. antidumping proceedings.”

Hearing Shows Bipartisan Senate Support for Colombia FTA

The Senate, which has given bipartisan support to past U.S. free trade agreements (FTAs), appears likely to give that same backing to the U.S.-Colombia FTA, a May 11 Senate Finance Committee hearing on the accord indicated. One potential hang-up, however, could be the timing and sequencing of a vote on renewal of Trade Adjustment Assistance (TAA), a key Democratic condition for passage of the Colombia, Korea and Panama FTAs. “We’re not going to get one without the other. We need to roll up our sleeves and do it; the two must go together,” said Finance Chairman Max Baucus (D-Mont.).

Sen. John Kerry (D-Mass.), who had previously opposed the FTA, said he now backs it. “I think skepticism is healthy, but I do believe this is the moment. I think the time has come for this treaty to be ratified,” he said.

Testifying at the hearing, Deputy U.S. Trade Representative (USTR) Miriam Sapiro would not commit to a specific timeline or sequence or even whether passing of TAA is a precondition for completing the FTA. In response to Sen. Orrin Hatch (R-Utah), she said, “It is not a question of precondition. We are working together to figure out what the exact sequence will be.”

Some senators still have concerns about the action plan Bogota promised to undertake to improve labor rights and prosecute those responsible for violence against union members. They also questioned why the plan wasn’t made part of the FTA. “What recourse do we have if Colombia fails to actually follow through on the action plan, or in two years they’re backtracking on the improvements that have been made on labor rights, other than to object through USTR?” Sen. Debbie Stabenow (D-Mich.) asked. U.S. unions also remain opposed to the pact. “We do not believe conditions for Colombian workers have yet changed in any meaningful way,” testified AFL-CIO Deputy Director of International Affairs Jeff Vogt. “Therefore, any move to

ratify the agreement or to have it enter into force before there are verified, sustained and meaningful changes on the ground will meet our continued and vigorous opposition,” he said. “The agreement was opened to include fundamental labor rights and the commitment of Colombia to adopt and maintain them in perpetuity,” Sapiro said. “We are very proud of what is in the FTA chapter and once that enters into force, we will have a range of remedies, including if necessary dispute settlement,” she said.

Clinton Seeks Agreement on Defense Export Notifications

Secretary of State Hillary Clinton is seeking an agreement with the House Foreign Affairs Committee on ways to speed up the pre-notification process for the committee’s review of major foreign military arms sales and licenses. Under informal procedures, State provides the committee advance notice of its intent to approve a defense sale before sending official notice of the pending approval as required by Section 36(b) of the Arms Export Control Act (AECA).

Rep. David Cicilline (D-R.I.) sought clarification of the concerns Clinton raised in a March letter to the committee during the panel’s May 12 hearing on the Obama administration’s export reform initiative (see story page 1). Cicilline said he wants to find a way to speed up the process while maintaining the committee’s oversight role. He noted that there have been suggestions to place a time limit on the pre-notification consultation period.

When a formal 36(b) notification is submitted to the House and Senate, Congress can block the sale by passage of a joint resolution of disapproval, which has to be signed by the president. Although Congress has never successfully blocked a sale by such a resolution, lawmakers have used the informal review process to demand restrictions on sales.

“What we have here is over the years the average time for the pre-consultation period for foreign military sales went from an average of 29 days to an average of 57 days,” Under Secretary of State Ellen Tauscher told the committee. “We don’t want to have an artificial metric; we don’t want time to be the metric; we want it to be done right,” she said. “At the same time, we believe there are efficiencies we can get in the system,” she added. Tauscher said it is important to deal with the real world and global marketplace where the U.S. no longer dominates in many areas. State sources say they are discussing the issue with the committee.

EU Wants to Narrow GSP Focus to Neediest Nations

The coming debate in Congress over extending the Generalized System of Preferences (GSP) may be influenced by a European Union (EU) proposal to reduce the number of countries eligible for its GSP program. The EU said it wants the world’s poorest countries to get more out of GSP by tightening eligibility criteria for advanced developing countries, according to a proposal the European Commission (EC), the EU executive branch, announced May 10. Under the proposal, a number of countries would no longer be eligible for the program, including Kuwait, Russia, Saudi Arabia and Qatar, because they “have achieved a high or upper middle income per capita, according to the internationally accepted World Bank classification,” the EU said.

Also to be excluded would be countries that have “preferential access to the EU which is at least as good as under GSP, for example, under a Free Trade Agreement or a special autonomous trade regime,” it said. The proposal would also “strengthen the effectiveness of the trade concessions for Least Developed Countries (LDCs) through the ‘Everything but Arms’ (EBA) scheme. Reducing GSP to fewer beneficiaries will reduce competitive pressure and make the preferences for LDCs more meaningful,” the EC statement said.

“Trade and development go hand in hand and tariff preferences are a small part of our wider agenda to help poorer economies scale up their presence in global markets,” said EU Trade

Commissioner Karel De Gucht in a statement announcing the proposal. The proposal must go to the European Parliament and Council of Ministers for discussion, amendment and approval.

Final Rule on Dual Nationals Doesn't Include Academia

State's loosening of restrictions on dual and third-country nationals under the International Traffic in Arms Regulations (ITAR) does not apply to academic institutions, the department says in the final rule to be published in the May 16 Federal Register (see **WTTL**, May 9, page 2). University comments on the original August 2010 proposal sought to have the regulations apply to foreign teachers, researchers and students.

“This proposed rule is an incremental change in favor of foreign business entities, foreign governmental entities, and international organizations, recognizing internal incentives for the protection of export controlled articles and data,” State says in the preamble to the final rule. “The Department of State is not prepared to extend the exemption to academic institutions at the present time,” it declares.

State will also continue to authorize exceptions for nationals of NATO members, the European Union, Australia, Japan, New Zealand and Switzerland, expanded to include sub-licensees and long-term contractors. “After careful consideration, we concurred with the recommendation to retain Section 124.16 and have amended the section to include workers who have long-term employment relationships with licensed end-users,” the notice said. [**Correction:** May 9 issue of WTTL misstated the appropriate ITAR section].

* * * Briefs * * *

EXPORT ENFORCEMENT: GWC Valve International Inc., of Bakersfield, Calif., and its CEO, David Meador, were sentenced May 9 in Fresno, Calif., U.S. District Court for conspiracy to export services related to industrial valves to Iran. GWC will pay a criminal fine of \$300,000, serve five years of corporate probation and forfeit \$410,833.82. Meador was sentenced to 13 months in prison, followed by three years of supervised release. Both GWC and Meador pleaded guilty in June 2010 to conspiring to violate International Emergency Economic Powers Act and Iranian Transactions Regulations.

FCPA: In first jury conviction of company under FCPA, Lindsey Manufacturing of Azusa, Calif., two executives and Angela Aguilar, a Mexican intermediary, were found guilty in Los Angeles, Calif., U.S. District Court May 10 of bribing Mexican utility officials (see **WTTL**, Oct. 25, page 4).

STEEL CYLINDERS: Norris Cylinder Co. of Longview, Texas, filed antidumping and countervailing duty complaints at ITA and ITC May 11 against imports of high-pressure steel cylinders from China. “China’s high-pressure steel cylinders are being sold in the U.S. at considerably less than fair value, in part due to the Chinese exporters having the ability to purchase steel subsidized by the Chinese government, while Norris purchases its steel at market prices,” company said in press release. “As the last U.S. producer of these cylinders, we must fight to remain in the industry and keep options available for our customers,” said Norris President Jerry Van Auken.

BAHRAIN: AFL-CIO has petitioned Labor Department to withdraw from U.S.-Bahrain FTA due to Middle East country’s crackdown against trade unions and union activists. “The U.S. simply should not provide preferential trade treatment to a country that has and continues to engage in well-documented widespread and serious violations of human rights, including labor rights, of its citizens and residents,” AFL-CIO said.

SERVICES: Trade in private services totaled \$526.6 billion in 2010, up 8.8% from year previous, contributing \$168 billion surplus to trade balance, up from \$66.7 billion surplus in 2003, notes Commerce report released May 11. Private services account for nearly one-third of all U.S. exports, report says.

TRADE FIGURES: U.S. trade has made complete U-turn since collapse in 2009, according to trade figures for March released May 11. U.S. goods exports in March rose 18.7% from March 2010 to record level of \$124.9 billion. Services exports rose 6% from year ago to \$47.7 billion, also record high. Imports, however, have rebounded as well, with goods imports jumping 18.7% to \$220.8 billion, highest since August 2008. Services imports increased 4.9% to \$33.8 billion.