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Senate Approves Tougher Sanctions against Iran

Just over a week after the Obama administration imposed new sanctions on Iran, the Senate agreed Dec. 1 to an amendment that would go even further and add sanctions directly aimed at the Central Bank of Iran. By a 100-0 vote, senators approved the amendment sponsored by Sens. Robert Menendez (D-N.J.) and Mark Kirk (R-Ill.) to the National Defense Authorization Act of 2012, which it then passed by a 93-7 margin. (See **WTTL**, Nov. 28, page 3). The Senate bill now must be reconciled with NDAA legislation already passed by the House.

> The Senate action came the same day the European Union (EU) Council of Ministers agreed to hit an additional 180 Iranian entities and individuals with sanctions. The ministers also said they would examine broadening existing sanctions and "measures aimed at severely affecting the Iranian financial system, in the transport sector, in the energy sector, measures against the Iranian Revolutionary Guard Corps, as well as in other areas."

The Senate amendment would require the president after 60 days to prohibit the opening or maintaining in the U.S. of a correspondent account or a payable-through account by a foreign financial institution that the president determines has knowingly conducted any significant financial transaction with the Central Bank of Iran. It authorizes, but does not require, imposition of additional sanctions under the International Emergency Economic Powers Act. The amendment would allow the exception for sales of food, medicine and medical devices to the people of Iran to continue. The restrictions on correspondent and payable-through accounts would apply only when the transactions they conduct or facilitate are for the sale or purchase of petroleum and petroleum products on or after 180 days from enactment of the legislation.

In a letter to Treasury Secretary Tim Geithner, USA*Engage Director Richard Sawaya said the amendment "threatens severe sanctions against any commercial bank or central bank if they engage in certain transactions with the CBI [Central Bank of Iran]. This could negatively affect many of our closest allies and largest trading partners."

Politics and Maneuvering Mark Run-Up to WTO Meeting

The sharp discord that marked preparations for the Eighth WTO Ministerial Conference is prompting some members to call for the meeting to focus on technical issues and avoid the more contentious issues facing the trade body. Ahead of the Dec. 15-17 meeting, there were concerns that trade ministers for some countries, particularly least developed countries (LDCs),

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might not even show up because of their unhappiness with the failure of members to agree on an "early harvest" of benefits for LDCs. The difficulty members had in coming up with a draft ministerial statement may foreshadow a chilly, contentious conference (see story below).

> While Russia's accession to the WTO is expected to be a highlight of the ministerial, not everyone agrees that Moscow will be a positive addition. The WTO may regret Russia's membership "quite soon," one source said; contending Russian officials are not known to be extremely flexible and Russia will likely develop "a very assertive position" very quickly in the negotiations.

A potential boycott of the meeting by some LDC ministers had been threatened. Some officials said they might send deputies if they think the conclave won't deliver benefits for them. Ministers not coming would be a "political downgrading" of the WTO, one diplomat said; saying the question is whether there is enough on the agenda to have a "credible" meeting. A WTO decision not to grant intergovernmental organization observer status to the League of Arab States drew a "very nasty" letter to the WTO secretariat from Saudi Arabia, one source reported. "It was a very provocative action," he noted. The league's request for observer status was blocked by two delegations. As a result, all such organizations were denied that status, although the Palestine Authority was given observer status.

WTO Ministers to Focus on LDC Issues, Alternatives to Doha

Trade ministers attending the Dec 15-17 Eighth WTO Miinisterial Conference in Geneva will issue political guidance to trade negotiators that will stress the importance of the multilateral trading system and the WTO, the need for progress on trade and development and provide directions on the future of Doha Round trade talks, WTO delegations agreed Dec. 1. Efforts to find consensus on a draft ministerial statement, however, almost collapsed due to dissent from some members, particularly least developed countries (LDCs), who objected to the lack of transparency in so-called "Green Room" negotiations among a limited number of members and inadequate provisions in the initial draft to their concerns.

> Several delegations raised last-minute concerns at a Nov. 30 informal meeting of heads of delegation following days of intense Green Room talks on possible elements for political guidance. Some members who complained about the closed nature of the Green Room meetings said they couldn't join the consensus.

Cuba reportedly set the tone, calling for ministers to explore different negotiating approaches and inclusiveness. Its position was supported by several countries, including Venezuela, Bolivia, Peru, Honduras, Ecuador, Zimbabwe and Israel. In the end, the draft included a statement saying: "Ministers acknowledge the needs of LDCs and commit themselves to ensure that LDCs' interests are given due priority in the future work of the WTO."

The ministerial statement will echo a G-20 communique that acknowledged that Doha Round negotiations won't be completed in 2012 and urged negotiators to come up with alternative approaches to the talks (see **WTTL**, Nov. 14, page 3). "Ministers deeply regret that, despite full engagement and intensified efforts to conclude the Doha Development Agenda single undertaking since the last Ministerial Conference, the negotiations are at an impasse," the draft statement concedes. "Despite this situation, Ministers remain committed to work actively, in a transparent and inclusive manner, towards a successful multilateral conclusion" of the talks.

The draft statement also will call for the strengthening and improving the functioning of the regular WTO bodies; implementing existing agreements; and dispute avoidance and transparency through monitoring and reporting. Other provisions will focus on extending work on programs to help small economies, extension of the intellectual property (TRIPS) non-violation agreement, e-commerce, extension of TRIPS waivers for LDCs, and a 15-year LDC services waiver. Ministers will stress the importance of the multilateral trading system, the fight against protectionism and the Dispute Settlement Understanding.

Former USTR Hills Sees Deal Still Possible for Doha Round

As most trade ministers have given up hope of reaching a deal in the Doha Round, former U.S. Trade Representative (USTR) Carla Hill says "there is a package there where we can get it done." Speaking to the U.S. Chamber of Commerce Nov. 30, Hills said the deal could include agreements already on the table plus some added assurance to meet the concerns of both developing and developed countries. A deal is "absolutely doable," said Hills, who served as USTR under President George H.W. Bush. Hills suggested four steps for a Doha deal.

> In addition to existing proposals for formula cuts to agriculture tariffs, lower farm subsidies and non-agriculture market access, she said members need to "squeeze the gap between applied tariff rates and bound tariff rates," but allow developing countries to maintain a 20% gap between bound and applied tariffs.

She said members also should agree to bind agriculture support and subsidies to 2009 and 2010 base levels, which reflect currently high farm prices as well as the financial difficulties of developed countries that need to cut their budgets. On services, she suggested taking "what is on the table and ask members to bind what they do in daily trade and in bilateral and multi-lateral agreements." A final action would be to grant least developed countries duty-free and quota-free access to 97% of developed world markets for the products they produce.

EU Says It Complies with the WTO, USTR Says Wait and See

In the latest chapter of the trade battle between Boeing and Airbus, the European Union (EU) Dec. 1 said it has taken steps to come into compliance with a WTO ruling that it had provided Airbus with illegal subsidies (see **WTTL**, May 23, page 2). USTR Ron Kirk was cautious about the EU's announcement. "We will base our next steps on a careful evaluation of that announcement, and whether it demonstrates that the EU has in fact taken the steps necessary to bring itself into full compliance with the WTO decision," Kirk noted in a statement. Earlier in the week, Kirk said, "We're determined to ensure that this victory is not a paper victory."

> In a six-page explanation of the steps it was taking, the EU identified 36 programs that it has terminated to come into compliance with the WTO ruling. "Specifically, in bringing its measures into conformity with its WTO obligations, the European Union has addressed all categories of subsidy covered by the DSB's recommendations and ruling: Member State Financing (MSF) loans, capital contributions, infrastructure support and regional aid," it said.

EU Trade Spokesman John Clancy noted the pending WTO ruling on the EU complaint against U.S. subsidies given to Boeing. "What is now important is for everyone to realize that the United States will be in the same position as we are today after the WTO Appellate Body will rule on subsidies to Boeing early next year," Clancy said.

U.S., EU Working Group Not Aiming for FTA, Kirk Says

The U.S. and EU appear to have different views of what a newly created U.S.-EU High-Level Working Group on Jobs and Growth might ultimately achieve. While EU Trade Commissioner Karel de Gucht, who will co-chair the group, has suggested it might result in a trans-Atlantic free trade agreement (FTA), USTR Ron Kirk, who chairs the U.S. side, has emphasized that an FTA is not the goal. After initial discussions, the U.S. and EU "agreed that everything would be on the table," Kirk said in a Nov. 30 speech. "That doesn't mean, I want to make it plain, that doesn't mean we're launching an FTA, since Karel mentioned that," he declared. President Obama, European Commission President Barroso and European Council President Von Rompuy directed the creation of the working group at their annual summit in Washington Nov. 28. "We ask the Working Group to identify and assess options for strengthening the U.S.-EU economic relationship, especially those that have the highest potential to support jobs and growth. The Working Group is to report its recommendations and conclusions to leaders by the end of 2012, with an interim report in June 2012 on the status of this work," a U.S.-EU joint statement said.

> Kirk and de Gucht began their discussions after the summit and continued them during a Nov. 30 meeting of the Cabinet-level Transatlantic Economic Council (TEC). The TEC also noted that the U.S. and the EU have completed preparatory work on mutual recognition of the U.S. Customs-Trade Partnership against Terrorism (C-TPAT) and the EU Authorised Economic Operator (AEO) programs. Once the mutual recognition decision is signed, reciprocal benefits to qualified AEOs and C-TPAT members may begin as of July 2012, the TEC announced.

The TEC and the working group will be plowing ground that has been well plowed for nearly 20 years in an attempt to reduce mostly non-tariff trade barriers and seek mutual recognition of regulatory rules and standards. Despite repeated calls by business leaders and top government officials for regulatory harmonization across the Atlantic, such efforts have continued to face resistance from some regulators and consumer groups. Among the subjects on its agenda will be: conventional barriers to trade in goods, such as tariffs and tariff-rate quotas; and reduction, elimination or prevention of barriers to trade in goods, services, and investment.

Ex-Im Bank Chair Defends African Investment Support

Export-Import Bank Chairman Fred Hochberg has reacted strongly to criticism of the bank's financing policies in Africa. In a letter to Stephen Hayes, president and CEO of the Corporate Council on Africa, Nov. 4, Hochberg tried to explain why China appears to be providing more financial aid to African nations than the U.S., arguing that China doesn't have to follow Organization for Economic Cooperation and Development (OECD) rules, but the U.S. does. At a Senate hearing on Africa Nov. 1, Hayes criticized Ex-Im as a hurdle to U.S. investment there.

> Hochberg noted that Chinese state-owned banks act in many ways as developmental institutions, which Ex-Im is not. "In order to comply with the OECD consensus, Ex-Im Bank follows the OECD rules on debt sustainability. In the case of sub-Saharan Africa (SSA), many of our transactions would need to be highly concessional, i.e. tax payer subsidized loans, if we were to compete toe to toe with the financing being provided by the Chinese," he wrote.

Hayes testified that "Few U.S. banks will finance U.S. companies seeking to do business in Africa, and our own agencies designed to mitigate such risks, such as the Ex-Im Bank, have fallen woefully short in addressing the problem." He said good U.S. projects in Africa have failed to get necessary government support. While Ex-Im is attempting to address the problem, "the support provided U.S. companies is far below the level of support that the Chinese counterparts provide for their private sector companies seeking to do business in Africa," he said.

* * * Briefs * * *

BIS: Mark Menefee, who has written monthly "Enforcement Insights" column for our sister publication, ***The Export Practitioner,*** since 2004, has returned to BIS to become administrative enforcement coordinator and special assistant to BIS Assistant Secretary for Export Enforcement David Mills. Menefee had served with BIS for 22 years before 2004 when he left government to join law firm of Baker & McKenzie in Washington. His last position at BIS was director of the Office of Export Enforcement. Separately, Kevin Kurland, director of Office of Technology Evaluation, will shift posts Dec. 5 to become director of Office of Enforcement Analysis (OEA), which conducts end-use checks and includes new Information Triage Unit that will provide information to interagency licensing officers on pending license applications.

CUBA: Commerzbank AG's New York branch agreed to pay OFAC $175,500 to settle apparent violations of Cuban Assets Control Regulations (CACR) when it presented trade documents for Cuban Specially Designated National to Miami branch of foreign bank for letter of credit for payment to Canadian firm.