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USTR Adds Travel Goods to GSP Eligibility

To the joy of apparel retailers, the administration will add travel goods to the list of eligible products for all Generalized System of Preferences (GSP) countries where there is currently minimal U.S. production of these products. This was among several changes the U.S. Trade Representative's office (USTR) announced June 29 as a result of the administration's annual review of the GSP program.

Specifically, the administration will: launch a self-initiated review of Bolivia's compliance with the GSP eligibility criteria related to child labor, the first such self-initiation this century; remove certain products from the GSP program where the country is sufficiently competitive; and add several non-import sensitive products to GSP, all of which are used as inputs in U.S. manufacturing.

Glycine was slated for removal, and USTR also granted competitive need limitation waivers for certain coniferous-shaped wood. Products slated for addition are rolled or flaked cereal grains; lemon oils; and cellulose nitrates, among others. Pineapples and high carbon ferromanganese were denied. The International Trade Commission (ITC) released its public report on the program after a public hearing (see **WTTL**, June 12, page 7).

On travel goods, the Obama administration made the decision in June 2016 to only allow African Growth and Opportunity Act (AGOA) countries and GSP Least Developed Beneficiary Developing Countries to benefit from duty elimination on 28 travel goods. The latest announcement "is a welcome move that will provide major benefits to U.S. companies, U.S. workers, and U.S. consumers," said Rick Helfenbein, president and CEO of American Apparel & Footwear Association, in a statement.

Canada Vows to Fight Preliminary Softwood Lumber Duties

Absent a new softwood lumber agreement with Canada, Commerce June 26 announced an affirmative preliminary determination in its antidumping duty (AD) investigation. Canfor

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Corporation was assessed at 7.72%, Resolute FP Canada Inc. 4.59%, Tolko Industries Ltd. 7.53%, West Fraser Mills Ltd. 6.76% and all others 6.87%. These preliminary AD rates are in addition to preliminary countervailing duty rates Commerce announced in April (see **WTTL**, May 1, page 4).

Naturally, Canada's government vowed to fight back. "We will vigorously defend Canada's softwood lumber industry, including through litigation, and we expect to prevail as we have in the past," Canada's Natural Resources Minister Jim Carr and Foreign Affairs Minister Chrystia Freeland said in a joint statement.

"These latest U.S. duties will significantly add to the costs that American consumers will have to bear when seeking to repair, renovate and build their homes. The National Association of Home Builders (NAHB) has estimated that new duties on Canadian lumber imports will cost jobs, hurt workers' wages and put home ownership out of the reach of thousands of American families," they added. Commerce's final AD determinations are expected Sept. 7. International Trade Commission is expected to make its final determination Oct. 21 if Commerce makes an affirmative final determination.

Commerce excluded softwood lumber products from Newfoundland and Labrador, Nova Scotia and Prince Edward Island from the ongoing investigation, but not New Brunswick, a province previously exempted from tariffs. In May, New Brunswick appointed former George W. Bush-era U.S. Ambassador to Canada David Wilkins to represent its interests as a special envoy in the ongoing softwood dispute.

"The United States is committed to free and fair trade, as seen today with the preliminary decision to exclude softwood lumber from the Canadian Atlantic Provinces in the ongoing antidumping and countervailing duty cases," Commerce Secretary Wilbur Ross said in a statement. "While I remain optimistic that we will be able to reach a negotiated solution on softwood lumber, until we do we will continue to vigorously apply the AD and CVD laws to stand up for American companies and their workers," he added.

U.S. Lumber Coalition applauded Commerce's findings. "For years, Canada has unfairly distorted the softwood lumber market with billions of dollars in support of their producers. This has allowed Canadian producers to dump their product on the U.S. market to the detriment of U.S. manufacturers," Coalition spokesperson Zoltan van Heyningen said in a statement. "The 350,000 hard working men and women in the U.S. lumber industry deserve a level playing field. We encourage the Department to continue strongly enforcing U.S. trade laws to respond to these unfair practices that have harmed U.S. companies and their workers," he added.

Tribunal Finds for Guatemala in CAFTA Labor Dispute

In a decision that angered labor groups, a labor tribunal under the Central America-U.S. Free Trade Agreement (CAFTA-DR) June 27 found that while Guatemala failed to effectively enforce its labor laws at a few worksites, these instances did not affect trade. In

other cases, the U.S. could not prove that the government failed to enforce its labor laws. Former USTR Ron Kirk first asked for the arbitral panel in August 2011 (see **WTTL**, Aug. 15, 2011, page 2). The U.S. launched its complaint against Guatemala in July 2010 in response to a petition that the AFL-CIO first filed in 2008.

“The United States has proven that at eight worksites and with respect to 74 workers Guatemala failed to effectively enforce its labor laws by failing to secure compliance with court orders, but not that these instances constitute a course of inaction that was in a manner affecting trade,” the final report noted. The U.S. “has not proven sufficient failures to adequately conduct labor inspections to constitute a course of action or inaction,” it added.

Akin Gump, which advised the Guatemalan government during the proceedings, applauded the decision. “The unprecedented ruling, in which the panel dismissed all of the United States’ and AFL-CIO’s claims, is final and ends the six-year-long dispute during which Guatemala’s international image and exports may have been affected. The ruling is also of systemic importance, as it clarifies the legal standard to demonstrate a violation under the Labor Chapter of CAFTA-DR, in force in Guatemala since 2006,” the law firm said in a statement.

Labor groups and progressive lawmakers denounced the report. “The panel’s decision is indefensible, and for Guatemala’s working people, it’s tragic,” said AFL-CIO President Richard Trumka. “This decision says more about the shameful ineffectiveness of the labor provisions of our trade agreements than it does about Guatemala’s compliance—and it fortifies our resolve to stand with workers globally to reform the system,” he added.

“Today’s decision is detrimental to the global trading system and flies in the face of the facts on the ground in Guatemala and a reasonable interpretation of the labor provisions in CAFTA,” said House Ways and Means Committee Ranking Member Richard Neal (D-Mass.). “The panel simply got it wrong. Its rationale casts serious doubt on the effectiveness of many obligations in our trade agreements – beyond just labor and environmental provisions,” Neal added.

Trump Eager to Drive Down U.S.-Korea Trade Deficit

Having wrapped up his visit with Indian Prime Minister Modi, President Trump turned his attention June 29-30 to a visit with South Korean President Moon Jae-in. While Moon wanted to focus on North Korea, Trump publicly focused on trade.

“We are renegotiating a trade deal right now as we speak with South Korea, and hopefully it will be an equitable deal -- it will be a fair deal to both parties. It’s been a rough deal for the United States, but I think that it will be much different and it will be good for both parties,” said Trump before the bilateral meeting.

President Moon, however, never mentioned the word trade in his remarks (as provided by the White House). He instead focused on troubles on the Korean peninsula, saying, “Last

night, at the dinner with President Trump, we discussed various issues through a diverse scope and very honest discussions on issues to include the North Korean nuclear issue and other issues of mutual interest.”

In the bilateral meeting, Trump, Commerce Secretary Wilbur Ross and National Economic Council Director Gary Cohn spoke forcefully about trade deficits with Korea and China. Translation of President Moon’s comments in the bilateral meeting was not available at press time.

“The trade imbalance with South Korea has doubled since the KORUS [Korea-U.S. Free Trade Agreement] treaty was put into effect, and the largest single component of that is automotive trade. That’s an absolute majority of it. So, there are a lot of non-tariff trade barriers to U.S. exports. Only 25,000 cars per Big Three manufacturer are allowed in based on U.S. standards. Anything above that needs to be on Korean standards,” said Ross.

Cohn commented that the U.S.’ biggest trade problem is the large trade deficit with China. He said he’d be interested to hear how Korea deals with Chinese policies.

“The fact is that the United States has trade deficits with many, many countries, and we cannot allow that to continue. And we’ll start with South Korea right now. But we cannot allow that to continue,” said Trump. He noted that Korea is buying F-35 fighter jets from Lockheed Martin, as well as other military equipment.

Modi, Trump Talk “Free and Fair Trade”

At the White House June 26, President Trump and India’s Prime Minister Narendra Modi pledged to increase “free and fair trade” between the two nations. But while some projects, like the purchasing of American-made airplanes and export of natural gas, are relatively straightforward, an existing commitment to nuclear energy may be harder to fulfill.

Though the leaders’ joint statement noted that both leaders look forward to the “conclusion of contractual agreements” between Westinghouse Electric Company and Nuclear Power Corporation of India, outcomes might be harder to deliver as originally intended. Westinghouse, whose parent company is Toshiba, filed for Chapter 11 bankruptcy protection March 29.

Complicating matters, the Export-Import Bank still lacks a quorum, meaning it cannot make loans greater than \$10 million. When Modi visited then-President Obama in June 2016, an announcement was made that Westinghouse had begun engineering and design work to build six AP 1000 civil nuclear reactors in India by 2030 (see **WTTL**, June 13, 2016, page 4).

According to a White House fact sheet, two-way trade in goods and services was \$114 billion in 2016. The Indian economy has been growing at 7% annually. In his remarks,

Trump, ever the trade protectionist, said, “It is important that barriers be removed to the export of U.S. goods into your markets, and that we reduce our trade deficit with your country.”

Modi, who clearly knew his audience, responded, “Both nations are committed to a bilateral architecture that will take our strategic partnership to new heights. In this relationship, in both countries, increased productivity, growth, job creation, and breakthrough technologies -- an engagement towards all these are, and will remain, strong drivers of our cooperation, and will give further momentum to our relationship.”

Among the economic cooperation highlighted was Indian airline SpiceJet’s 2017 order of 100 new Boeing 737 MAX-8s and the signing of more than \$30 billion in long-term contracts for U.S. liquefied natural gas (LNG). Indian industry has spent more than \$10 billion in U.S. LNG and shale sectors, according to the White House.

After the meeting, the Alliance for Fair Trade with India (AFTI) urged the two leaders to “move quickly to review bilateral trade relations and take concrete actions to meet the two leaders’ goals: expediting regulatory processes, ensuring technology and innovation are appropriately fostered, valued, and protected, and increasing market access in areas such as agriculture, information technology, and manufactured goods and services,” the group said in a statement.

“Reforms in these areas should address the range of trade barriers that impede businesses and manufacturers in the United States from competing fairly in India, such as high tariffs on a range of products that limit U.S. exports, forced localization measures, remaining foreign ownership restrictions, insufficient protection of intellectual property rights, troublesome regulatory barriers, and inefficient government approvals,” it added.

NAFTA Hearing Shows Deep Divides

After three days of testimony and nearly 140 witnesses, two narratives emerged from the NAFTA modernization hearing that U.S. Trade Representative (USTR) and Commerce convened June 27-29. The first, from agriculture and manufacturing sectors: “do no harm.” The second, from labor groups: the status quo cannot stand.

“If you take anything away today, let it be ‘do no harm,’” said Chandler Goule, CEO, National Association of Wheat Growers. NAFTA was wildly successful in creating tariff-free market access to Mexico’s market. Last year, Mexico was U.S. wheat growers’ largest export market, receiving 3.1 million metric tons of U.S. wheat, according to Goule.

“It’s difficult to improve upon the duty-free unlimited access to Canada and Mexico, so please, do no harm and do not jeopardize our access,” Kevin Kester, president-elect of the National Cattlemen’s Beef Association, said later the first day.

Which is not to say that agricultural groups had no complaints. The wheat industry lamented that Canada labels all U.S. wheat imports as “feed,” the lowest quality tier, and

the U.S. dairy industry criticized Canada as unfairly protecting its domestic industry by lowering prices on ultra-filtered milk (see **WTTL**, May 1, page 4). Ranchers-Cattlemen Action Legal Fund CEO Bill Bullard testified passionately for the return of country of origin labeling.

Sens. Pat Roberts (R-Kan.) and John Thune (R-S.D.) threw their weight behind the agricultural sector. The two senators and 15 of their colleagues in a letter urged USTR Robert Lighthizer to strengthen agricultural trade. “Since NAFTA’s enactment, livestock and meat exports to Canada have doubled and agriculture commodity exports to Mexico increased significantly. The longstanding trade agreement between the three countries has proven to be an important success within the agriculture industry,” they wrote.

“As senators representing states with significant agricultural exports, we appreciate the careful approach the administration is taking to strengthen the NAFTA agreement, while ensuring that no changes are made that could result in harm to U.S. agriculture,” the letter concluded.

U.S. automakers, whose cross-border supply chains are complex, to say the least, urged caution. Matt Blunt, president, American Automotive Policy Council, called for a “cautious and careful” approach on rules of origin changes. “It could deny us access to supply chains, which would drive up costs and could affect sales and ultimately employment within the industry,” said Blunt.

As expected, the same groups that objected to the Trans-Pacific Partnership (TPP) criticized NAFTA extensively, particularly on labor issues. Dan Mauer, government legislative director for Communications Workers of America (CWA), called for the removal of the investor-state dispute settlement (ISDS) provision, inclusion of a robust labor chapter, and reforms that put an end to call center offshoring.

“It is outrageous that companies have substantively and procedurally better legal protections if they offshore jobs than they are afforded by domestic law, as is currently the case under NAFTA’s Chapter 11. Meanwhile, ISDS has been shown to have a chilling effect on the passage of public interest laws and rules, such as those that would establish better wages, worker rights and working conditions,” Mauer said in his prepared remarks.

Just as agriculture had its backers, organized labor had Democratic backing inside and outside the hearing. Outside the building, Rep. Rosa DeLauro (D-Conn.) led a rally protesting ISDS and vowed to vote against any new deal that included it. Inside, House Ways and Means Committee members Sander Levin (D-Mich.) and Bill Pascrell (D-N.J.) called for improved Mexican labor rights.

“U.S. wages are being driven down by the depressed wages in Mexico. Why? Because the entire Mexican labor system is designed to prevent workers from obtaining their rights and bargaining for better wages and working conditions,” Levin said.

Those for and against NAFTA agreed that it needs serious overhaul when it comes to digital trade. Ashley Friedman, director of global policy at tech trade group ITI, called for

“aligning and simplifying regulations, allowing data to flow seamlessly across borders, prohibiting any kind of localization requirements and encouraging digital technologies and services.” NAFTA negotiations can begin as soon as Aug. 16. NAFTA objectives are expected to be published July 17.

* * * **Briefs** * * *

SANCTIONS: Giant insurer American International Group, Inc. (AIG) in New York agreed June 26 to pay \$148,698 to settle 555 OFAC charges of violating various sanction programs, including Iran, Sudan and Cuba sanctions, between November 2007 and September 2012. Violations involve \$396,530 in “premiums and claims for the insurance of maritime shipments of various goods and materials destined for, or that transited through, Iran, Sudan, or Cuba, and/or that involved a blocked person,” OFAC noted. AIG previously agreed in May 2014 to pay \$279,038 to settle OFAC charges of violating Cuba sanctions between January 2006 and March 2009 (see **WTTL**, May 12, 2014, page 8). AIG voluntarily self-disclosed apparent violations, agency said.

EXPORT ENFORCEMENT: Hassan Zafari of Brentwood, Calif., agreed June 27 to pay BIS \$52,500 to settle charge of facilitating export of used industrial laser system to Iran via UAE in 2014 without required license. Specifically, Zafari identified and hired freight forwarding company to ship laser system to general trading company in Dubai, UAE, and instructed forwarder to list UAE company as consignee while aware that item actually was intended for Iran. “Zafari also suggested to the Iranian purchaser that he create a revised bill of lading after delivery in Dubai, to facilitate the transshipment through or reexport from the UAE to Iran,” BIS noted. Of penalty, \$45,000 will be suspended for two years then waived if Zafari commits no further violations. System was worth \$12,000 and designated EAR99.

BEARINGS: Timken Company June 28 filed antidumping duty petition at ITA and ITC against imports of tapered roller bearings from Korea.

FIBER: Nan Ya Plastics Corporation, America June 27 filed antidumping duty petition at ITA and ITC against imports of low melt polyester staple fiber from Korea and Taiwan. Company previously filed antidumping and countervailing duty petitions against imports of fine denier polyester staple fiber from China, India, Korea, Taiwan and Vietnam (see **WTTL**, June 5, page 6).

FLANGES: In final antidumping duty (AD) and countervailing duty (CVD) determinations on finished carbon steel flanges from India and Italy, Commerce June 23 found mandatory respondent Norma (India) Ltd. and collapsed affiliated entities were dumping at 11.32% margin; mandatory respondent RN Gupta at 12.58% and all others at 11.95%. Department found Italian mandatory respondents Metalfar Prodotti Industriali and collapsed affiliated entities were dumping at 204.53% based on adverse facts available; Commerce calculated final dumping margin of 79.17% for all other Italian producers/ exporters. In India CVD investigation, Commerce calculated final subsidy rates of 5.66% and 9.11% for mandatory respondents Norma (India) Ltd. and its three cross-owned affiliates, and RN Gupta, respectively. These rates were partially based on adverse facts available. Commerce established final subsidy rate of 7.39% for all other Indian producers/exporters.

TRADE AGREEMENTS: In Federal Register June 29, USTR and Commerce requested public comments on performance of 14 individual free trade agreements (FTAs) and 40 bilateral investment treaties (BITs) to which U.S. is party, U.S. trade preference programs, and “WTO agreements with regard to our trade relations with those trading partners with which the United

States does not have an FTA, but with which the United States runs significant trade deficits in goods.” President signed executive order (EO) April 29 calling for comprehensive review of all U.S. trade deals (see **WTTL**, May 8, page 3). Comments are due July 31.

BLUE LANTERN: DDTC’s annual report on Blue Lantern end-use monitoring visits released June 28 shows slight increase in number of visits initiated in fiscal year 2016, which ended Sept. 30, 2016, to 673 from 662 in previous year. Of 566 cases closed in fiscal 2016, agency determined 26% to have “unfavorable” results, which remained constant from year earlier. Three unfavorable results were referred to law enforcement.

FCPA: Boston engineering CDM Smith agreed to pay \$4 million in disgorgement under Justice FCPA pilot program. Agreement is second declination in last month (see **WTTL**, June 26, page 8). Company and wholly owned Indian subsidiary paid approximately \$1.18 million in bribes to Indian government officials in exchange for highway construction supervision and design contracts and water project contract, Justice declination letter noted.

EX-IM BANK: Hedge fund exec and Trump advisor Anthony Scaramucci joined Export-Import Bank (Ex-Im) as senior vice president and chief strategy officer June 19, Ex-Im spokesperson confirmed to **WTTL**.

WTO: EU June 29 appealed panel report in long-running dispute over subsidies to its domestic aircraft manufacturers. Panel circulated its report June 9, after which both EU and Boeing declared victory (see **WTTL**, June 12, page 1).

MORE WTO: Long-time trade lawyer Alan Wolff, currently Dentons senior counsel and National Foreign Trade Council chairman, June 27 named World Trade Organization (WTO) deputy director-general from U.S, replacing David Shark. Wolff served under Presidents Carter and Ford and was founder and first chairman of OECD Steel Committee. “I’ve had the privilege of knowing and working with Alan for many years, and I have no doubt that he will ably serve the WTO. I look forward to working with him to improve the WTO and to promote truly free and fair trade around the globe,” USTR Robert Lighthizer said in statement. Wolff will serve alongside existing Deputy Directors-General Yonov Frederick Agah of Nigeria, Karl Brauner of Germany and Yi Xiaozhun of China, beginning Sept. 1.

ITC: Nomination of Jason Kearns to International Trade Commission for term expiring Dec. 16, 2024, was sent to Senate June 29. Former President Obama previously nominated Kearns days before he left office (see **WTTL**, Jan. 23, page 8). Kearns currently is senior democratic trade counsel for House Ways and Means Committee. He will replace Dean Pinkert, whose term expired.

CHINA: Agriculture Secretary Sonny Perdue traveled to China June 29 to celebrate U.S. beef returning to Chinese market. U.S. beef imports had been blocked due to disease concerns. Two countries reached agreement June 12 as part of U.S.-China Economic Cooperation 100-day plan (see **WTTL**, June 19, page 11). To mark occasion, Perdue, along with Craig Uden, president of National Cattlemen’s Beef Association, and Luan Richeng, vice president of China National Cereals, Oils and Foodstuffs Corporation (COFCO), cut into Nebraska prime rib as part of June 30 photo op.

NORTH KOREA: Treasury took action against North Korea June 29. Treasury’s Financial Crimes Enforcement Network (FinCEN) proposed severing ties with Bank of Dandong, Chinese bank that funnels money to North Korea, as “foreign bank of primary laundering concern.” At same time,

Treasury's Office of Foreign Assets Control (OFAC) designated two Chinese individuals and one Chinese company, Dalian Global Unity Shipping Co., Ltd., for aiding North Korea's illicit activities.

CENSUS: Commerce Secretary Wilbur Ross June 29 named Ron Jarmin and Enrique Lamas as interim Census leadership. Jarmin will perform non-exclusive functions and duties of director, and Lamas will perform non-exclusive functions and duties of deputy director. Both are longtime Census employees; Jarmin joined Census in 1992 and Lamas in 1980. "The Census Bureau, along with the 2020 Census, are in good hands with these two men at the helm until the Senate confirms new leadership," Ross said in statement. John H. Thompson retired as Census Director effective June 30 (see **WTTL**, May 15, page 9).

TRADE AND GENDER: EU Member States June 27 agreed to cosponsor Canada's WTO proposal on gender discrimination in services. "Where a Member adopts or maintains licensing requirements, licensing procedures, qualification requirements or qualification procedures, the Member shall ensure that such measures do not discriminate against individuals on the basis of gender," proposal notes. "Excellent news from the European Union today. Canada welcomes this progress on the trade and gender file!" Canadian Trade Minister Champagne tweeted.

SAWBLADES: Customs and Border Protection (CBP) June 27 announced interim measures against Diamond Tools Technology (DTT) of Indianapolis for potential antidumping duty (AD) evasion. Merchandise from Thailand not subject to existing AD order on diamond sawblades from China will now be rate-adjusted and that cash deposits are owed on these entries. Action comes under Enforce and Protect Act of 2015 (EAPA), which passed in 2016; CBP issued interim procedures in August (see **WTTL**, Sept. 5, 2016, page 8). Diamond Sawblades Manufacturers' Coalition (DSMC), ad hoc coalition of U.S. manufacturers, filed evasion petition in March.

BRIBERY: James C. Bedford of Dumfries, Va., was sentenced June 30 in Alexandria U.S. District Court to probation, including 12 months' home confinement. He pleaded guilty in December to conspiracy to commit bribery and bribery of public official from 2010 through 2011. Bedford admitted to conspiring with former BIS official Raushi J. Conrad to gain over \$1 million in profits from BIS data migration project. Federal jury convicted Conrad of related charges in same court in June (see **WTTL**, June 26, page 8).

TTIP: More hope for Transatlantic Trade and Investment Partnership (TTIP). Speaking June 27 via video feed to conference hosted by German Chancellor Angela Merkel's party, Commerce Secretary Wilbur Ross said, "I stand before you tonight to say this in a more explicit fashion: We, as major trading partners of each other, should have a free trade agreement." Ross added that "relatively small number of trade disputes between our countries augurs well for the enforceability of such an agreement." Merkel agreed with Ross' sentiments. "We should resume work on a trade agreement" between EU and U.S., she said. USTR Robert Lighthizer recently indicated that stalled agreement could be taken up again after German elections in September (see **WTTL**, June 26, page 1).