

Washington Tariff & Trade Letter®

A Weekly Report for Business Executives on U.S. Trade Policies, Negotiations, Legislation, Export Controls and Trade Laws

Editor & Publisher: Samuel M. Gilston • P.O. Box 5325, Rockville, MD 20848-5325 • Phone: 301-570-4544 Fax 301-570-4545

Vol. 28, No. 6

February 11, 2008

STATE WANTS TO TIGHTEN GRIP ON AVIATION JURISDICTION

Rather than being willing to recognize Commerce's licensing jurisdiction for commercial aviation products, State's Directorate of Defense Trade Controls (DDTC) reportedly is trying to expand its role in controlling these items. Despite an apparent agreement in November with the Bureau of Industry and Security (BIS) on the interpretation of Section 17(c) of the now-expired Export Administration Act (EAA), DDTC has drafted a policy statement that would expand its jurisdiction for products that have been certified by the Federal Aviation Administration (FAA). "If it went through as it is written, it would be a real rollback," one source told WTTL. After reviewing the DDTC draft statement, BIS sent it back Feb. 4 with its objections.

In November, DDTC and BIS officials met with FAA representatives to get a briefing and clarification of what type of products get FAA certification. Under the EAA, products that are FAA certified are supposed to be under Commerce licensing jurisdiction. Over the years, however, DDTC has issued Commodity Jurisdiction (CJ) decisions that have steadily moved many of these products under the controls of the International Traffic in Arms Regulations (ITAR).

The November meeting responded to threats from several lawmakers who said they would try to enact new legislation to reaffirm BIS jurisdiction for these items, if State and Commerce could not work out their differences (see **WTTL**, Dec. 10, page 2). DDTC reportedly agreed to issue a policy statement on aviation-product licensing by the end of last year. BIS was supposed to follow that with a revision of Interpretation 9 in the Export Administration Regulations (EAR), which explains which products are subject to Section 17(c).

JORDAN ACTS TO IMPROVE LABOR CONDITIONS, BUT PAYS PRICE

Twenty months after a report criticized working conditions in its apparel industry, Jordan claims to have taken steps to correct those problems and instituted programs to assure compliance with international labor standards (see **WTTL**, Aug. 7, 2006, page 2). The bad publicity from that report and the cost of the tougher labor rules imposed by the government, however, have had a negative impact on what had been a booming economic sector. After growing steadily from less than \$200,000 in 2001 to \$1.1 billion in 2005, Jordan's apparel exports to the U.S. grew only 8% in 2006 to \$1.25 billion and declined 7% in the first 11 months of 2007.

In one of the perversions of the global apparel industry, the higher costs and tougher labor standards in Jordan may have caused apparel manufacturers and buyers to shift to less costly sources in the Middle East, including new Qualifying Industrial Zones (QIZ) in Egypt and

Copyright © 2008 Gilston-Kalin Communications, LLC. All rights reserved. Reproduction, copying, electronic retransmission or entry to database without written permission of the publisher is prohibited by law.

Published weekly 50 times a year except last week in August and December. Subscription in print or by e-mail is \$647 a year. Combo subscription of print and e-mail is \$747. Additional print copies mailed with full-price subscription are \$100 each. Circulation Manager: Elayne F. Gilston

factories in Bahrain that benefit from tariff-free treatment under the U.S.-Bahrain FTA. Industry sources say a similar thing happened to Cambodia after it adopted tougher standards on working conditions. Although Cambodian apparel exports continued to grow, some apparel buyers shifted much of their sourcing to Vietnam and China.

Egyptian apparel exports, mostly from its QIZ, to the U.S. soared 150% from 2005 to 2006 and rose another 19% to \$815 million through November of 2007, a period when overall U.S. apparel imports increased only 4%. Apparel exports from Bahrain declined slightly in 2006 but rose 5% in the first 11 months of 2007 to nearly \$111 million. The value of Bahrainian apparel claiming FTA benefits, however, skyrocketed 860% last year, reflecting the shift to goods benefitting from the FTA rule of origin.

Jordan's Labor Minister Bassem Al-Salem admits that Amman's tougher enforcement of labor standards may have reduced exports because it forced several factories to close, while remaining factories may have "slowed their productivity and production." He disagreed that labor standards increased costs. "We in Jordan believe that standards don't increase costs," he told reporters Feb. 7. Al-Salem was in Washington and New York Feb. 6 and 7 to meet with apparel buyers, union representatives and government officials to explain the reforms Jordan has adopted and to increase orders from U.S. apparel importers. He conceded that some production moved to Egypt after the bad publicity in 2006. "Some moved to Egypt but the ones that moved to Egypt have returned to Amman," he said.

Since the 2006 report from the National Labor Committee, Jordan has taken steps to correct the problems it cited. Amman has closed six factories, resolved worker complaints about garnished wages, found new jobs for dislocated workers, increased the resources and Labor Ministry staff that inspects apparel factories, and started training programs to increase jobs for Jordanians outside its QIZs. Of the 54,000 workers in Jordan's apparel industry, nearly 34,000 are foreign guest workers, with many coming from Bangladesh, China and Sri Lanka.

Jordan claims that 40 factories on its so-called Golden List now meet its tougher standards. These firms account for 80% of Jordanian apparel exports. On Feb. 3 it launched the Better Work Jordan Project in cooperation with the International Labor Organization (ILO) and with funding from the U.S. Agency for International Development (USAID). The project, which is modeled after one the ILO operates with the Cambodian government, is a voluntary program under which apparel firms will get help to assess their labor conditions, train employees in labor management and remediation and improve productivity.

ADMINISTRATION WARNS BOLIVIA, ECUADOR ON TRADE PREFERENCES

While the Bush administration supports a short-term extension of the Andean Trade Preferences Act (ATPA) for Colombia and Peru to give those two countries time to implement their free trade agreements with U.S., it is warning Bolivia and Ecuador that they may lose their ATPA eligibility, if they don't address complaints about their treatment of U.S. investors. This isn't the first time Washington has made such threats. Each of the previous times ATPA renewal came up, the administration backed down from actually cutting off preferences for the two nations whose economic policies and friendship with Venezuela have irritated the U.S. Dropping ATPA benefits also has run into opposition from some in Congress and from importers.

The latest warning came from Commerce Under Secretary Chris Padilla Feb. 7. The administration has concerns about the treatment of U.S. investors in Bolivia and Ecuador, Padilla told the Washington International Trade Association. He said the U.S. wants to talk to those two countries about those complaints before deciding whether to support another extension of their ATPA benefits.

The administration's warning came as Ways and Means Committee Chairman Charles Rangel (D-N.Y.) Feb. 7 introduced legislation (H.R. 5264) to extend the ATPA, which expires Feb. 29,

until Sept. 30, 2010. The bill would also extend until that date the Caribbean Basin Initiative (CBI), which expires Sept. 30, and the Generalized System of Preferences (GSP), which expires Dec. 31. Another provision would ease rules for textiles and apparel from sub-Saharan Africa under the African Growth and Opportunity Act (AGOA).

“Extension beyond 2010 would have been ideal to provide the necessary predictability and stability for the Andean, Caribbean, and GSP programs,” Rangel said in a statement. “However, I have included the shorter extension in this bill to accommodate the range of opinions on the issue of renewal,” he added. “In the coming days, I will work with my colleagues to harness the strong bipartisan support that I believe exists to extend and improve these critical trade preference programs,” Rangel said.

CCL REVIEW MIGHT NOT PRODUCE KEY CHANGES FOR THREE YEARS

It may be nearly three years before the current BIS review of the Commerce Control List (CCL) produces changes in Export Control Classification Numbers (ECCNs) that will require the concurrence of the Wassenaar Arrangement before implementation. Because of the time needed to get interagency approval of proposals to take to Wassenaar, the year-long Wassenaar review process, and the long delay in BIS publication of Wassenaar changes to the international control list, it may be the end of 2011 before exporters will see some CCL changes.

An internal BIS task force has begun reviewing the 350 pages of public comments the agency received in response to its call for proposed updates and revisions to the CCL (see **WTTL**, Dec. 10, page 4). BIS staffers admit that review won't be ready to have a proposal ready for the next interagency review cycle, which starts in July, that will prepare U.S. proposals to take to Wassenaar in February 2009.

BIS might have a proposal ready for the cycle starting in July 2009 and aimed at proposals going to Wassenaar in February 2010 for the December 2010 Plenary Meeting of the regime. If the 2010 Plenary adopts the U.S. proposals, implementation would depend on BIS publishing a revision to the Export Administration Regulations (EAR). BIS did not revise the EAR to reflect the changes that Wassenaar adopted at the December 2006 Plenary until Nov. 5, 2007.

NEW DOHA AGRICULTURE AND NAMA TEXTS FAIL TO NARROW OPTIONS

Anyone looking for silver bullets in new draft texts released Feb. 8 by the chairmen of the Doha Round agriculture and non-agriculture market access (NAMA) groups – either to cure the problems in the talks or put them out of their misery – will be disappointed. Agriculture Chairman Crawford Falconer conceded there were “no real surprises” in the paper he released, while NAMA Chairman Don Stephenson said he changed the approach he took in his July 2007 paper to eliminate his own proposed solutions to disagreements and instead to reflect the different positions taken by World Trade Organization (WTO) members in the last seven months.

Many of the changes in the agriculture text were presented before in more than a dozen working documents Falconer, New Zealand's WTO ambassador, released in the last three months (see **WTTL**, Jan. 14, page 3). Falconer told reporters he didn't try to propose new numbers for such key measures as overall trade distorting subsidies (OTDS) because “we all know that is a political decision.”

Stephenson, Canada's WTO ambassador, said he revised his text to eliminate his own proposals for where key tariff cutting numbers should fall and instead provided “an accurate portrait of the state of play in the NAMA text.” The crux of the NAMA negotiations, he suggested, is the need to balance the co-efficients which will determine the level of tariff cuts to be made on industrial goods by WTO members and the flexibilities that will allow developing countries to deviate from those cuts. He said developing country members have indicated they could accept

lower co-efficients that would produce steeper tariff cuts, if they had greater flexibility for deviations. He said members need to develop a “sliding scale” model that shows the possible trade offs between those two elements of the talks.

Both Falconer and Stephenson said they recognize negotiators need to narrow the issues in their two sectors significantly to reduce the number of outstanding disputes before trade ministers could handle them at a possible mini-ministerial this spring (see **WTTL**, Feb. 4, page 2). They also said they see their texts as the basis for the “horizontal” negotiations that ministers will have to undertake to trade concessions in agriculture with those in industrial tariffs and services.

Both papers try to address complaints that the liberalizations demanded in agriculture and NAMA were not balanced. That goal may not have been achieved depending on which side of the complaint you stand. “It is clear that the U.S. must press hard for substantial cuts in foreign tariffs and a lot of work remains before the trade liberalization we seek is reached,” said a statement by National Association of Manufacturers (NAM) President John Engler. “We remain very concerned with the increased implementation period language, and particularly for recently acceded members,” he added.

National Foreign Trade Council (NFTC) President Bill Reinsch said the two papers “provide the foundation for continued talks.” He added, however, that the services group “must also produce a text that could move forward in parallel with the other two pillars of the Doha Round.” USTR spokeswoman Gretchen Hamel said, “The revised draft texts are wide-ranging and complex, and we are analyzing both closely.”

* * * BRIEFS * * *

ANTIBOYCOTT: For first time since 1996, BIS has imposed denial of export licensing privileges on two closely related firms that reached settlements with agency on antiboycott violations. Both firms have same owner and are co-located in Great Neck, N.Y. AR-AM Medical Services, Inc., based on only three charges, agreed to pay \$7,200 civil fine and lose licensing privilege to export to Bahrain, Iraq, Kuwait, Lebanon, Libya, Oman, Qatar, Saudi Arabia, Syria, United Arab Emirates and Yemen. DMA Med-Chem Corporation, based on one charge, agreed to pay \$2,400 fine and face same export restrictions. They were both charged with providing boycott-related information to National Bank of Egypt in New York. “The alleged violators’ circumstance and settlement negotiations are confidential,” said BIS spokesman when asked to explain stiff penalty. The Office of Antiboycott Compliance and the Administrative Compliance Review Board “arrived at the appropriate penalty by applying the Antiboycott Penalty Guidelines. OAC and the ACRB determine settlement parameters on the merits of individual cases in light of the Penalty Guidelines,” he said in e-mail to **WTTL**.

FINANCE AND INVESTMENT: U.S. Feb. 4 said it will enter into talks with Singapore, Chile, New Zealand and Brunei (known as P-4) on sectoral agreement on investment and financial services. “This initiative also will provide another opportunity for the United States to participate in the regional trade architecture that is emerging in the vitally important Asia-Pacific region,” said USTR Susan Schwab. USTR’s office said talks also will be part of detailed exploratory process U.S. will undertake to determine whether it should participate in the full Trans-Pacific Strategic Economic Partnership. It said talks with P-4 “could provide a pathway to broader Asia-Pacific regional economic integration with like-minded countries committed to high-standard agreements.”

SUGAR: USTR Susan Schwab and Agriculture Secretary Ed Schafer issued joint statement Feb. 8 saying Bush administration opposes proposals that might block Mexican access to U.S. sugar market, which became fully open to Mexican imports Jan. 1 under terms of NAFTA. “We believe we have the tools and the cooperative relationships with the Government of Mexico to ensure the further smooth integration of our sweetener markets. For all of these reasons, the Administration cannot support recent sugar policy recommendations and will oppose efforts to implement them through legislation,” they declared.

EXPORT ENFORCEMENT: Laura Wang-Woodford pleaded not guilty Feb. 1 in Brooklyn U.S. District Court to 20 count indictment charging her and her husband, Brian Woodford, with exporting aviation products from U.S. to Singapore and then to Iran. Wang-Woodford, who is U.S. citizen, was denied bail. Her husband, who is British citizen, is fugitive. Couple own Monarch Aviation Pte. Ltd. in Singapore. Indictment claims they arranged to buy parts from firms in Bridgeport, Conn., Kansas City, Mo. and Fort Worth, Texas. [**Editor’s Note:** Copy of indictment will be sent to **WTTL** subscribers on request.]