

KAYE SCHOLER LLP

INTERNATIONAL TRADE UPDATE


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STEEL UPDATE

OECD Steel Overcapacity Talks Continue

Government officials from major steel-producing countries met late last month in Paris under the auspices of the Organization for Economic Cooperation and Development (OECD) to continue discussions on how to further reduce global steel capacity. The discussions focused on concluding an international agreement that would restrict government subsidies to steel producers and address the use of trade remedies to counter increased steel capacity. According to the OECD, major steel producers around the world already have shut down 100 million tons of steel capacity; the OECD target is to shut down 140 million tons during the period 1998 through 2005.

For now, officials will resume meetings early this year to more narrowly define criteria for an agreement. This process will begin with meetings in late February among members of a technical-level group established in April 2002. Ultimately, the goal is to bring the talks and the agreement into the WTO. However, no deadline has been set for when and how to do so. A major question is whether any steel agreement should be a separate agreement under the WTO or part of an existing agreement. For example, US officials suggest that countervailing rules may need to be changed if certain steel subsidies are permitted via a new agreement. To that end, the United States, together with its NAFTA partners Canada and Mexico, is calling for the elimination of all government subsidies to steel producers except those aimed at capacity reduction. According to the OECD, the technical group also will explore how any agreement could be introduced into the WTO process. 

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US Steel Exclusion Process Underway

As previously reported, the deadline for submitting responses to exclusion request questionnaires was December 10, 2002. The US Department of Commerce (DOC) received approximately 600 exclusion request questionnaire responses. DOC and the Office of the United States Trade Representative (USTR) have reviewed the responses for completeness and have begun issuing "deficiency notices" to parties whose questionnaires were not submitted in accordance with the instructions. Parties who receive these notices must correct their deficiencies by the date provided in the notices (approximately two weeks). In the meantime, DOC and USTR will begin releasing those questionnaires which have no deficiencies in a series of four batches. Parties wishing to object to an exclusion must submit an objector's questionnaire response by the date relevant to each batch. The first batch was released January 7 with objections due January 22; the second batch will be released January 13 with objections due January 29; the third batch will be released January 21 with objections due February 5; and the fourth batch will be released January 27 with objections due February 12. These deadlines may be revised by DOC and USTR if circumstances warrant an extension. Parties also will be given an opportunity later this month to request meetings with DOC and USTR to pursue their interests. ☞

US Implements Steel 201 Licensing System

On December 31, DOC published in the Federal Register a final rule implementing the long-anticipated import-licensing/surge-monitoring system that was established under President Bush's March 2002 Steel 201 Proclamation. The system will go into effect on February 1, 2003. The licensing system applies to imports of all products subject to the Steel 201 safeguard measures, including products subject to product-specific exclusions. However, the system is designed primarily to provide advance notice of increased imports from developing countries exempted from the Steel 201 measures.

Under the system, DOC will begin tracking imports of steel subject to the Steel 201 safeguard measures and will alert the public about "changes in quantities, types or origins of steel imports." The US Customs Service will be responsible for enforcing the licenses at US ports of entry. Licenses are mandatory for importing any steel product subject to the 201 safeguard measures, even if the product is specifically excluded or destined for a foreign trade zone. Licenses are granted automatically upon filling out the application. Since January 6, each importer or the importer's broker or agent have been able to apply for user identification numbers and licenses on the import-licensing website at <http://www.ia.ita.doc.gov/steel/license/>. The licenses can be applied for 60 days in advance of shipments and until the date of filing of the entry summary documents, and are good for 75 days. ☞

US Steel Industry Petitions 201 Developing Country Exemptions

On January 10, the US domestic flat-rolled steel industry (the Flat-Rolled 201 Coalition) in a letter petitioned USTR and DOC to extend Section 201 tariffs to all flat-rolled imports (other than slab and tin mill) from Mexico and from 30 developing countries. Imports from qualifying developing countries have been exempted from the 201 safeguard measures on the basis of the developing country exemption provided for under the WTO Agreement on Safeguards. Certain imports from Canada and Mexico also have been exempted from the 201 safeguard measures because of NAFTA provisions. The developing countries that the US industry is seeking to

revoke the developing country exemption for are: India, Turkey, Egypt, South Africa, Venezuela, Romania, Thailand, Bulgaria, Indonesia, Poland, Argentina, Chile, Hungary, El Salvador, Morocco, Costa Rica, Colombia, Guatemala, the Dominican Republic, Kenya, Honduras, Dominica, Antigua, Tunisia, Haiti, the Philippines, Peru, Panama, Lithuania and Latvia.

Although the Flat-Rolled 201 Coalition, which includes Gallatin, IPSCO, Nucor, Rouge Steel, Steel Dynamics Inc., WCI Steel and Weirton Steel, focuses primarily on revoking the developing country exemptions, it more broadly raises concerns over whether the effectiveness of the 201 measures have been undermined and whether the US industry-adjustment commitments have been negatively affected. Likely the flat-rolled industry is setting the stage for its defense in the midterm review process of the 201 measures in September of this year. For example, the Flat-Rolled 201 Coalition letter notes the failure of the Bush administration to respond to the US flat-rolled industry's request to act against surging flat-rolled imports from Turkey and India in September 2002 when these countries' individual import shares exceeded the 3 percent threshold required for qualifying for a developing country exemption. According to the letter, the Flat-Rolled 201 Coalition also currently is preparing unfair trade cases against "any unfairly traded imports from uncovered countries." It is not clear whether this would be pursued on a parallel track to revocation of exemptions or in addition to such action. US flat-rolled industry representatives are expected to meet with USTR and DOC officials regarding these concerns. ☞

MULTILATERAL TRADE

US Begins FTA Negotiations With Central American Countries

The United States on January 8 established a framework for FTA negotiations with Costa Rica, El Salvador, Guatemala, Honduras and Nicaragua. Specifically, trade ministers from each of the countries agreed to nine rounds of negotiations with the first to begin January 27. Negotiators expect to complete negotiations for a US-Central America FTA by the end of this year and hope that the FTA will serve as a basis for concluding a broader hemisphere-wide FTA by 2005. According to USTR Robert Zoellick, the recently completed US-Chile FTA will serve as a framework for the negotiations. In all, five negotiating groups will begin discussions in the areas of market access, investment and services, government procurement and intellectual property, labor and environment and related institutional issues. A separate working group will begin exploring sanitary and phytosanitary issues, including issues surrounding bilateral trade in pork, poultry and dairy products.

Trade ministers from the five Central American countries consider an FTA with the United States to be vital to their economies. Although the combined economies of these countries are relatively small, in 2001 the United States exported to them over \$9 billion worth of goods. In addition, they offer significant potential for US joint ventures and investment. ☞

US Senate Finance Committee Reorganizes

Following the November 2002 US congressional elections and the shift in control of the US Senate, the Senate Finance Committee has completed its reorganizations. Responsible for trade-related matters, the committee now is chaired by Chuck Grassley (R-Iowa). In addition, four

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Republicans have been added to the committee. These include Senate Majority Leader Bill Frist (Tennessee), Rick Santorum (Pennsylvania), Jim Bunning (Kentucky) and Gordon Smith (Oregon).

Grassley recently announced that trade will be among his top priorities. To that end, the committee will be responsible for approving trade agreements, including the US-Chile FTA, negotiated by the Bush administration. While the committee generally will not be able to amend trade agreements due to the president's trade promotion authority, it will be permitted to debate the merits of an agreement and then either vote for or against the agreement. Although the full Senate and the full House also will be required to vote for or against an agreement, the Senate Finance Committee often sets the initial tone of whether the agreement should or should not be approved. Grassley predicts quick approval of the FTAs with Chile and Singapore. Coming from an agriculture state, Grassley also will focus on WTO agriculture negotiations to ensure that the interests of US farmers are fully represented. ☐

BRIEFLY NOTED

- The **United States and Morocco** agreed late last month on a process for conducting FTA negotiations beginning this year. Over a dozen negotiating groups reportedly already have been established to begin discussions in areas ranging from market access to intellectual property to labor and environmental issues. Officials suggest that an FTA could be reached as early as the end of this year.
- On January 10, President Bush added **Afghanistan** to the countries **eligible for preferential treatment** of exports to the United States under the Generalized System of Preferences (GSP). The GSP designation will allow Afghanistan to export duty free certain goods to the United States. Currently, 140 countries and territories qualify as GSP beneficiaries.
- USTR Robert Zoellick will lead a US negotiating team the week of January 13 in talks with African countries aimed at a **US-Southern African Customs Union (SACU) FTA**. The negotiations will focus on bringing together over 38 African countries eligible for preferential tariff treatment under the US African Growth and Opportunity Act of 2000. At the same time, discussions will begin on preparing SACU member countries for FTA negotiations.
- Efforts by **US-Taiwan** business groups to promote an FTA between the United States and Taiwan appear to be increasing. These groups have been advocating a US-Taiwan FTA to the US Congress and publicizing the benefits of such an agreement. While a certain amount of US congressional support exists, US government trade officials remain very concerned over Taiwan's alleged inability to enforce protection of intellectual property rights. On a political level, a US-Taiwan FTA also could trigger a trade dispute with China, which does not consider Taiwan a sovereign country, but rather a province of China.

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