Washington Trade Daily

Volume 29, Number 215 Tuesday, October 27, 2020

US Appeals WTO Ruling on China Tariffs

Geneva – As expected, the United States yesterday appealed a World Trade Organization dispute panel ruling finding against US tariffs imposed on Chinese products – effectively killing the case because the WTO's Appellate Body no longer exists.

It is Washington that left the AB unable to function by blocking the appointment of any new members. With the AB lacking the members needed to consider cases, a decision to appeal sends a dispute into limbo.

In this case, a WTO dispute panel found against Washington's Section 301 tariffs imposed of $234 billion worth of Chinese products. At a meeting of the Dispute Settlement Body yesterday, the United States said the panel's ruling was based on legal errors. Most importantly, Washington said, the ruling sends a message that the WTO is unable to deal with a state-driven, non-market economy like China.

Beijing, meanwhile accused the United States of taking advantage of the non-functioning AB to avoid having to comply with the panel decision. China argued that the panel was correct in finding that Washington applied the tariffs in a discriminatory manner. The US decision to appeal the ruling is an abuse of WTO rules, China said.

Also at yesterday's meeting, the United States once again blocked a proposal by 121 WTO members to restart the selection process for filling the six vacancies on the Appellate Body.

Nearly 20 members took the floor to reiterate the importance of resolving the impasse over the appointment of new members as soon as possible and re-establishing a functioning Appellate Body, according to a Geneva trade official.

But Washington reiterated its position that it cannot allow the selection process to move forward because its concerns about the AB remain unaddressed.

EU Given Okay to Retaliate on Boeing

Geneva – The European Union was given authorization yesterday to impose almost $4 billion worth of retaliatory measures on the United States for its failure to comply with a World Trade Organization ruling on US subsidies for Boeing.

Both Brussels and Washington said they hope to find a negotiated solution to the 16-year-old dispute, under which the United States has been granted the right to impose $7 billion in retaliation against the EU for subsidies to Airbus.

European Trade Commissioner Valdis Dombrovskis, said that the EU wants to settle the aircraft subsidies disputes once and for all. But Brussels is prepared to impose retaliatory tariffs on US products if an agreement cannot be reached. A list of US products to be targeted by tariffs is being finalized, he said.

The United States argued that it is in compliance with the ruling, as the only subsidy found by the arbitrator – tax breaks provided by the Washington state government to Boeing – was eliminated over six months ago. The United States said it has recently offered proposals to settle the dispute. "With serious engagement with our close trading partners, the United States considers that we should be able to find a solution in a short period of time," Washington said.

E-mail address: washingtontradedaily@gmail.com
Telephone: (301) 946-0817 Published 260 times a year. Subscription price: $875/year.

ISSN: 1522-3671
Editors/Publishers: Jim and Mary Berger. Geneva editor: Devarakonda Ravi Kanth.

G20 Urged on Steel Overcapacity

Members of the Global Forum on Steel Excess Capacity called on the G20 yesterday to use their meeting next month to accelerate efforts to address steel overcapacity.

The forum meeting was chaired by European Commission Executive Vice-President and Commissioner for Trade Valdis Dombrovskis.

Forum members also committed to enhanced transparency and continue efforts to monitor and address the global excess capacity. They called on China, India and Saudi Arabia to re-engage in the work of the Forum. The three countries initially participated in the Forum, but dropped out last year. China is considered the primary source of steel overproduction.

Following is the ministerial statement:

Joint Call to G20 Leaders

1. Overview of the Ministerial meeting of the Global Forum on Steel Excess Capacity

A Ministerial meeting of the Global Forum on Steel Excess Capacity (GFSEC) was held virtually on 26 October, co-organized by the Forum's Co-Chairs – the European Union and Republic of Korea – and facilitated by the OECD. The Meeting was chaired by Executive Vice President of the European Commission Valdis Dombrovskis.

The meeting brought together Ministers and senior industry representatives from GFSEC member economies to discuss the current crisis in the steel industry and the need to accelerate multilateral efforts to resolve excess capacity. The Ministerial report laying out the challenges, ways forward and commitments of GFSEC members was approved by 29 Ministers and other high-level government officials. At the conclusion of the closed discussion, they also issued a joint recommendation for the consideration of G20 Leaders, provided at the end of this Statement.

2. Key issues

The steel industry is a key enabling industry for modern economies. Without steel, many sectors vital to any modern economy would not be sustainable. Steel is the backbone of manufacturing, and facilitates high value economic activity across a number of other sectors including infrastructure and construction, mining and energy, and agriculture. The steel industry is also important for jobs, with more than six million workers directly employed in the industry globally and millions more in the steel industry's global supply chain.

Excess capacity is detrimental to the steel industry and is the single biggest threat to the industry's long-term viability. Market-distorting subsidies and other support measures provided by governments to steel industries distort competition and can lead to excess capacity by sustaining uneconomic plants or by encouraging investment in additional steelmaking capacity that would not otherwise be built. Excess capacity dislocates efficient steel production activities that operate under market forces, depressing the financial health of companies and creating localized job losses. By hampering research, development, and innovation activity through its negative effects on the steel industry's financial health, excess capacity today can have consequences for the health of the industry over the very long term.

The GFSEC: A global platform called for by G20 Leaders to address the steel crisis. In response to the unprecedented increase in global excess capacity and the ensuing steel crisis, G20 Leaders expressed a common understanding at their summit in Hangzhou in September 2016 that G20 and other industrialized economies needed to take immediate and collective action to address the problem of steel excess capacity and tackle the government policies that contribute to it.

Following their call for the formation of a Global Forum on steel excess capacity to tackle the issue, 33 economies representing more than 90% of the global steel market came together in late 2016 to start building transparency, develop concrete solutions and work towards implementing policy action to reduce excess capacity.

This Statement was adopted by 29 Ministers and high-level government officials of Argentina, Australia, Austria, Belgium, Brazil, Canada, European Commission, Finland, France, Germany, Greece, Hungary, Indonesia, Italy, Japan, Luxembourg, Mexico, Netherlands, Norway, Poland, Republic of Korea, Russia, Slovak Republic, Spain, Sweden, Switzerland, Turkey, United Kingdom, and the United States.

But the GFSEC's mission has not been completed. Meeting in Tokyo in October 2019, Ministers of 31 GFSEC member economies expressed their support for continuing the GFSEC's work beyond 2019 to further address excess capacity and prevent its re-emergence in the future, despite decisions by China and Saudi Arabia to leave the Forum. While India has stepped back from the GFSEC in 2020, the Forum's work has continued steadily on the basis of the agreements expressed in Tokyo Chair's Report, and following the principles and recommendations of the Berlin and Paris Ministerial reports.

The Covid-19 downturn and developments in non-participating economies of great concern. The Covid-19 crisis is leading to one of the sharpest downturns in steel demand, with effects that may persist for years to come. Global excess capacity is going to increase significantly this year, to a level of at least 606 million metric tonnes and is likely to remain high for the foreseeable future. In the context of depressed steel demand, there are significant concerns regarding steelmaking capacity and related policy developments in non-participating G20 jurisdictions. Market imbalances are now growing, with steel production continuing to expand rapidly, notably in China, despite the severe demand downturn. These reactions are made possible by the existence of excess capacity and a lack of market function. Moreover, new plants continue to be built domestically or abroad with the support of governments. Until policy actions are taken to reduce structural excess capacity and allow markets to work more efficiently, the industry and its workers will continue to suffer unnecessarily.

3. Joint recommendation to G20 Leaders to consider

Recognising the challenges facing their steel industries, the 29 Ministers and senior government officials jointly recommend G20 Leaders consider to:

- firmly maintain the problem of excess capacity on the G20 agenda;
- promote the GFSEC principles in tackling the problem; and
- support the GFSEC as a multilateral way forward, which is open to all G20 and interested OECD members.

Congress Could Amend Section 301

Members of Congress unhappy with the Administration's exclusion process for tariffs imposed on Chinese products by the Administration could amend Section 301 to create a formal exclusion process, according to a Congressional Research Service report released yesterday.

As an alternative to setting up a formal tariff exclusion process, Congress also could lay out specific guideline for when and how to grant exclusions, CRS suggested.

"This could potentially promote transparency, consistency, and proper application of standards in reviewing exclusion requests, thereby helping to ensure that the USTR carries out Section 301 objectives as prescribed by Congress," according to the report.

Following the Administration's decision to impose Section 301 tariffs on almost all Chinese products imported into the United States, Congressional lawmakers insisted a process was needed to provide exclusions from the tariffs for products needed by US manufacturers. The US Trade Representative's Office set up an exclusion process, but it has drawn criticism from Congress.

Some lawmakers have questioned USTR's ability to "pick winners and losers" through granting or denying requests or have pushed for broad tariff relief, while others have discouraged USTR from granting any exclusions.

The report notes that USTR approved, on average, 35 percent of requests under the first two tranches of tariffs, the approval rates under the third tranche was 5 percent and the fourth 7 percent.

WTO E-Commerce Talks Resume

Geneva – World Trade Organization members are aiming to reach agreement on a consolidated negotiating text laying out rules for electronic commerce by the end of this year.

At a plenary meeting Friday, co-conveners Australia, Japan and Singapore urged members to propose constructive solutions and show flexibility in order to meet the goal of delivering a consolidated negotiating text.

Australian Ambassador George Mina told the meeting that work still needs to be done in order to complete a consolidated text. That document should include "clean text" on e-signatures, authentication, spam and online consumer protection, he said.

The COVID-19 pandemic has made it even more important to develop global rules on digital trade, Ambassador Mina said. He added that the e-commerce negotiations are viewed as a key test to show that the WTO is able to respond to modern commercial realities.

The three co-convener countries laid out principles for members participating in small group discussions to help make their work more efficient and consistent.

Facilitators of the small group discussions reported on the work done in between plenary meetings to further streamline text proposals in the areas of spam, source code, open government data, trade facilitation in goods, services market access, electronic signatures and authentication and online consumer protection.

Also discussed at Friday's meeting was the protection of personal information or data.

The co-conveners set November 16 as a deadline for any new proposals to be submitted by participating members. They also plan to hold ambassador-level consultations to discuss and hear members' views on the way forward between October 28 to 30. The next plenary session will be on November 5, during which an information session for members on data-related provisions will be hosted by Japan and Singapore.

More Iran Sanctions Announced

The Treasury Department said yesterday it is sanctioning the Iranian Ministry of Petroleum, the National Iranian Oil Company and the National Iranian Tanker Company for their financial support to Iran's Islamic Revolutionary Guard Corps-Qods Force.

Senior NIOC and NITC personnel have worked closely with Rostam Ghasemi, a senior IRGC-QF official and former Minister of Petroleum who was designated in 2019, and who has assumed a portion of former IRGC-QF Commander Qasem Soleimani's role in facilitating shipments of oil and petroleum products for the financial benefit of the IRGC-QF.

Treasury also is designating multiple entities and individuals associated with the Ministry of Petroleum, NIOC and NITC, including front companies, subsidiaries and senior executives. It also is designating four persons involved in the recent sale of Iranian gasoline to the Maduro regime in Venezuela.

Atlas Ship Management and Atlantic Ship Management Company are being designated for being owned, controlled or directed by, or having acted or purported to act for or on behalf of, directly or indirectly, NITC.

Chinese Steel Cylinders Dumped

Non-refillable steel cylinders from China are being dumped in the US market at less-than-fair value, the Commerce Department said yesterday.

In its preliminary determination, Commerce found that exporters from China have dumped non-refillable steel cylinders in the United States at margins between 57.83 percent and 114.58 percent.

Commerce is scheduled to announce its final determination in this case around March 15.

In 2019, imports of non-refillable steel cylinders from China were valued at approximately $21.5 million.

Commerce also announced its preliminary determination that walk-behind lawn mowers and parts thereof from China are being unfairly subsidized by the Chinese government. Commerce preliminarily determined that exporters/producers from China received countervailable subsidies with rates ranging from 14.68 percent to 22.74 percent.

Commerce is slated to announce its final determination in this case around March 9. If Commerce makes an affirmative final determination, the International Trade Commission will be scheduled to make its final injury determination around April 22.

Imports of walk-behind lawn mowers from China were valued at approximately $24.5 million in 2019.

Final 2020 APEC Meetings

Malaysia – this year's Asia Pacific Economic Cooperation forum host – announced yesterday that the 2020 economic leaders' meeting will take place virtually for the first time.

The meeting will be held on November 20. APEC economic leaders are expected to agree on a declaration reflecting Malaysia's theme of optimizing human potential towards a resilient future of shared prosperity.

The leaders also are expected to lay out a new vision to guide the forum's work in the coming years, building on APEC's goal of free and open trade and investment – known as the Bogor Goals.

In advance of the leaders meeting, APEC trade and foreign ministers will holds the annual APEC ministerial meeting on November 16.

Around the Globe

- The U.S. Treasury Department is unlikely to release its long-delayed semi-annual report to Congress on international currency manipulation until after the U.S. presidential election on Nov. 3, a source familiar with the matter said on Friday according to Reuters news service. The report was due in April, but its release has slipped repeatedly, initially due to the COVID-19 crisis and more recently given U.S. Treasury Secretary Steven Mnuchin's focus on domestic fiscal stimulus negotiations.

The last report released by Treasury in January reversed the department's designation in August 2019 of China as a currency manipulator. It included nine countries – Germany, Ireland, Italy, Japan, Malaysia, Singapore, South Korea, Vietnam and Switzerland – on its watchlist. The U.S. Trade Representative's office earlier this month opened an investigation into whether Vietnam has been undervaluing its currency and harming U.S. commerce, a charge that Vietnamese officials denied.

Vietnam has been on the U.S. watchlist given its trade surplus with the United States, a large current-account surplus and a perception that its central bank has been actively buying foreign currency. The U.S. Treasury in August found that Vietnam's currency was undervalued in 2019 by about 4.7% against the dollar due in part to government intervention.

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