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Senators Say Reductions in Section 301 Tariffs Planned

The text of a recent letter sent to the White House by Sens. Sherrod Brown, D-Ohio, and Bob Casey, D-Pa., suggests that they have been told there will be reductions in Section 301 tariffs, and they said in the letter that they have serious concerns that these reductions "will enable China and other global competitors to resume their anti-competitive activities without consequences. While not the subject of interagency review, we share similar concerns about reductions in 232 tariffs, as well as related actions that would undermine American steel and aluminum producers as a result of negotiations with the European Union on the Global Arrangement on Sustainable Steel and Aluminum."

Brown publicized the letter on Nov. 21; the senators opened by saying the administration is concluding its interagency review on the Section 301 tariffs. U.S. Trade Representative Katherine Tai, who leads the review, has said it will be done by the end of the year.

"We urge the Administration to maintain the Section 301 and Section 232 tariff regimes as we continue our work with partners and allies to forge a sustainable approach to trade policy that supports American workers and fair global economic competitiveness," they wrote, calling them essential to countering China's unfair trade practices. "A 2022 report from USTR on China's compliance with the World Trade Organization only underscores that the underlying economic reasons and market conditions for why the tariffs were imposed have not changed," they wrote.

They said that the International Trade Commission found that both sets of tariffs "led to significant increases in domestic production in the tariffed industries that were analyzed."

That report (see ITT 03/15/2023) said that most of the drop in imports of Chinese goods subject to Section 301 tariffs was replaced by other imports, but said there was some domestic production growth in the industries that competed with goods covered by the tariffs. Furniture and cabinet-making increased by 7.5%, the report said. Semiconductors and electronic component manufacturing increased by 6.4%; however, motor vehicle part manufacturing only increased by 3%.

For Section 232 tariffs, the analysis said they increased domestic steel production by 5% and increased smelter utilization by about 15%, however, there was $3.4 billion less manufacturing across the most impacted metal consuming industries—industrial machinery, cutlery and handtool factories; motor vehicle suspension and steering components; agricultural/mining/construction manufacturing, and metal fabricators.

The senators said that reducing Section 301's scope or tariff levels "could undermine efforts to shore up our domestic manufacturing and supply chains."

"Thank you for your attention to this important matter. We look forward to working with you to protect workers and communities, revitalize domestic manufacturing and industry, safeguard our national and economic security, and confront the threat posed by the Chinese government and other nonmarket economies," they wrote. ***— Mara Lee***

US-China Economic and Security Review Recommends Hiking Tariffs on Electronics, EVs

The U.S.-China Economic and Security Review Commission recommended that Congress evaluate the national security threat posed by the import of Chinese-made electronics products, and then, "to eliminate or mitigate risks identified in the threat matrix evaluation, Congress should consider the use of all trade tools, including tariffs."

The commission focused more on export control policy, but it did suggest several governmental actions that could affect importers. It said Congress should direct the administration to coordinate with the EU and the U.K. on raising or maintaining tariffs on Chinese electric vehicles, electric golf carts and "related inputs and technologies."

"Beijing is using subsidies to help its exports gain large shares of the global market for new products like electric vehicles," the annual report, released Nov. 15, said.

The commission said that the Chinese Communist Party still rejects cooperating with the U.S. on trade, despite its domestic economic slowdown.

"China now appears to view diplomacy with the United States primarily as a tool for forestalling and delaying U.S. pressure over a period of years while China moves ever further down the path of developing its own economic, military and technological capabilities," the report said.

"The United States, the EU, and individual nations in both Europe and Asia all need to do much more, in collaboration with one another, to counter China's aggressive policies overseas and continuing mercantilism at home." ***— Mara Lee***

NMFS Withdraws Proposed SIMP Expansion, to Begin 'Comprehensive' Review of Program

The National Marine Fisheries Service is withdrawing a proposed expansion of its Seafood Import Monitoring Program to cover additional species, and will instead conduct a "comprehensive" review of SIMP to consider the overall direction of the program, it said in a notice released Nov. 14.

"It is clear, based on the comments received" on the proposed rule, "combined with feedback received over the past few years, that this is the right time to review SIMP," NMFS said in the notice. "There are a diverse array of viewpoints, and sometimes unrealistic expectations, on what SIMP should or could be doing. In order to strengthen our impact and effectiveness, it is important to better define our goals, and then identify clear mechanisms to achieve them."

The December 2022 proposed rule would have added snapper, eels, squid and cuttlefish, octopus, queen conch, Caribbean spiny lobster and some species of tuna to the species already covered by the SIMP program (see ITT 12/27/2022). It also would have made other changes, including clarifying that the importer of record and International Fisheries Trade Permit holder must be the same entity, and requiring U.S. agents to apply for the permit on behalf of non-U.S. companies.

Although NMFS is withdrawing the rule to conduct the review, the agency said it still may adopt similar provisions in the future, though it will "re-propose the action and provide new opportunities for comment," the agency said.

NMFS said it received "extensive public comments" in response to the proposal, including one from the National Customs Brokers & Forwarders Association of America opposing the proposed importer of record and U.S. agent requirements (see ITT 03/31/2023). Other commenters wanted NMFS to take a more active role in stopping illegal seafood importers at the border via SIMP.

The agency responded in its withdrawal notice by noting that SIMP was established only as a "screening tool to identify and deter" illegal seafood imports. While the information NMFS receives through SIMP can lead to the interdiction of illegal seafood imports at time of entry, it wasn't "designed to achieve that outcome, nor has that been typically how it functions," NMFS said.

Nonetheless, the NMFS review will consider the basic goals of the program, including "the problem or problems that SIMP was designed to address," as well as whether those goals are achievable and what steps, including additional tools, are needed to achieve those goals.

Anti-forced labor advocates have recently said SIMP should be expanded to address forced labor, in light of recent reports of the use of forced labor in seafood supply chains (see ITT 10/25/2023).

"Addressing forced labor and unfair practices in the seafood sector remains a priority" for the National Oceanic and Atmospheric Administration, an NMFS spokesperson said when asked about whether forced labor will be considered in the review. "When evaluating potential species for inclusion in the program, labor-related concerns, such as forced labor and other labor abuses, were considered and noted in the 2022 proposed rule. In its comprehensive review, NOAA Fisheries will take into account all aspects of the Program, including the initial constraints that influenced the original framework of SIMP," the spokesperson said.

As part of the review, NMFS will "actively seek engagement and input from all relevant stakeholder groups, including industry, non-governmental organizations, other Federal agencies, congressional representatives, and foreign governments." The agency "intends" to convene an "informal interagency working group to review our approach and identify possible strategies for increasing the effectiveness and impact of SIMP." NMFS also will conduct "public listening sessions" to get input from "public stakeholders," and consider comments already received on the withdrawn proposal.

The first listening session will be held Nov. 17 at 9 a.m. EST, "with details coming shortly," according to an NMFS news release. "We will post additional listening session details on our website and share them widely via email, e-newsletters, and social media."

"While NOAA Fisheries conducts its review, SIMP will continue to operate in its current form and capacity, with the list of priority species subject to program requirements remaining unchanged and all program requirements remaining in effect," NMFS said in another news release.
— Brian Feito

NMFS Again Extends Deadline for MMPA Comparability to Remain Import-Eligible

The National Marine Fisheries Service is postponing by an additional two years an upcoming requirement that foreign countries and fisheries be found comparable in marine mammal protections for their fish and fish products to be eligible for import into the U.S., the agency said in a notice released Nov. 16. The extension until Dec. 31, 2025, gives NMFS "additional time to complete its assessment" of the 134 country applications for comparability findings the agency has received, covering over 2,500 foreign fisheries.

"This extension would allow time to ensure that comparability determinations are fairly and consistently applied across harvesting nations and their fisheries," NMFS said. "In the event NMFS identifies a need to further extend the exemption period or otherwise amend the 2016 final rule to ensure the effectiveness of the regulatory measures of foreign fisheries, NMFS intends to provide prior notice, solicit public comment, and finalize any such amendments within the extended exemption period provided under this rule.

The 2016 final rule setting the new requirement under the Marine Mammal Protection Act had originally required compliance by the beginning of 2022 (see ITT 08/11/2016), but that deadline has since been extended twice. The agency published an initial "List of Foreign Fisheries" and their comparability status in 2018 (see ITT 03/16/2018).

NMFS to Update SIMP Policies on Northern Red Snapper

The National Marine Fisheries Service will be updating its Seafood Import Monitoring Program to prohibit "aggregated harvest reports of Northern Red Snapper" regardless of vessel size, CBP said. The update, announced in a CSMS message Nov. 29, will be deployed no later than Dec. 20 in the ACE Certification environment, and no earlier than Jan. 20, 2024, in the ACE Production environment, allowing time for testing, CBP said.

The update is required by the National Defense Authorization Act of FY23, CBP said in the message.

NMFS is preparing to enforce the restrictions by limiting the use of "the small-vessel accommodation for Northern Red Snapper" when submitting PGA message set data for SIMP in ACE, CBP said.

CBP will send out another CSMS message when the update in certification is available and to confirm the production date, the agency said, and will provide an updated Implementation Guide reflecting the changes. ***— Noah Garfinkel***

FDA to Delay Cosmetics Registration, Listing Requirements Until July 2024

The FDA will delay cosmetics registration and listing requirements that had been set to take effect at the end of the year until July 1, 2024, the agency said in a guidance document issued Nov. 8. The delay comes in response to industry concerns that more time is needed to "gather the relevant information required for facility registration and product listing," access the relevant databases and submit that information to FDA.

In the guidance, the FDA said it is still working on finalizing a separate draft guidance that includes instructions for submissions, and is also developing an electronic submission portal called Cosmetics Direct to "streamline submission and receipt of facility registration and product listing information." The agency said it will conduct a pilot program to test the portal, and that it anticipates the portal, along with other submission methods, will be available in early December 2023.

“FDA will be ready to accept registration and listing information by the statutory deadline of December 29, 2023, and we encourage companies to meet that deadline if they are able to do so,” it said. “However, FDA does not intend to enforce the requirements under section 607 of the FD&C Act related to cosmetic product facility registration and cosmetic product listing for an additional six months after the December 29, 2023, statutory deadline, or until July 1, 2024, to provide regulated industry additional time to comply with these requirements.”

“In addition, FDA does not intend to enforce the registration requirement for owners or operators of facilities that first engaged in manufacturing or processing a cosmetic product after December 29, 2022, or the listing requirement for cosmetic products first marketed after December 29, 2022, until July 1, 2024,” the agency said.

The National Customs Brokers & Forwarders Association of America recently submitted comments to the FDA seeking more clarity on the requirements, including confirmation that the facility registration number will not be required on entry documentation and information on how the FDA will validate U.S. agents designated on registrations for foreign cosmetics facilities (see ITT 09/05/2023).

Manufacturers and Importers Ask for Retroactive MTB

More than 200 companies, and local and national business groups asked the leaders of the House Ways and Means Committee and the Senate Finance Committee to pass a Miscellaneous Tariff Bill that refunds the tariffs paid since the beginning of 2021 and extends tariff relief through 2026.

"The MTB, which temporarily reduces or eliminate[s] tariffs on products that are not available in the U.S., has been expired since December 2020. Since then, manufacturers and other businesses have paid more than $1.4 billion in anti-competitive tariffs,” they said in a letter made public Nov. 16.

The National Association of Manufacturers, the American Chemistry Council, the American Apparel and Footwear Association and others also argued against Rep. Earl Blumenauer’s proposal to exclude consumer goods from future lists of goods eligible for the MTB. Blumenauer, D-Ore., was the Trade Subcommittee chair when MTB expired; he is retiring from Congress at the end of 2024.

They asked that Congress reauthorize “future MTB cycles without broad and arbitrary restrictions that would be difficult to implement."

They said the higher tariffs are costing jobs and making it more attractive for businesses to produce overseas.

They also noted that the International Trade Commission estimated $3.3 billion in gross domestic product could be attributed to the tariff savings in MTB. (Annual U.S. GDP the last year MTB was in effect was more than $21 trillion).

"We urge Congress to pass the Miscellaneous Tariff Bill as soon as possible this year,” they wrote.

Biden Asks Congress to Modernize and Reauthorize AGOA Promptly

President Joe Biden issued a statement asking Congress “to reauthorize AGOA in a timely fashion and to modernize this important Act for the economic opportunities of the coming decade."

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Some advocates say they are concerned that modernizing the African Growth and Opportunity Act will prevent a timely reauthorization (see ITT 10/27/2023 and ITT 10/30/2023).

"AGOA is facilitating private-sector led economic growth across sub-Saharan Africa by increasing the competitiveness of African products, diversifying African exports, and enabling the creation of tens of thousands of new, quality jobs in Africa. The benefits are felt on both sides of the Atlantic: AGOA fosters a more competitive environment for U.S. businesses operating in sub-Saharan Africa," Biden said.