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USTR Issues 2011 National Trade Estimate Report, Identifying Trade Barriers in More than 60 Countries

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On March 30, 2011, the U.S. Trade Representative (USTR) issued its 26th annual report on foreign trade barriers. The 2011 National Trade Estimate Report on Foreign Trade Barriers, a report which is required by statute, tracks barriers to trade in 58 countries, the European Union, Taiwan, Hong Kong, and the Arab League. USTR considers the report an, "inventory of the most important foreign barriers affecting U.S. exports of goods and services, foreign direct investment by U.S. persons, and protection of intellectual property rights."

The report classifies trade barriers into nine categories: import policies, government procurement, export subsidies, lack of intellectual property protection, services barriers, investment barriers, government-tolerated anticompetitive conduct, trade restrictions affecting electronic commerce, and other barriers. The report serves as a useful tool in enforcing U.S. trade law and reducing trade barriers.

China

According to the report, the largest export markets for U.S. goods are Canada and Mexico with China in third place. The U.S. goods trade deficit with China was $273.1 billion in 2010, a $46.2 billion increase from 2009. China has eased some import restrictions since acceding to the WTO in 2001, however, serious problems remain. U.S. importers in China have reported that the broad discretion that China gives its customs officials in classifying imports, as well as the lack of uniform customs valuation measures, results in inefficiency and added expense for importers.

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Practice Areas

Antidumping and Countervailing Duties/ Trade Remedy Cases
Customs Law and Compliance
International Trade
Trade Policy and Trade Negotiations
World Trade Organization (WTO)

China has taken advantage of the antidumping provisions of the WTO Agreement, having 113 antidumping measures in place at the end of 2010. However, WTO members continue to complain about China's lack of transparency and procedural fairness in conducting antidumping investigations.

Additionally, China continues to impose restraints on the export of raw materials, many of which are of particular interest to U.S. producers and for which China is the leading producer. Antimony, bauxite, coke, fluorspar, indium, magnesium carbonate, molybdenum, rare earths, silicon, talc, tin, tungsten, yellow phosphorus and zinc are all subject to export quotas. Though WTO rules generally do not allow export restraints, China has shown no signs of stopping the practice, announcing more restrictive export quotas on rare earths for 2011 as well as an increase on export duties. In 2009, the U.S. and European Union initiated a WTO case against China's export quotas, duties and other restraints on several raw materials. The WTO panel has issued a confidential decision, which is expected to be released publicly in June 2011.

Steel Industry

Though China made a commitment in its Protocol of Accession to the WTO to not influence commercial decisions by state-owned or state-invested enterprises, the Chinese government continues to play a directing role in the Chinese steel industry. In March 2009, China issued a stimulus plan for its steel industry. The plan sought to control steel output, stimulate exports, and create large steel enterprises. In the summer of 2010, the Chinese government released Opinions on Strengthening Energy Saving and Emission Reduction and Accelerating Structural Adjustment in the Iron and Steel Sector and the accompanying Regulations and Conditions of Production and Operation of the Iron and Steel Industry. The stated goal of these measures was to control growth, promote energy savings and emissions reduction, provide for technical innovation, accelerate mergers, "discipline" access to iron ore imports, and promote iron ore mining in China and abroad.

Chinese steel production increased nine percent in 2010, reaching a record 627 million metric tons, and production is projected to grow substantially through 2012. The USTR claims to be working with U.S. trading partners to "rein in" China's steelmaking capacity.

Other Developments

In December of 2010, the United States and Korea reached agreement on the United States-Korea Trade Agreement ("KORUS"). The agreement is expected to enhance market access for U.S. companies, making 95 percent of consumer and industrial products duty free within five years and eliminating tariffs within ten years.

In 2011, Japan and the U.S. established the U.S.-Japan Economic Harmonization Initiative in order to harmonize regulatory approaches and facilitate bilateral trade.

Reporting Foreign Trade Barriers

USTR is particularly interested in identifying and resolving trade barriers that affect the ability of U.S. companies and industries to export to, invest in, or trade with particular countries. Particular issues of interest for USTR include: investment restrictions, trade-distortive laws and regulations, customs restrictions, technical barriers to trade, standards requirements, and other similar types of practices.