

# Washington Trade Daily

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Trade Reports International Group

## ***Hoping For FTAs***

Congressional supporters of the three long-pending free trade agreements with Colombia, Panama and South Korea return this week with hopes that President Obama will submit implementing legislation (WTD, 9/27/11).

The call from backers of the FTAs to the President to send the agreements grew stronger last week, but it appeared the White House was still negotiating with House Republican leaders on a process for moving ahead an expansion of Trade Adjustment Assistance benefits (HR 2832) passed by the Senate.

House Republicans say they will bring TAA to the floor at the same time as the three FTAs, but the White House has said it wants the House to pass TAA before it submits the trade pacts.

The White House has been ready to submit the FTAs for a while, but TAA has to be part of the process, an Administration trade official told reporters last week. "We just need to get past the procedural challenges that we've had and get on with this," Commerce Undersecretary for International Trade Francisco Sánchez said at a Foreign Press Center briefing Thursday.

"The ironic thing is I believe the votes are there for TAA and I believe the votes are there for the three trade agreements," Mr. Sánchez said, but he declined to say whether the White House was sticking to the position that TAA must be passed before the FTAs are submitted. "What I will say is that TAA is important. While we believe very strongly that these agreements will be good for American workers and for American business, we have to recognize that some sectors do get hurt by this. And so the two should be together."

### **AFL-CIO's Mr. Trumka**

A vocal opponent of the FTAs – AFL-CIO President Richard Trumka – said Friday that he expects Congress to vote on the trade deals within weeks. Mr. Trumka bemoaned the fact that FTAs are nearing action, saying that the Korea pact, in particular, will cost US jobs. He also questioned why the United States is finalizing an FTA with Colombia, given the continued high level of violence there against trade unionists.

But the labor leader praised the Senate for addressing a big trade problem by taking up legislation (S 1619) going after China for currency manipulation (WTD, 9/29/11). The Senate begins debate on the China currency bill today, with a cloture vote set for late this afternoon.

One of the bill's chief sponsors, New York Democrat Charles Schumer urged his fellow senators Friday to approve the legislation. He called the bill "a clear, unwavering message from both parties to China's leaders – 'the jig is up, it's time to stop gaming the system or face severe consequences.' China's history of half-truths and broken promises on currency makes passing this legislation an economic imperative," he said in a statement.

## ***Closing Some TPP Chapters***

Negotiators from nine Asia-Pacific nations will try to close eight or nine of the 20 chapters in the ongoing TransPacific Partnership free trade agreement when they meet in Lima next week, according to one chief negotiator (WTD, 9/30/11).

While negotiators from the United States, Peru, Chile, Australia, New Zealand, Brunei, Vietnam, Malaysia and Singapore will focus on drafting a statement for leaders when they meet in



Honolulu at the annual leaders' meeting of the Asia-Pacific Economic Cooperation forum next month, serious negotiating on a legal text also is expected, the official said.

Brunei chief TPP negotiator Lim Jock Hoi was on a panel on the TPP last Thursday during the annual meeting of the Pacific Economic Cooperation Council.

There are some areas that will require more work – perhaps going beyond Honolulu, Mr. Lim stated. They include the most sensitive – intellectual property rights and foreign investment. Little real negotiation has taken place on other tough issues like labor, the environment, disciplines for state-owned enterprises and financial services.

Mr. Lim also said progress has been made in several new “21<sup>st</sup> Century” issues – such as competition policy and business facilitation, development, the promotion of small- and medium-size enterprises and regulatory cohesion. Particular progress has been made as well in drafting guidelines on corruption and “behind the border” issues.

Plurilateral and bilateral market access talks also are proceeding apace, Mr. Lim commented. He insisted that none at the table have brought up the subject of excluding some areas or goods from the talks.

### **Deadline?**

Negotiators hope that the TPP leaders – when they meet in Honolulu – will set some kind of deadline for conclusion of the negotiations, which have been going on now for 18 months. Mr. Lim commented to WTD that he hopes the negotiations can finish soon due to the expense of conducting those negotiations around the region. Each round, he said, typically includes 400 to 500 negotiators. “That costs a lot of money,” he said.

In separate remarks at the forum, New Zealand Ambassador Mike Moore – formerly a Director General of the World Trade Organization – said completion of a comprehensive global trade agreement in Geneva was his country's top priority.

But not getting one, the ambassador commented to WTD, would not dampen New Zealand's enthusiasm for the TPP. He hoped that the TPP agreement could build on a Doha Development Agenda agreement. Wellington will strive for a very high quality agreement in both forums – “We're shooting for the stars,” he commented.

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## **‘Green Goods’**

President Obama intends to push his Asia-Pacific Economic Cooperation colleagues when they meet in Honolulu next month for an agreement on eliminating duties and erasing investment barriers for so-called “green goods,” WTD was told last week (WTD, 9/30/11).

Other major agenda items – which were “hotly” discussed at last week's San Francisco APEC senior officials meeting – include ways to get away from dependence on fossil fuels, illegal logging and lagging environmental protection efforts, commented US special Ambassador to APEC Kurt Tong.

Commerce Undersecretary for International Trade Francisco Sánchez in his remarks to last week's annual meeting of the Pacific Economic Cooperation Council said APEC members also are ready to put forward concrete suggestions in three business facilitation areas breeched at the Montana APEC trade ministerial meeting. Announced then was the beginning of a code of conduct for fair play in trading in the medical devices area, enhance of small- and medium-size business financing and simplifying customs procedures. He suggested that fair play guidelines in pharmaceutical and awarding construction contract would be on the table for review by leaders as well.

President Obama also is likely to discuss Japan's eventual entry into the nine-nation TransPacific Partnership negotiations with that country's new Prime Minister Noda (see related report this issue). The issue has come up between the President and former Prime Minister Kan, but the United States is trying to stay neutral, Assistant Secretary of State for East Asia and Pacific Affairs Kurt Campbell told the conference.

## ***‘Single Undertaking’ vs ‘Plurilateral’***

Geneva – Key trade envoys from over a dozen industrialized and developing countries on Saturday held a “brainstorming” session on how to bridge the gaps and build a package of elements for their ministers to consider at the December ministerial meeting in the face of the continued structural “impasse” in the Doha Development Agenda trade negotiations, WTD has learned (WTD, 9/30/11).

At a two-day retreat hosted by Switzerland outside Geneva which ended with a lunch on Saturday, trade envoys from the United States, the European Union, China, India, Brazil, Japan, Australia, Canada, Mexico, Chile, South Africa and Mauritius along with some others discussed a range of issues covering the eighth ministerial meeting and the way forward, said sources familiar with the meeting.

Issues discussed include what needs to be taken up at the ministerial and afterwards, how to acknowledge the fundamental differences among members in the Doha Development Agenda negotiations – whether it is appropriate to identify those differences along with the fundamental divergent positions held by members and under what conditions can any new approaches be considered.

Participants at the meeting agreed that an impasse in Doha exists, but could offer no clarity on any way to break the deadlock, one participant told WTD.

Some participants who said the impasse arose out of the fundamental differences on market access in the negotiations, want ministers to acknowledge the fundamental truth that has dismembered the “single undertaking” initiative.

### ***‘Harvesting’***

Trade envoys from industrialized countries brought up the issue of “harvesting” some select issues through a plurilateral route. They said the time has come to eschew the “business-as-usual” approach in Doha and take a fresh approach next year in the way negotiations are conducted, said several trade envoys.

No one elaborated on any new approach, however. One major industrialized member pressed for keeping the door open for an early harvesting of selected items on the Doha agenda along with taking up new issues, WTD was told.

Trade envoys from the major developing countries said they are willing to consider new ideas but insisted that those ideas or approaches must be consistent with the Doha “single undertaking.” Attempts should not be made to undermine the balance achieved in the negotiations over the last 10 years.

Last Thursday, trade envoys from the informal group of developing countries said they would firmly oppose attempts at an “plurilateral” approach – as followed in the Tokyo Round of negotiations.

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## ***China’s Final Trade Review***

Geneva – China is going through its final of 10 annual transitional reviews at the World Trade Organization – which was mandated when it joined the world trade body in 2001 (WTD, 9/28/11).

The United States will present a detailed statement on this week’s agriculture committee meeting

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“During the initial phase-in period, China implemented a set of sweeping commitments, including reducing tariffs, eliminating nontariff barriers that denied national treatment and market access for goods and services imported from other WTO members, and making legal improvements in intellectual property protections and in transparency. These actions deepened China’s integration into the international trading system, facilitating and strengthening China’s rule of law and economic reform. Trade and investment also expanded dramatically between China and its many trading partners. Nevertheless, even though China has taken many impressive steps to reform its economy since joining the WTO ten years ago, the overall picture remains complex, given a troubling trend in China toward increased state intervention in the Chinese economy in recent years.”

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“As a result of its accession negotiations, China committed to significant reductions in tariff rates on a wide range of agricultural products over a period of years, ending in 2008. China made timely implementation of these tariff reduction commitments each year. These tariff cuts, coupled with increased demand, contributed to a healthy expansion of exports of many US products to China, including soybeans, cotton, fish and seafood, and forest products. While we applaud China's progress in implementing its tariff commitments, the full potential of China's market access commitments has not been realized for some products. A variety of non-tariff barriers impede market access for US agricultural exports to China, particularly exports of consumer-ready and value-added products, without any agreed path for the removal of these barriers.”

“China also committed to eliminate quotas and implement a system of TRQs designed to provide significant market access for certain bulk commodities upon accession. While China has implemented a TRQ system for bulk agricultural commodities, we note that China's administration of this system still does not seem to be functioning as smoothly as envisioned in China's WTO accession agreement, as it continues to be impaired by inadequate transparency, inordinately benefits state trading enterprises rather than the private sector, and suffers from low fill rates for many of the commodities.”

“In the area of subsidies, China committed to a cap for trade- and production-distorting domestic support and further agreed to eliminate all export subsidies upon its accession to the WTO. It is difficult to provide an assessment of whether China has adhered to these commitments because it appears that, even after 10 years of WTO membership, China has failed to notify all of its subsidies to the WTO, as required by Article 25 of the Agreement on Subsidies and Countervailing Measures. ....

“More broadly, in its regulation of the agriculture sector, like many other sectors, it appears that China has made progress but has not yet implemented all of the cross-cutting transparency commitments that it made when it acceded to the WTO. Again, serious concerns remain, even after 10 years of WTO membership.”

#### **By the Numbers**

“First, with regard to China's commitment to publish all laws, regulations and other measures pertaining to or affecting trade in goods or services .....,China has complied with this commitment in many respects. However, it still does not appear that China publishes measures that provide ‘internal guidance’.”

“Second, with regard to China's commitment to publish measures for comment before implementing them..., China has made improvements, but it appears that China has still not institutionalized a notice-and-comment mechanism for all Chinese agencies.” ....

“Third, with regard to China's commitment to make available all laws, regulations and other measures pertaining to or affecting trade in goods or services in one or more WTO languages..., it appears that China has made no progress in implementing this important commitment.”

“National treatment in connection with China's application of its value-added tax has also been a concern for some time. During past transitional reviews before this Committee, the United States has explained its understanding that many Chinese agricultural products are exempted from the 13 percent VAT normally applicable to agricultural products. For example, it appears that sales of agricultural commodities produced and sold by farmers in China, such as wheat, cotton and corn, are exempted from the VAT. In addition, it appears that sales of agricultural inputs produced and sold in China, such as seed, pesticide, herbicide, agricultural machinery and certain fertilizers, are exempted from the VAT. However, when these same products are imported, it appears that they are assessed the VAT at the rate of 13 percent. The United States continues to urge China to apply the VAT equally to domestic and imported agricultural products.”

“Finally, China also assumed other important obligations related to agricultural products under the Agreement on Sanitary and Phytosanitary Measures and the Agreement on Import Licensing when it acceded to the WTO 10 years ago. We note that, over the years, numerous Chinese government policies and practices have generated serious concerns under both of these agreements.”

The US Trade Representative's office on Wednesday holds a public hearing in Washington on China's adherence to its WTO accession commitments.

## ***A Swipe at China's Electronic Payments***

Geneva – A World Trade Organization dispute settlement panel on Friday rejected China's preliminary complaint that a US panel request to adjudicate over its regulation of foreign electronic payment services is inconsistent with the Dispute Settlement Understanding, WTD has learned (WTD, 3/28/11).

In early July, China pressed for a preliminary ruling on the grounds that the US request for the establishment of the panel was inconsistent with Article 6.2 of the DSU because of several legal lacunae in Washington's complaint.

The panel rejected China's contention on several grounds. The panel said it did not agree with China's assertion that the US panel request needs to provide further explanation to connect plainly the measures and services at issue to China's commitments in a particular subsector or indicate explicitly which modes of supply are at issue and explain how the measures are inconsistent with China's commitments under these modes.

The United States argued – and the panel agreed – that the request provides a substantial amount of relevant information and establishes a connection between each of the challenged measures and each of the cited legal provisions. “In our view, the summary that the United States provided of the legal basis is sufficient to present the problem clearly,” the panel stated.

The investigation into the US charges will continue.

At the core of China's charges is the failure of the United States to connect the measures and services at issue to China's commitments in a particular subsector and to indicate the mode of supply at issue. Beijing maintained that the US panel request provides a singular definition of the services at issue – electronic payment services – but relies on Chinese commitments in three different subsectors.

Beijing complained that the term “electronic payment services” is of the United States' own making and does not correspond to any of the subsectors that appear in China's schedule. The United States also did not provide an explanation of how the services at issue as defined by the United States relate to the specific commitments in any of the identified subsectors, China argued.

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## ***PA and the WTO***

Geneva – The Palestinian Authority requested participation as an observer at the World Trade Organization's eighth ministerial conference in December to “help to set the stage for policy-making for integration into the multilateral trading system and eventual accession to the WTO, in the context of efforts at recovery from prolonged economic decline” (WTD, 9/27/11).

Close on the heels of its demand to join the United Nations as an independent nation, Palestine said its participation at the ministerial conference “would also provide an opportunity to be well informed of the dynamics of multilateral trade negotiations at an important juncture in the Doha Development Round.”

The Palestinian Authority urged the General Council to consider its application at its next meeting.

Meanwhile, at the eleventh meeting of the Working Party on Serbia's accession, members supported its early accession and welcomed its progress in the implementation of new legislation to comply with WTO rules.

Serbia has so far signed nine bilateral market access agreements.

State Secretary Vesna Arsic said that Serbia adopted some of the remaining laws relevant to the accession process. She added that Belgrade aims at finalizing negotiations in the shortest time possible.

The next meeting could be scheduled for early 2012.

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## Around the Globe

- Governments of eight nations including Japan and the United States signed an agreement on Saturday aiming to cut costly copyright and trademark theft, Reuters news service reported from Tokyo (WTD, 10/28/10). The signing is a step towards bringing into effect the Anti-Counterfeiting Trade Agreement, which is designed to strengthen the legal framework for intellectual property rights, said Japan's Ministry of Economy, Trade and Industry.

“As with many of the challenges we face in today's global economy, no government can single-handedly eliminate the problem of global counterfeiting and piracy,” Deputy US Trade Representative Miriam Sapiro said at the ceremony, according to a copy of her remarks released in Washington. “Signing this agreement is therefore an act of shared leadership and determination in the international fight against intellectual property (IP) theft,” Sapiro said.

The signing took place a year after the final round of negotiations among 11 parties – Australia, Canada, the European Union, Japan, the Republic of Korea, Mexico, Morocco, New Zealand, Singapore, Switzerland and the United States. The EU, Mexico and Switzerland have not signed the agreement but have until May 1, 2013, to do so, according to the METI. The pact takes effect with the ratification of six parties and the METI expects an expansion of ACTA participants.

- A Democratic senator said Friday that a bill that would crack down on currency manipulation in China is expected to receive broad support when the Senate votes on it next week, Dow Jones news service reported (see related report this issue). “The Chinese government should take note: This bill is on a fast track to passage in the Senate,” Sen. Charles Schumer (D-NY) said in a conference call with reporters. “We expect a strong, bipartisan vote on Monday night that will be a bellwether for what we expect to be an overwhelming vote for passage later in the week.”

The Senate is expected to vote late Monday on a procedural motion on whether to bring up the measure. If that vote is successful, Schumer said Senate Majority Leader Harry Reid (D-Nev) will permit some, but not unlimited, amendments to the bill to speed up the process. Lawmakers from both parties, particularly those from states with heavy manufacturing interests, have for years criticized the valuation of the yuan for benefiting Chinese exporters at the expense of US firms and workers. “Congress has a responsibility to protect fair trade,” Sessions said on Friday's conference call. “There's no doubt that China deliberately and strategically is reducing the value of its currency.”

The Obama administration, mirroring the Bush White House before it, has urged China to allow the yuan to appreciate but has not generally backed congressional efforts to put in place a formal penalty system to address currency manipulation.

- Fifteen small and medium-sized US companies have taken part in a trade mission to Vietnam this week, aiming to promote US agricultural exports to the Southeast Asian country, the Vietnam News Agency reported (WTD, 9/23/11). The companies met with nearly 150 Vietnamese producers, importers, buyers, distributors, and investors during their visit from September 26 to 29, which was also the US Department of Agriculture's first ever trade mission to Vietnam, US Consulate General in Ho Chi Minh City said in a statement Thursday.

“This agricultural trade mission will give US and Vietnamese companies the chance to learn about each country's trade opportunities, business practices and government programs,” said Michael Scuse, Acting Under Secretary for Farm and Foreign Agricultural Services. “Since 2006, no other major US agricultural export market has grown as quickly as Vietnam,” he said. “We believe the result of this mission will be increased trade and improved economic prospects for all.”

Last year two-way agricultural, fish and forestry trade reached nearly \$3.4 billion, according to the US Consulate General statement.

- Voicing concerns over India's nuclear liability law, the United States has asked New Delhi to engage with the International Atomic Energy Agency to see if it's in compliance with the Convention on Supplemental Compensation, the *Economic Times* reported (WTD, 7/25/11). “There continue to be serious concerns that India's 2010 nuclear liability law is not consistent with the CSC,” State Department spokesperson stated Thursday in response to a question raised at the press briefing

earlier.

“The IAEA is an appropriate venue for clarification on issues related to the Convention on Supplementary Compensation on Nuclear Damage (CSC), which deals with international nuclear liability,” the statement said.

- Imports benefiting from the Caribbean Basin Initiative trade preferences program fell sharply in 2009 before rebounding strongly in 2010, according to a report from the US International Trade Commission. The drop can be mostly attributed to the exit of Costa Rica from CBERA and the US recession and its effects on the demand for imports and on commodity prices. The ITC said.

The US recovery led to higher demand for imports, including imports benefiting from CBI and most commodity prices rebounded. Trade preferences continue to benefit Haiti's apparel sector and to encourage the development of niche products elsewhere in the region.

- Ed Fast, Minister of International Trade and Minister for the Asia-Pacific Gateway, today took an important step forward in deepening Canada's economic ties with Southeast Asia by adopting a joint declaration of cooperation with ASEAN, the Association of South East Asian Nations, during an official visit to Indonesia, according to a Canadian government release. The joint declaration calls for further cooperation among governments and businesses and represents a commitment by Canada and the ASEAN countries to explore other ways to deepen economic ties.

Southeast Asia is a region of significant and growing economic importance to Canada and is a priority market under the Harper government's Global Commerce Strategy. It has approximately 600 million consumers, a growing middle class and abundant natural resources. In 2010, annual two-way merchandise trade between Canada and ASEAN reached \$13.8 billion. As a group, it ranks as Canada's seventh-largest merchandise trade partner.

- Cuba announced the elimination of its Ministry of Sugar on Thursday in a sign of how far the symbolic crop has fallen since its heyday, when much of the population was mobilized to the countryside at harvest time to help cut cane, the OfficialWire news service reported from Havana (WTD, 9/29/11). President Raul Castro's government determined that the ministry “currently serves no state function” and will therefore replace it with an entity called Grupo Empresarial de la Agroindustria Azucarera, the Communist Party newspaper *Granma* reported.

The goal is to “create a business system capable of turning its exports into hard currency to finance its own expenses,” *Granma* said. There was no mention of any private or foreign investment.

- A four-day East African Community meeting to consider draft EAC strategy, work plan and budget for the Tripartite Free Trade Area negotiations concluded Friday, the African Press Organization reported. That Sectoral Council also directed the Secretariat to convene a Multi-Sectoral Committee of Experts meeting to endorse the EAC Tripartite Work Plan and Budget as well as agree on an EAC strategy for the negotiations of the Tripartite FTA.

- China's manufacturing remained stagnant in September due to sluggish demand both at home and abroad, according to a survey released Friday the OfficialWire News Bureau reported. The monthly survey by HSBC released Friday also showed prices for materials and other manufacturing inputs rising at the fastest pace in four months -- suggesting sustained inflationary pressures. Chinese industrial production has slowed following repeated interest rate hikes and other curbs as the government tries to tame growth and cool inflation that is hovering near a three-year high of over 6 percent.

- Korea's trade surplus shrank significantly from a year earlier in September as imports grew faster than exports, the government said Saturday according to a Yonhap news agency report. The country's trade surplus reached \$1.44 billion last month, down from \$4.41 billion in the same period last year, according to the Ministry of Knowledge Economy. Exports grew 19.6 percent from a year earlier to \$47.12 billion while imports surged 30.5 percent to a new monthly high of \$45.68 billion. Imports grew sharply in September as the country significantly increased its purchase of oil and natural gas, used partly as raw materials to produce other products, the ministry said. By country, Korea's shipments to Japan surged 48.7 percent on-year with exports to the 10 member nations of the Association of Southeast Asian Nations, or ASEAN, also jumping 43.2 percent. Exports to Europe, however, slowed to a 11.2 percent

on-year increase from an increase of 12 percent in August.

- Turkey's trade deficit widened in August from a year earlier, undermining central bank forecasts of an improvement in the country's current-account gap, Bloomberg news service reported. The deficit was \$8.2 billion in the month, compared with \$6.9 billion a year earlier, and \$9 billion the previous month, the statistics office in Ankara said on its website today.

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# On the Web.....

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**Dairy.** Agriculture Department announcement of new dairy import fee. (available at: <http://www.gpo.gov/fdsys/pkg/FR-2011-09-30/html/2011-25165.htm>) issued: 9/30/11.

**Sugar.** US Trade Representative's office announcement of tariff-rate quotas for refined sugar. (available at: <http://www.ustr.gov>) issued: 9/30/11.

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**Cheese.** Commerce Department announcement of overseas subsidies for cheese. (available at: <http://www.gpo.gov/fdsys/pkg/FR-2011-09-30/html/2011-25301.htm> ) issued: 9/30/11.

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