
SECTION 3

Jumbo Measures: Potentially Far-Reaching Discriminatory State Measures

China: Export tax rebates

Jumbo Measure No. 1

Potential extent of trade impact:

Total trade that could be affected by this measure: US\$ 411.985 bn

Total trading partners that could be affected by this measure: 155

Total G20 trading partners that could be affected by this measure: 17

Share of implementing jurisdiction's tariff lines that could be affected by this measure: 22.17%

Implementing jurisdiction: China

Measure type: Export taxes or restrictions

Description of measure

On 1 April 2009 China's Ministry of Finance and State Administration of Taxation published a Notice in which it was stated that the rebates to exporters from Value Added Tax (previously running at 17 percent in China) would be increased. A wide range of products including iron and steel, non ferrous metals, petrochemicals, electronic and information technology products, and textiles and clothing, were said to be involved. It may be of interest to readers that news reports suggest that China has raised these VAT rebates for exporters on six other occasions since August 2008.

Source:

The Permanent Delegation of China to the WTO confirmed the increases in VAT rebates to exporters that were announced on 1 April 2009. See WTO document JOB(09)/62.

USA: Buy American provisions in stimulus package

Jumbo Measure No. 2

Potential extent of trade impact:

Total trade that could be affected by this measure**: US\$ 337.808 bn

Total trading partners that could be affected by this measure: 106

Total G20 trading partners that could be affected by this measure: 16

Share of implementing jurisdiction's tariff lines that could be affected by this measure: 9.63%

**As indicated in the main body text, our confidence in this estimate is lower than average.

Implementing jurisdiction: United States of America

Measure type: Local content requirement, public procurement

Description of measure

Congress included a Buy American requirement in the "American Recovery and Reinvestment Act of 2009" (designated as H.R.1, now Public Law 111-5), an omnibus measure that is better known as the stimulus package. Both houses of Congress approved the stimulus bill in January-February, 2009, which was then signed into law by president Obama on February 17, 2009.

The \$787 billion stimulus bill generally requires that all of the iron, steel, and other manufactured goods used in the program (including \$48 billion for transportation projects) be made in the United States. After the House of Representatives attached this amendment to the stimulus package it set off a heated domestic and international debate. In response to the administration's concerns over sending a protectionist message, the Senate amended the bill to specify that these provisions "shall be applied in a manner consistent with United States obligations under international agreements." That language remained in the final bill that President Obama signed into law.

The reference to "obligations under international agreements" alludes to the fact that the United States discriminates in its government procurement practices between trading partners according to the agreements that they have signed. The World Trade Organization's Government Procurement Agreement (GPA) is a plurilateral undertaking, meaning that only those countries that signed it are subject to its disciplines and entitled to its benefits. The current signatories to the GPA consist primarily of industrialized...

...countries. In addition to the GPA, the United States has also entered into reciprocal commitments with some of its free trade agreement partners; it is also U.S. law and practice to grant exceptions to the Buy American rules to beneficiary countries of the Caribbean Basin Initiative, as well as the least-developed countries. Among the more notable partners that do not enjoy the benefit of one or more of these exemptions are the so-called BRICs (i.e., Brazil, Russia, India, and China), as well as other developing and transition economies that have not signed the GPA nor reached FTAs with the United States.

The rules have been further elaborated upon by the Office of Management and Budget in its Updated Implementing Guidance for the American Recovery and Reinvestment Act of 2009 (April 3, 2009); by the Department of Defense, General Services Administration, and National Aeronautics and Space Administration in "Federal Acquisition Regulation; FAR Case 2009-008, American Recovery and Reinvestment Act of 2009 (the Recovery Act)--Buy American Requirements for Construction Material," Federal Register (March 31, 2009); and by the Federal Highway Administration in American Recovery and Reinvestment Act of 2009 Implementing Guidance (April 1, 2009).

Another and less-noticed provision of the law (section 604) generally requires that "funds appropriated or otherwise available to the Department of Homeland Security may not be used for the procurement of" certain covered items unless "grown, reprocessed, reused, or produced in the United States." The items covered by this provision include clothing and the materials and components thereof, other than sensors, electronics, or other items added to, and not normally associated with, clothing (and the materials and components thereof); tents, tarpaulins, covers, textile belts, bags, protective equipment (including but not limited to body armor), sleep systems, load carrying equipment (including but not limited to fieldpacks), textile marine equipment, parachutes, or bandages; cotton and other natural fiber products, woven silk or woven silk blends, spun silk yarn for cartridge cloth, synthetic fabric or coated synthetic fabric (including all textile fibers and yarns that are for use in such fabrics), canvas products, or wool (whether in the form of fiber or yarn or contained in fabrics, materials, or manufactured articles); or any item of individual equipment manufactured from or containing such fibers, yarns, fabrics, or materials.

Sources:

American Recovery and Reinvestment Act of 2009 [H.R.1]. Available at http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=111_cong_bills&docid=f:h1enr.txt.pdf

American Recovery and Reinvestment Act of 2009 Implementing Guidance. Available at <http://www.fhwa.dot.gov/economicrecovery/guidance.htm>

Federal Acquisition Regulation; FAR Case 2009-008, American Recovery and Reinvestment Act of 2009 (the Recovery Act)--Buy American Requirements...

...for Construction Material. Available at <http://edocket.access.gpo.gov/2009/E9-7031.htm>

Updated Implementing Guidance for the American Recovery and Reinvestment Act of 2009. Available at http://www.whitehouse.gov/omb/assets/memoranda_fy2009/m09-15.pdf

China: Implementation of State Council Opinions on imported goods

Jumbo Measure No. 3

Potential extent of trade impact:

Total trade that could be affected by this measure**: US\$ 243.212 bn

Total trading partners that could be affected by this measure: 61

Total G20 trading partners that could be affected by this measure: 15

Share of implementing jurisdiction's tariff lines that could be affected by this measure: 7.64%

**As indicated in the main body text, our confidence in this estimate is lower than average.

Implementing jurisdiction: China

Measure type: Local content requirement, government procurement

Description of measure

On 26 May 2009, the National Development and Reform Commission (NDRC) officially announced its implementation of measures to prioritise local content in government contracts. The notification was also signed by the Ministries of Industry and Information Technology (MII), Supervision (MS), Housing and Urban-Rural Development (MHURD), Transport (MT), Railways (MR), Water Resources (MWR) and Commerce (MC), and the Legislative Affairs body of the State Council.

The announcement calls for the use of domestically produced goods in any project that is funded by government investment and that is classified as government procurement, except in those circumstances in which the required goods or services cannot be sourced locally. In situations in which imports must be purchased, the procurement of such goods and services will only be permitted after approval is obtained from the appropriate ministry. The document also calls on the NDRC, MII and MS to strengthen supervision of procurement of imported machinery and electrical equipment. It explicitly states that "limiting the use of domestically-produced goods" in favour of the acquisition of imported goods will be investigated and punished by the appropriate authorities.

The NDRC's announcement follows the release of a document by the General Office of the State Council on 10 April 2009 entitled *Opinions for Further...*

...Strengthening the Management of Government Procurement. The document, which did not have legal force, urged government ministries and agencies to consider means of encouraging the use of local content in government procurement.

Source:

The Central People's Government of the People's Republic of China, NDRC Legislation (2009) NO.1361, 26 May 2009, http://www.gov.cn/zwgk/2009-06/04/content_1331847.htm

Belarus and Russia: Increase in export tariffs on crude oil and oil products

Jumbo Measure No. 4

Potential extent of trade impact:

Total trade that could be affected by this measure: US\$ 242.964 bn

Total trading partners that could be affected by this measure: 78

Total G20 trading partners that could be affected by this measure: 15

Share of implementing jurisdiction's tariff lines that could be affected by this measure: 0.90%

Implementing jurisdiction: Belarus, Russian Federation

Measure type: Export taxes or restrictions

Description of measure

The Government of Russia has issued a Decree on 26 June 2009 which increases export tariffs on crude oil to 39%, on (non-crude) oil, petroleum jelly, mineral waxes and similar products, petroleum coke and cyclic hydrocarbons to 35% from 2006 levels. According to the Russia - Belarus State Union Agreement, the Belarusian Government has increased export tariffs on the same range of oil products and crude oil to the new Russian export tariff levels (the Decree of the Belorussian Government # 846 from 29 June 2009).

Source:

Decree of Russian Government # 536, dated 26 June 2009, "On approval of export tariff rates on crude oil and some or products from oil exported from the territory of the Russian Federation beyond the borders of the Customs Union". "Rossiyskaya Gazeta" # 4940 - official newspaper of the Russian Government from 29 June 2009 (in Russian) as well as the Decree of the Belorussian Government # 846 from 29 June 2009, attached to this web-page.

UK: Temporary aid for the production of green products

Jumbo Measure No. 5

Potential extent of trade impact:

Total trade that could be affected by this measure: US\$ 161.051 bn

Total trading partners that could be affected by this measure: 98

Total G20 trading partners that could be affected by this measure: 18

Share of implementing jurisdiction's tariff lines that could be affected by this measure: 10.65%

Implementing jurisdiction: United Kingdom

Measure type: Bail out/state aid measure

Description of measure

On 10 February 2009, the United Kingdom notified the European Commission of its "Temporary aid for the production of green products" (N 72/2009).

The United Kingdom considers that the financial crisis is affecting its whole economy at local, regional and country level. The notified measure is aimed at remedying a serious disturbance in the economy of the UK.

The UK authorities identified the common budgetary ceiling of GBP 8 billion (EUR 9 billion) for the implementation of this notified measure (N 72/2009) and the aid measures "Temporary aid in the form of Subsidised Interest Rate" (N 257/2009) and "Temporary Aid in the form of Loan Guarantees" (N 71/2009).

The scheme applies to all companies: SMEs as well as large firms. Its geographic scope covers the whole territory of the United Kingdom. The UK authorities estimated that the number of beneficiaries will exceed 1000 firms.

The aid will be granted in the form of interest rate subsidies for investment loans related to the production of "green" products. The subsidized interest rate applies during a maximum period of 2 years after the loan has been granted.

The scheme is explicitly based on Article 87(3)(b) EC Treaty, and relies on the Commission communication 'Temporary Framework for State aid measures to support access to finance in the current financial and economic crisis' ('the Temporary Framework'), in particular on its Section 4.5 concerning aid for the production of green products. ...

... The Commission stated that the notified measure constitutes state aid within the meaning of Article 87 (1) of the EC Treaty and gave the following assessment:

“State resources are involved in the notified scheme since the aid is granted from national, regional and local State resources, via the respective aid granting authorities at national, regional, or local level. The measure is selective since it will be granted only to certain firms. The measure conveys an advantage to beneficiaries by granting them investment loans with subsidised interest rates which would not be probably available on the market in the absence of the notified measure. Consequently, the aid will strengthen the financial position of beneficiaries in relation to its competitors in the Community and therefore will have potentially distorting effects on competition. The measure affects trade between Member States since the scheme is not limited to beneficiaries which are active in sectors where no intra-community trade exists.” (par. 36-39 of the letter from the EC to the UK - Brussels, 27.2.2009 C(2009) 1504 final).

Article 87(3)(b) of the EC Treaty enables the Commission to declare aid compatible with the Common Market if it is “to remedy a serious disturbance in the economy of a Member State.” This aid has to be applied restrictively and must tackle a disturbance in the entire economy of the Member State according to the interpretation of the Article 87(3)(b) by the Court of First Instance.

The Commission referred to its Communication on the financial crisis (the “Temporary Framework”) and concluded that the measure complies with the conditions laid therein. Therefore, despite the measure constituting state aid pursuant to the Article 87(1) EC, it is compatible with the Common Market according to the Article 87(3)(b) EC Treaty. The Commission raised no objections against the measure and authorizes it as emergency intervention in the face of the current financial crisis (par.41-45 of the letter).

A state measure in the GTA database is assessed solely in terms of the extent to which its implementation affects the extent of discrimination against foreign commercial interests. On this metric, the state aid proposed here is discriminatory.

Source:

Letter from the EC to the UK - Brussels, 27.2.2009 C(2009) 1504 final. Available at http://ec.europa.eu/competition/eojade/isef/case_details.cfm?id=3_229773

China: Adjustment of tariff policy on key technical equipment

Jumbo Measure No. 6

Potential extent of trade impact:

Total trade that could be affected by this measure: US\$ 112.360 bn

Total trading partners that could be affected by this measure: 52

Total G20 trading partners that could be affected by this measure: 15

Share of implementing jurisdiction's tariff lines that could be affected by this measure: 7.83%

Implementing jurisdiction: China

Measure type: Tariff measure

Description of measure

On 4 September 2009, through the website of the Ministry of Finance (MOF), the MOF and the National Development and Reform Committee (NDRC), the Ministry of Industry and Information Technology (MIIT), the General Administration of Customs, State Administration of Taxation, and National Energy Administration, jointly released the Notice on Adjustment of Imported Taxation Policy.

With the purpose of boosting domestic innovation and greater industrial restructuring and upgrading, in accordance with the Notice, key components and raw materials imported by domestic enterprises for manufacturing major technological equipment and products are exempted from import tariffs and value-added tax (VAT) as of 1 July 2009. However, the abolition of the existing import and VAT exemption of completely finished machinery was set aside.

According to the Notice in question this measure applies to:

- Large-scale clean and high-efficiency power generation equipment.
- Extra-high voltage electric transmission and transformation equipment.
- Large-scale petrochemical equipment.
- Large-scale coal chemical equipment.
- Large-scale metallurgical integral equipment.
- Large-scale comprehensive coal equipment.
- Large-scale ship and marine engineering equipment.
- High-speed railway and urban metro system equipment.

- Large-scale equipment for environmental protection and comprehensive utilization of resources.

Sources:

Chinese version of Notice originally available at:

http://gss.mof.gov.cn/guanshui/zhengwuxinxi/zhengcefabu/200909/t20090904_203868.html

For media reports see:

http://news.xinhuanet.com/english/2009-09/04/content_11998451.htm

http://www.chinadaily.com.cn/business/2009-09/05/content_8659319.htm

Venezuela: Devaluation of the Bolivar

Jumbo Measure No. 7

Potential extent of trade impact:

Total trade that could be affected by this measure: US\$ 108.633 bn

Total trading partners that could be affected by this measure: 71

Total G20 trading partners that could be affected by this measure: 17

Share of implementing jurisdiction's tariff lines that could be affected by this measure: 100.00%

Implementing jurisdiction: Venezuela

Measure type: Competitive devaluation

Description of measure

On 8 January 2010, the Venezuelan government announced the devaluation of the Bolivar. Instead of the existing fixed exchange rate at 2.15 Bs/US Dollar, the government now operates a two-tier system.

For designated transfers, Bolivars can be exchanged against US Dollars at a rate of 2.60 Bs/US\$. The categories defined as a priority are imports for the public sector as well as enumerated priority imports. Also subject to the first tier are family remittances, transfers to exchange students, pensioners, consulates or embassies in Venezuela.

For non-priority transfers, a second tier named "petrol dollar" has been constituted. Transfers in this tier will receive foreign exchange at the rate of 4.3 Bs/US\$. This category includes all non-public, non priority sector imports to Venezuela.

The measure is effective from 11 January 2010. A detailed list of exchange rates associated with each tariff line has been published in the Gaceta Oficial on 13 January 2010.

Sources:

Gaceta Oficial. (8 January 2010). Ministerio del poder popular para economía y finanzas, p.374.064. Available at <http://www.tsj.gov.ve/gaceta/Enero/812010/812010.pdf>

Gaceta Oficial. (13 January 2010). Ministerio del poder popular para economía y finanzas, p.374.128. Available a <http://www.tsj.gov.ve/gaceta/Enero/1312010/1312010.pdf#page=2>

Kazakhstan: Announced 25% devaluation of the national currency

Jumbo Measure No. 8

Potential extent of trade impact:

Total trade that could be affected by this measure: US\$ 106.549 bn

Total trading partners that could be affected by this measure: 96

Total G20 trading partners that could be affected by this measure: 19

Share of implementing jurisdiction's tariff lines that could be affected by this measure: 100.00%

Implementing jurisdiction: Kazakhstan

Measure type: Competitive devaluation

Description of measure

In the beginning of February 2009, as an anti-crisis measure, the Kazakh Government announced a 25% devaluation of the national currency (the Tenge). The President of the Republic of Kazakhstan emphasised that this anti-crisis measure was very painful, but was necessary to protect the domestic producers. It was argued that Russia, China, and Ukraine had already devalued their currencies and that accounted for Kazakh industries being unable to compete with producers from those countries.

The government announced a new band for the national currency: 150 Tenge to the US dollar plus or minus 3%.

Source:

Speech of the Kazakh President Nursultan Nazarbaev http://www.akorda.kz/www/www_akorda_kz.nsf/004e7184b5a94c8f462571ea0014b

Nigeria: Deliberate devaluation of the Naira

Jumbo Measure No. 9

Potential extent of trade impact:

Total trade that could be affected by this measure: US\$ 104.7968 bn

Total trading partners that could be affected by this measure: 105

Total G20 trading partners that could be affected by this measure: 19

Share of implementing jurisdiction's tariff lines that could be affected by this measure: 100.00%

Implementing jurisdiction: Nigeria

Measure type: Competitive Devaluation

Description of measure

According to numerous and consistent press reports, the Central Bank of Nigeria has deliberately devalued the local currency at the end of 2008. Professor Chukwuma Soludo, Governor of the Nigerian Central Bank, said the move was designed to stop the decline in fiscal revenues as a result of falling oil prices.

Sources:

Daily Independent. (16 December 2008). Naira Devaluation Deliberate, Says Soludo. Available at <http://allafrica.com/stories/200812170030.html>

Daily Trust. (11 January 2009). Naira Depreciation Takes Toll on Economy. Available at <http://allafrica.com/stories/200901120645.html>

Les Afriques. (23 February 2009). Central Bank of Nigeria Intervenes to Stabilize Naira. Available at <http://www.lesafriques.com/en/nigeria/central-bank-of-nigeria-intervenes>.

Russia: The programme of the anti-crisis measures of the Russian Government – 2009

Jumbo Measure No. 10

Potential extent of trade impact:

Total trade that could be affected by this measure: US\$ 69.999 bn

Total trading partners that could be affected by this measure: 95

Total G20 trading partners that could be affected by this measure: 18

Share of implementing jurisdiction's tariff lines that could be affected by this measure: 12.33%

Implementing jurisdiction: Russian Federation

Measure type: Bail out/state aid measure

Description of measure

On 19 June 2009 the Government of the Russian Federation approved certain measures of support to industries that substitute imports and contribute to increases in domestic demand. Those industries are agriculture, construction, food and textile industries pharmaceutical industry as well as car industry.

Agriculture

Subsidies to the agriculture and fishery sectors in 2009, as envisaged by the Government Anti-Crisis Plan, will total 212 billion rubles (5 billion Euro), almost 45% more than in 2008. A further 95 billion rubles will be provided by the Russian regional governments. These are to include subsidizing of 100% of the refinancing rate for banking credits to meat and milk producers, and additional capitalization of Rosselkhozbank (45bn roubles = 1bn Euro) and Rosagrolizing (25bn rouble = 0,6bn Euro), which grant tax credits to framers and organize leasing of agricultural machines and equipment.

Car industry

39 billion rubles (0,9 bn Euro), in additional subsidies for the automotive industry envisaged by the Government Anti-Crisis Plan for 2009, was approved on 19 June 2009. (See also the separate chapter in this report for the totality of support for the Russian car sector during the global economic downturn.) ...

... The upper limit for prices of locally-produced cars subject to state subsidies is raised from 350K rubles to 600K rubles. The state subsidy takes the form of a two-thirds reduction in the interest rate paid on loans by private customers for qualifying cards. Foreign cars assembled in Russia are only partly included in this scheme, which is expected to cost a total of 2 billion rubles (46 million Euro).

Government will subsidize also loans for the car industry from the Russian banks for technical restructuring of the production - 2,5 billion rubles (58 million Euro)

Subsidies are also to cover costs of transportation by rail of locally produced cars (including some foreign cars assembled in Russia) - 2 billion rubles (46 million Euro).

Military-industrial complex

The “military-industrial complex”, according to the Government Anti-Crisis Plan, is to receive 969 billion rubles (22,6 billion Euro) in subsidies in 2009, or 38% more than in 2008. Subsidies are to boost the capitalization of the leading firms, such as MiG, Gorbunov ,and Khrunichev. Other subsidies are to prevent bankruptcies of enterprises producing weaponry.

Timber processing complex

325 million rubles (7,6 million Euro) are allocated in 2009 in order to subsidize interest rates on banking credits for the wood sector, and to create seasonal reserves of rough wood and fuels.

Source:

The programme of the anti-crisis measures of the Russian Government - 2009. Available from <http://www.government.ru/content/governmentactivity/antikrizismeriprf/>

Japan: State endorsement of private initiative to raise food self-sufficiency

Jumbo Measure No. 11

Potential extent of trade impact:

Total trade that could be affected by this measure: US\$ 53.375 bn

Total trading partners that could be affected by this measure: 110

Total G20 trading partners that could be affected by this measure: 15

Share of implementing jurisdiction's tariff lines that could be affected by this measure: 11.67 %

Implementing jurisdiction: Japan

Measure type: Non tariff barrier

Description of measure

"Food Action Nippon" is a citizen movement that aims at raising self sufficiency rate in Japan by providing information about agriculture, domestic food, eating habits and food imports. Amongst its initiatives in 2009, an "award" was introduced. The purpose of this award is stated as follows

"This award is for the wider public to the efforts of businesses and organizations that contribute to improved food self-sufficiency rate, commended the efforts by good penetration into the wider society activities aimed at food self-sufficiency rate, we society is able to eat delicious and safe for children and the future." According to Food Action Nippon this particular initiative is sponsored by Japan's Cabinet Office and Ministry of Education.

More generally, Food Action Nippon is sponsored by private companies and is officially supported by the Ministry of Agriculture, Forestry and Fisheries (MAFF).

Relatedly, on 6 October 2008, the Ministry of Agriculture, Forestry and Fisheries of Japan (MAFF) had announced the creation of a "Food Action Nippon task force" whose function was to "steer" non-governmental Japanese organisations promoting self-sufficiency in food production.

Sources:

Relevant press releases from the Ministry of Agriculture, Forestry and Fisheries, <http://www.maff.go.jp/j/press/kanbo/anpo/081007.html>

<http://www.maff.go.jp/j/press/kanbo/anpo/pdf/081007-08.pdf#search='Food Action Nippon'>

Food Action Nippon website and news about the “award” can be found at:

<http://www.syokuryo.jp/>

<http://syokuryo.jp/news-award/2009/07/post.html>

Brazil: New credit line for exports of consumer goods

Jumbo Measure No. 12

Potential extent of trade impact:

Total trade that could be affected by this measure: US\$ 50.572 bn

Total trading partners that could be affected by this measure: 131

Total G20 trading partners that could be affected by this measure: 19

Share of implementing jurisdiction's tariff lines that could be affected by this measure: 25.29%

Implementing jurisdiction: Brazil

Measure type: Trade finance

Description of measure

The Brazilian Development Bank (BNDES) implemented a new credit line amounting to R\$ 7 billions for the pre-shipment phase of exports of consumer goods, in a decision announced on 29 April 2010. The initial interest rate is 7% per year until the end of June when it will be increased to 8% per year.

For reference it is worth noting that on 29 April 2010 the Brazilian central bank's target overnight interest rate was 9.5%, suggesting a degree of subsidisation is factored into the credit line.

Source:

BACEN Resolution n° 3851. Available at <http://www.in.gov.br/imprensa/visualiza/index.jsp?jornal=1&pagina=63&dat>

Russia: Subsidized loans to producers of certain type of machinery

Jumbo Measure No. 13

Potential extent of trade impact:

Total trade that could be affected by this measure: US\$ 48.443 bn

Total trading partners that could be affected by this measure: 62

Total G20 trading partners that could be affected by this measure: 15

Share of implementing jurisdiction's tariff lines that could be affected by this measure: 8.94%

Implementing jurisdiction: Russian Federation

Measure type: Bail out / state aid measure

Description of measure

The Government Decree # 205 from 10 March 2009 establishes rules for granting subsidies (subsidized loans - 2/3 of CBR refinancing rate) from the federal budget to producers of agricultural machines and tractors, the wood processing sector, producers of equipment for the oil and gas sector, producers of machine tools in order to cover part of interest paid on credits for up to 5 years. The subsidies will be granted in the period 2009–2011, on a quarterly basis.

Source: Government Decree # 205 from 10 March 2009.

India: Extension of service tax refund for exporters

Jumbo Measure No. 14

Potential extent of trade impact:

Total trade that could be affected by this measure: US\$ 44.966 bn

Total trading partners that could be affected by this measure: 122

Total G20 trading partners that could be affected by this measure: 18

Share of implementing jurisdiction's tariff lines that could be affected by this measure: 17.40%

Implementing jurisdiction: India

Measure type: Export subsidy

Description of measure

As of 7 December 2008, the Indian government has extended its service tax refund scheme to another constituency. Now, exporters who have paid commissions to a foreign clearing or forwarding agent are also eligible for the benefits of such a refund. The maximum share of service tax to be refunded has been set at 10 percent of the freight on board (f.o.b.) value of exports.

This measure will benefit firms that contract out for freight-forwarding services. On the assumption that most of these firms are small and medium sized enterprises, then the tariff lines affected are those typically associated with exports by such enterprises from India.

Source:

Government of India. (7 December 2008). Notification nr 33/2008-Service Tax. To be obtained at

<http://centralexcisetrichy.gov.in/newcentral/tradenotice/st/yr0809/tn17.pdf>

India: Pre- and post-shipment export credit

Jumbo Measure No. 15

Potential extent of trade impact:

Total trade that could be affected by this measure: US\$ 44.966 bn

Total trading partners that could be affected by this measure: 122

Total G20 trading partners that could be affected by this measure: 18

Share of implementing jurisdiction's tariff lines that could be affected by this measure: 17.40%

Implementing jurisdiction: India

Measure type: Export subsidy

Description of measure

On 1 December 2008, the Bank of India implemented an export credit scheme as part of the Indian government's crisis response programme. Under the scheme, companies from designated sectors will have access to low-interest export credit. The scheme was initially set up to last until 31 March 2009 but has been extended to 31 September 2010.

As specified by the Bank of India, companies may apply for rupee pre-shipment credit for up to 270 days and post-shipment credit for up to 180 days. Participating firms will receive an interest rate that is at maximum 2 percent lower than comparable market rates. This subsidy is limited for the definitive interest rate not to fall below 7 percent.

Sectors and companies eligible to the interest rate reduction:

- Textiles (including handlooms)
- Handicrafts, carpets, leather
- Gems and jewellery
- Marine products

Sources:

Reserve Bank of India. (16 December 2008). Interest Rates on Rupee Export Credit. To be obtained at <http://rbidocs.rbi.org.in/rbiadmin/scripts/NotificationUser.aspx?Id=4712>.

Reserve Bank of India. (11 June 2009). Rupee Export Credit Interest Rates. To be obtained at

<http://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=5043&Mode=0>

Reserve Bank of India. (31 July 2009). Rupee Export Credit Interest Rates. To be obtained at

<http://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=5193&Mode=0#1>

Indonesia: Import tariff increases on certain products that compete with locally manufactured products

Jumbo Measure No. 16

Potential extent of trade impact:

Total trade that could be affected by this measure: US\$ 33.653 bn

Total trading partners that could be affected by this measure: 92

Total G20 trading partners that could be affected by this measure: 17

Share of implementing jurisdiction's tariff lines that could be affected by this measure: 24.00%

Implementing jurisdiction: Indonesia

Measure type: Tariff measure

Description of measure

The Ministry of Finance Decree 19/2009 raised import tariffs on certain products that compete with locally manufactured products. The product affected (and tariff increase were known) are milk, animal or vegetable oils, fruit juices, coffee and tea, chemicals, silver, steel, electronic products (machines, TVs etc.), packaged juices (10 to 15%), instant coffee (5 to 10%), iron wire (7.5 to 10%), wire nails (0 to 7.5%) and electrical and non-electrical milling machines (0 to 7.5%). At the same time certain tariffs are reduced, mainly on input products needed for local manufacturing (e.g. dairy products and base chemicals). The latter tariff reductions, however, are likely to increase the effective rates of protection of the downstream buyers/manufacturers.

The Decree was adopted on 13 February 2009.

Source:

Measure listed as verified see WTO monitoring report 26 March 2009 (Annex I). Measure also noted in the EC monitoring report 12 June 2009 (Annex 2.1)

Indonesia, Malaysia, and Thailand: Limiting rubber exports to 915,000 tons during 2009

Jumbo Measure No. 17

Potential extent of trade impact:

Total trade that could be affected by this measure: US\$ 26.322 bn

Total trading partners that could be affected by this measure: 105

Total G20 trading partners that could be affected by this measure: 18

Share of implementing jurisdiction's tariff lines that could be affected by this measure: 3.48%

Implementing jurisdiction: Indonesia, Malaysia, Thailand

Measure type: Export taxes or restriction

Description of measure

It would appear that the Indonesian, Malaysian, and Thai rubber producers, acting through the International Tripartite Rubber Council (ITRC), have sought to restrict exports of rubber so as to increase world prices. These three countries are the largest exporters of rubber in the world, accounting for 70 percent of total supplies according to one recent estimate.

Numerous news reports include quotes from leading business executives and business associations that are consistent with the above summary. Moreover, a recent report from the United Nations Development Programme makes reference to this alleged scheme. As of July 2009, however, it is not clear that any such concerted action has proved to be successful. One recent commentary stated: "Weakness was visible in Asian rubber futures despite the fact that International Tripartite Rubber Council members Thailand, Indonesia and Malaysia announced a decision to remove 915,000 tons from the market in 2009 to bolster prices. " A reduction of this magnitude has been estimated as being equivalent to a sixth of the total world sales.

According to the following quotation, found on an official Thai website, the alleged cooperation began in the fourth quarter of 2008. "Deputy Minister of Agriculture and Cooperatives Teerachai Saenkaew said that the three countries met at a special meeting between the International Tripartite Rubber Council and International Rubber Consortium on October 29. They...

...discussed ways to improve the rubber situation, which was facing falling prices following the global financial crisis.

“He said that the meeting agreed to implement short-and long-term measures, which were worked out in 2002 to remedy the situation at that time. In the short-term measures, controls must be imposed on rubber exports and marketing strategies must be carried out. The long-term measures involve production management in order to stabilize prices. The meeting urged all members of both the International Tripartite Rubber Council and International Rubber Consortium to monitor the rubber market situation and cooperate more closely in easing rubber problems.

“Thailand, Indonesia, and Malaysia agreed to reduce total rubber production by planting new rubber trees to replace old ones. A target has been set to plant new rubber trees covering 700,000 rai, or 280,000 acres, of land to replace old rubber trees in about one million rai, or more than 420,000 acres. As a result, about 215,000 tons of rubber will not come up in the global market.

Thailand will plant other crops to replace rubber as well, while Indonesia will control the issuance of licenses for planting new rubber trees. The three countries also agreed to encourage rubber growers to reduce their working days for tapping rubber trees and to stop using chemicals to stimulate latex production.”

A meeting of the ITRC on 13 December 2008 resulted in an accord, the details of which can be found here: <http://www.irco.biz/BlogMoreDetial.php?id=475&ShowContent=editorial+>. This accord concerned export levels, export prices, and non-fulfilment of contracts. The parties agreed to reconvene in Jakarta in January 2009.

In February 2009 the Indonesian Agriculture Minister is reported to have called on the three ITRC members to cooperate further to stop rubber prices falling.

Sources:

In addition to the official source cited above, other relevant sources include:

1. A one page account including information on this case contained in a June 2009 paper from the International Policy Centre for Inclusive Growth, providing information on this case, that can be downloaded here: <http://www.ipc-undp.org/pub/IPCOnePager86.pdf>
2. <http://www.commodityonline.com/news/Commodity-TrendsHopes-high-on-CTT-re...>
3. <http://thailand.prd.go.th/print.php?id=3913&type=inside>
4. <http://www.bangkokpost.com/breakingnews/136691/rubber-producers-to-cut-o...>

Argentina: Extension of tax exemptions for locally produced capital goods

Jumbo Measure No. 18

Potential extent of trade impact:

Total trade that could be affected by this measure: US\$ 24.971 bn

Total trading partners that could be affected by this measure: 63

Total G20 trading partners that could be affected by this measure: 17

Share of implementing jurisdiction's tariff lines that could be affected by this measure: 24.84%

Implementing jurisdiction: Argentina

Measure type: State aid measure

Description of measure

On February 4, 2010, the Government of Argentina announced an extension of a tax-exemption program that benefits capital goods producers. The program, first launched in 2001, grants a tax credit on locally-produced capital goods, amounting to 14% of sales price. The benefit will expire on June 30, 2010.

On June 3, 2010, the Government of Argentina announced a new 6-month extension of the program. The benefit will now expire on December 31, 2010.

Sources:

Decree 376/2001 (created the benefit): <http://www.infoleg.gov.ar/infolegInternet/anexos/65000-69999/66567/norma...>

Decree 188/2010 (extending the benefit): <http://www.infoleg.gov.ar/infolegInternet/anexos/160000-164999/163784/no...>

Russia: Public procurement price advantage to domestic producers

Jumbo Measure No. 19

Potential extent of trade impact:

Total trade that could be affected by this measure**: US\$ 23.019 bn

Total trading partners that could be affected by this measure: 89

Total G20 trading partners that could be affected by this measure: 17

Share of implementing jurisdiction's tariff lines that could be affected by this measure: 18.50%

**As indicated in the main body text, our confidence in this estimate is lower than average.

Implementing jurisdiction: Russia

Measure type: Public procurement

Description of measure

The Decree of the Russian Economic Development Ministry from 5 December 2008 # 427 has given preferences to domestic producers setting a 15% price advantage until 31 December 2010 in the procurement of certain products such as agricultural products, services in agricultural sector, food, textiles, cloth, leather, footwear, metal products, machinaries, medical equipment, watches, autos and others.

Source:

Decree of the Russian Economic Development Ministry from 5 December 2008 # 427. Available from <http://merit.consultant.ru/doc.asp?ID=9796&PSC=1&PT=1&Page=1>

Russia: Preferences to domestic producers in amendments to Government Procurement Law

Jumbo Measure No. 20

Potential extent of trade impact:

Total trade that could be affected by this measure**: US\$ 23.019 bn

Total trading partners that could be affected by this measure: 88

Total G20 trading partners that could be affected by this measure: 17

Share of implementing jurisdiction's tariff lines that could be affected by this measure: 17.88%

**As indicated in the main body text, our confidence in this estimate is lower than average

Implementing jurisdiction: Russian Federation

Measure type: Public procurement

Description of measure

Changes have been made in state procurement legislation. Amendments to the Federal Law from 30 December 2008 N 308-φ3 "On placement of orders for goods and services delivery for state and municipal needs" entered into force on 1 March 2009. These changes give certain preferences to national producers. The Russian Government established terms of access to goods originated from a foreign state or group of states, works, services carried out by foreign persons for procurement purposes in one of the below cases: 1) If national regime towards Russian goods, services and works is not established in a foreign country; 2) If the procurement of goods, services, works originating from Russia enjoys privileges.

Source: Federal law of 30 December 2008 N 308-φ3

Russia: Temporary import tariff introduction on certain type of machineries

Jumbo Measure No. 21

Potential extent of trade impact:

Total trade that could be affected by this measure: US\$ 20.589 bn

Total trading partners that could be affected by this measure: 57

Total G20 trading partners that could be affected by this measure: 16

Share of implementing jurisdiction's tariff lines that could be affected by this measure: 2.67%

Implementing jurisdiction: Russian Federation

Measure type: Tariff measure

Description of measure

By the Government decree # 742 from 15 September 2009 the Russian government has introduced a 5% import tariff on certain type of machineries for 9 months.

Source:

Russian official newspaper "Rossiyskaya Gazeta" # 5001 from 22 September 2009. Government Decree # 742 dated 15 September 2009.

France: More restrictive public procurement rules for construction work tenders

Jumbo Measure No. 22

Potential extent of trade impact:

Total trade that could be affected by this measure**: US\$ 12.262 bn

Total trading partners that could be affected by this measure: 60

Total G20 trading partners that could be affected by this measure: 15

Share of implementing jurisdiction's tariff lines that could be affected by this measure: 2.08%

**As indicated in the main body text, our confidence in this estimate is lower than average.

Implementing jurisdiction: France

Measure type: Public procurement

Description of measure

According to the Décret no 2008-1355, issued on 19 December 2008, relating to the implementation of the French stimulus plan, with respect to public procurement, the maximum threshold for the value of a construction project where an awarding authority can follow a loose public procurement procedure ('procédure adaptée') was increased from EUR 206,000 plus state sales tax to EUR 5'150'000 plus state sales tax. The EUR 5,150,000 plus state sales tax limit corresponds to the maximum threshold allowed by the EU.

The modalities of a 'procédure adaptée' can be freely fixed by the awarding authority. The modalities to be chosen include: the nature and features of the specifications required, the number and origins of the potential economic operators that can respond to the authority, and the circumstances of the purchase.

Moreover, Décret no 2008-1355 allows the awarding authority to negotiate - mainly with respect to prices - with those bidders that present an offer.

Finally, the awarding authority can decide that the project does not go through a open tendering procedure if the circumstances justify it or the maximum expected value of the project is below EUR 20,000 plus state sales tax. This amount was increased in Décret no 2008-1355 from previously EUR 4,000 plus state sales tax. ...

... Investigating the official French public procurement database 'Bulletin officiel des annonces des marchés publics', it can be viewed that 118 out of 197 new construction tenders in 2009 follow the 'procédure adaptée'.

Although these amendments are likely to comply with EU law, the higher thresholds allow more French stimulus spending to fall outside EU procurement rules designed to open up public contracts to international competition.

Sources:

- 1) Code des marchés publics, édition 2006 (<http://www.legifrance.gouv.fr/affichCode.do;jsessionid=196DC7B636E3D4AD8...>)
- 2) Décret n° 2008-1355 du 19 décembre 2008 (<http://www.relance.gouv.fr/-Decrets-.html>)
- 3) Bulletin officiel des annonces des marchés publics (<http://www.boamp.fr/index.php?action=afficherFormRechSimple>)