



# ABSTRACTS:

## *Trans-AtlanticTrends*

European-American Business Council

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**THOMAS SCHEDULES FSC/ETI BILL MARKUP, COMMISSION TO CONSIDER SANCTIONS REGULATION FIRST WEEK OF NOVEMBER**

House Ways and Means Committee Chairman Bill Thomas (R-CA) announced this week that he has scheduled a [mark-up session](#) for the [American Jobs Creation Act 2003 \(HR 2896\)](#) for Tuesday, October 28, signaling that he may have secured the necessary votes to move his tax reform bill out of committee. The bill aims to repeal the Foreign Sales Corporation (FSC) and Extraterritorial Income Act (ETI) provisions in the US tax code to comply with a 2000 World Trade Organization (WTO) ruling, while providing tax rate reductions for companies with both overseas income and domestic manufacturing.

Thomas has been under pressure to make the proposed tax package attractive enough for both domestic and overseas manufacturers to move it out of Ways and Means and to the floor with sufficient GOP support. An [October 22 press release](#) by the Ways and Means Committee lists 196 companies and associations in support of the bill, which has also won the endorsement of House Speaker Dennis Hastert (R-IL) after Thomas added additional tax breaks for domestic manufacturers. Thomas has also indicated that the international provisions in the bill would be scaled back, both in terms of extending foreign tax credits and excluding foreign services and sales income from Subpart F. Under Subpart F of the US tax code, companies are obliged to pay US taxes on overseas profits in the same year, regardless of whether they are repatriated. The bill would lower the corporate income tax rate imposed on manufacturers from 35 percent to 32 percent and provide \$42 billion in tax breaks on the overseas income of US-based multinational corporations.

In the meantime, the European Commission has started procedures for drafting legislation that would approve the imposition of trade sanctions in this long-running trans-Atlantic dispute. The Commission is anticipated to consider the legislation, which would indicate the timing and amount of the sanctions, on November 5. If approved, it will go to the Council of Ministers, the representation of the EU's member states, which has to give final approval before the sanctions can go into effect. The European Union, which has been authorized by the WTO to impose \$4 billion in punitive tariffs on US goods, has threatened it would consider imposing the sanctions by January 1, 2004 if Congress fails to repeal the FSC/ETI benefit before then. At the time of the writing of this article, the Commission could not confirm reports according to which the EU plans to impose a 5 percent tariff on a large list of US products that would be increased by 1 percent every month until it reached 16 percent and to start imposing tariffs in March 2004 to a list worth the full \$4 billion authorized by the WTO. EU Trade Commissioner Pascal Lamy is scheduled to visit Washington November 3-4 to assess the US progress in complying with the WTO ruling.

**WTO GENERAL COUNCIL MEETING MAKES NO PROGRESS ON RESTARTING TRADE TALKS** A meeting on Tuesday by the World Trade Organization (WTO) General Council did not provide any political signals on the future of the Doha Development Round, despite a plan put forth by General Council Chair Perez del Castillo at a Heads of Delegation meeting on October 14 to restart the negotiations. While countries attending the October 21 Asia Pacific Economic Cooperation Summit declared their commitment to restart the Doha Round on the basis of the negotiating text used at the Cancun Ministerial meeting in September, India's Commerce Minister Arun Jaitley rejected the idea saying that the text had already proved "contrary" to the "mood prevalent" in Cancun. While a group of 20 developing countries, including India, Brazil and China, has said it was committed to restarting the talks, it has not come forth with concrete positions or proposals. European

Commission and US officials have indicated they are in "reflecting mode" and would not function as a driving force to revitalize the talks. This week's debate demonstrates the difficulties in restarting the WTO trade liberalization negotiations.

At this week's General Council meeting, Hong Kong won formal approval from other WTO members to host the next ministerial meeting of the body, to be held sometime in the next two years. The WTO is mandated to hold a ministerial meeting every two years, meaning that the next one should be held before the end of 2005. Members participating in the meeting agreed that the date of the meeting should be set, once it is clearer how the negotiations will proceed. At the request of Benin and three other small African countries at the meeting, the WTO has temporarily withdrawn its cotton initiative from the Doha Round agenda. The African countries' complaint about the distorting effects of US cotton subsidies had contributed to the collapse of the negotiations at the ministerial meeting in Cancun. The group wanted the US to end the subsidies and to pay them compensation for lower prices they claim were caused by increases in US cotton production. Benin, who had suggested dropping cotton as an agenda item for the Doha Round, said informal discussions were already taking place on this item.

**COMMERCE DEPARTMENT PROPOSES TO RELAX EXPORT CONTROLS ON COMPUTER TECHNOLOGY AND SOFTWARE** The Department of Commerce on Friday issued draft rules proposing to relax export controls on computer technology and software and on microprocessor technology to make them conform to the level of controls on computers and microprocessors themselves. In an [October 24 Federal Register notice](#), the department's Bureau of Industry and Security (BIS) said the proposed changes would include expanded license exceptions under the Export Administration Regulations (EAR) for certain exports and reexports of computer technology and software and microprocessor technology in order to enable companies to provide access to this technology and software to foreign nationals working in their US and foreign facilities. BIS is seeking comments on the proposed changes by November 24, 2003.

Under the proposal, the unlimited export of computer technology and software would remain unchanged for 22 countries, including members of NATO, Japan, Australia and New Zealand. Unchanged would also be the prohibition on exports of such technology to seven countries carrying the status of state sponsors of terrorism: Cuba, Iran, Iraq, Libya, North Korea, Sudan and Syria. The threshold for exports of computer technology would rise to 75,000 millions of theoretical operations per second (MTOPS) for a group of 47 countries in the so-called Tier III category. For all other countries, the threshold would rise to 150,000 MTOPS. While BIS has said it would relax controls on exports of microprocessor technology, it has not yet determined the thresholds.

BIS is also seeking industry suggestions for ways to improve the

measurement of performance for computers and computer technology from its current measurement MTOPS. Many industry representatives have criticized the measurement as too narrow.

**WTO APPEALS PANEL DELAYS STEEL TARIFF DECISION** The World Trade Organization's (WTO) Appellate Body late last week [formally announced](#) that it was delaying a ruling on the US appeal of a July 11 decision by the WTO that safeguard measures imposed by the Bush Administration last year on imports of certain steel products are inconsistent with the WTO Safeguards Agreement and GATT 1994. With the delay the appeals ruling is expected to be issued November 10 this year, and is anticipated to uphold the initial ruling.

Commerce Under Secretary Grant Aldonas this week said the Administration is taking seriously threats by the European Union to retaliate against over \$2 billion in US goods 5 days after the appeals ruling, should it uphold the initial decision. "We are worried about it, absolutely," Aldonas said and added: "Hopefully they are worried about it too. The last thing they need right now is \$2.1 billion in taxes on themselves."

Aldonas offered no timeframe for an Administration decision on the steel tariffs, but indicated that Commerce Secretary Donald Evans and Labor Secretary Elaine Chao would likely offer formal written advice to the president as had been done in previous safeguard cases. President Bush and United States Trade Representative Robert Zoellick have been under strong pressure from steel manufacturing and labor lobbies as well as members of Congress to keep the tariffs in place. However, a number of US business groups have urged the Administration to remove the steel tariffs before the WTO appellate panel decision. Many US manufacturers, and the auto industry in particular, have said they have suffered disproportionately from higher steel prices. Lawmakers in districts affected negatively by the tariffs have called on President Bush to lift the tariffs, citing job losses of as high as 30,000 in a western Michigan district alone.

**US SENATE PASSES ANTI-SPAM LAW, FOCUS TURNS TO HOUSE** The US Senate on Wednesday adopted a bill to regulate unsolicited commercial email, moving the US a significant step closer to the first federal law regulating so-called "spam." The ["Can Spam Act" \(S. 877\)](#), sponsored by Senators Conrad Burns (R-MT) and Ron Wyden (D-OR), passed the Senate with a 97-0 vote and a number of last-minute amendments. The focus now turns to the House of Representatives, where efforts are underway in the Energy and Commerce Committee to iron out differences on the specifics of proposed legislation to have a bill ready for submission to President Bush before year's end. In a statement released Wednesday night, the White House indicated it would sign an anti-spam bill.

The legislation approved by the Senate targets deceptive email messages sent by large-volume e-mailers who often do not disclose their real identities,

do not honor opt-out requests from consumers or use misleading subject lines. The bill defines spam as an "unsolicited commercial electronic message" that is not a "transactional or relationship" message and is sent to the recipient without prior affirmative or implied consent. It requires senders of unsolicited commercial emails to include opt-out provisions and valid header and subject lines that make clear that it is advertising. While providing for no private right of action, the legislation would allow Internet Service Providers (ISPs) adversely affected by a violation of the law to file civil actions and sets civil penalties up to \$1.5 million for knowing and willful violations of the law. Criminal provisions added by Senators Orrin Hatch (R-UT) and Patrick Leahy (D-VT) could lead to five years in prison for violations such as hacking into somebody else's computer to send bulk emails or sending spam from someone else's Internet protocol addresses.

The bill also includes a controversial amendment sponsored by Senator Charles Schumer (D-NY), which authorizes the creation by the Federal Trade Commission (FTC) of a "do-not-email" registry similar to the recently established "do-not-call" list by the FTC. While the do-not-call list has proved highly popular with Americans, the FTC says a do-not-email list would be hard to enforce. "I have serious reservations about a do not spam list," said FTC Chairman Tim Muris in an Internet chat sponsored by the White House. "Unlike telemarketers, most spammers are already engaged in deception. I would not want to put my email address on a list where people who are already violating the law would use," he added.

Spam accounts for almost half of all emails received. A [study](#) released this week by the Pew Internet and American Life Project found that about three-quarters of email users now avoid giving out their addresses and a quarter have created separate email accounts for situations that might attract spam. The study also found that a quarter of email users are spending less time on email as a result of spam. However, email users also differed on the definition of spam, demonstrating the difficulties that policymakers face when devising regulation. While 90 percent of users defined pornographic ads, investment deals and moneymaking proposals as spam, only 81 percent felt that way about offers for products and services. About 7 percent have bought something as a result of an unsolicited email.

### **EU GM REGULATIONS PUBLISHED, ADDED PRESSURE ON US**

**EXPORTERS** On Monday, [two new European Union \(EU\) regulations](#) governing the importation, sale, approval and labeling of food and feed using biotechnology were published in the European Union's Official Journal. With the publication in the Journal, the controversial traceability and labeling rules will take effect 90 days from the date of publication, putting additional pressure on US companies exporting food and feed to the European Union market to implement all the necessary procedures to comply with the new stringent requirements. New food and feed rules will take effect in six months.

The US is the largest producer and exporter of genetically modified food and feed and the new regulations are expected to affect nearly all products made from corn and soybeans. In 2002, the US exported \$1.8 billion of bulk and intermediate corn and soy products to EU destinations and an additional \$2.1 billion of consumer oriented agricultural products that could be affected by the new rules.

The Bush Administration, which has already challenged a European Union moratorium on the approval of new genetically modified crops at the World Trade Organization, has also voiced concerns over the new labeling and traceability rules, raising the possibility of a new US challenge to determine whether the new rules create a barrier to trade.

**US SENATE VOTES TO EASE RESTRICTIONS ON TRAVEL TO CUBA** The US Senate on Thursday joined the House of Representatives in challenging the Bush Administration's Cuba policy, voting to end four-decade-old restrictions on travel to the island. The Senate by 59-36 adopted an amendment to the fiscal 2004 Transportation and Treasury spending bill (HR 2989J) that bars the use of government funds to enforce current travel restrictions. The move came in defiance of a presidential threat to veto the 90-billion bill if it contains the Cuba language. "The best approach for dealing with communist countries is engagement," said Senate Byron Dorgan (D-ND), the sponsor of the amendment.

A nearly identical amendment passed the House on September 9 this year. The White House opposes easing restrictions on Cuba saying such a move "would provide a helping hand to a desperate and repressive regime at the expense of the Cuban people." Under US rules, only researchers, journalists, Cuban-Americans visiting relatives and academics can visit the island in addition to individuals who have been granted a specific travel license by the Treasury Department. The Department says about 160,000 Americans traveled to Cuba legally last year. Many more visit the island illegally via third countries such as Canada or Mexico. For a calendar of upcoming events, click [here](#).

For questions, please contact us:

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