

INFORMATION

EUROPEAN COMMISSION  
WASHINGTON DELEGATION  
Telecopier (202) 429 1766  
Telephone (202) 862 9573

TELECOPY NO.: 6439

COVER PAGE + 4 PAGES  
*Four*

TO: Richardson DG I

DATE: September 9, 1991

FROM: Richard Wright  
Emanuela Silvestri

CHRONO:

DISTRIBUTION	
D.H.D.	✓
ADM/POL	1
AGR	1
COM./TR.	2
DEVT.	1
ECO/FIN	1
P.R.A.	3
S&T	1
SUP. AG.	
T.E.F.	1
C.F.	

San Francisco: Y - Delegations: Geneva

ADDRESSEE PLEASE COPY TO:

Paemen, Giola, Avery, Abbott, Dujimont, Beseler, Keck, De  
Pascale, Depayre, Neuman, Jouanjean, Salerno, Dalvin, Adinolfi  
DG I  
Schaub, Verrue, Thurmes, Lennon DG III  
Haagsma DG IV  
Kuijper SJ  
Cabinet Andriessen

*441.2(103)  
Special file*

Subject: US Trade/Legislation

The following is a summary of the main legislative developments in Congress in the last weeks prior to the August recess which you may wish to convey to the 113 Committee meeting of 13 September.

1) HR. 1115, Trade Agreements Compliance Act of 1991.

**Brief description.** The Bill would require USTR, on request from a domestic industry, to investigate whether a foreign government is in compliance with a bilateral trade agreement with the US. In case of default, the Bill would mandate retaliatory action under sec. 301.

**Status.** On July 25, the Trade Subcommittee of the House Ways and Means Committee approved HR. 1115 (see our telecopy of July 29 no 5694). The Full Ways and Means Committee is expected to mark it up after the recess which ends on September 9. The mark-up hearing has not yet been scheduled. It is unclear whether the Committee will attach HR. 1115 provisions to a miscellaneous tariff bill or some other trade related measure to be used as a legislative vehicle.

The Senate companion Bill (S. 388) is likely to be considered by the Full Senate Finance Committee in September. The Senate also has no definite plans to incorporate S. 388 in a miscellaneous tariff Bill, but that is an option.

The Administration has opposed the Bill because it would reduce USTR's discretion to act.

**Actions.** No demarche has yet been made on this Bill to either

the Administration or Congress. Delegation is investigating the likelihood of further action on this Bill and will report in due course. (The text of S. 388 has been sent to you by telecopy no 1349 of 21/02/91. HR. 1115 has been sent to you by pouch of 6 September).

2) HR. 2508, International Cooperation Act of 1991 (Foreign Aid Bill).

**Brief description.** The Bill would authorize foreign assistance programs for the next two fiscal years (1992-93). Inter alia, it would require that countries receiving cash foreign aid to spend an equivalent amount on US goods and services.

On July 26, the Senate passed the Bill incorporating S. 1435 and amendments such as (see our telecopies of 21/8 no 6151 and 8/8 no 5949):

- The Mack Amendment, which would prohibit US/owned subsidiary companies domiciled outside the US from trading with Cuba.
- Funding for Capital Projects. Funds spent by the Agency for International Development (AID) would be increased to \$ 750 million in FY 1992 and \$ 1 billion in FY 1993 (currently AID is providing \$ 573 million for capital projects). These funds should be used only for procurement of US goods and services.

**Status.** HR. 2508 is headed to a Conference which will meet at members level in mid-September. Staff work is already quite advanced.

The Administration is opposed to the Senate amendment on "Funding for Capital Projects" and to the Mack Amendment (although it is not lobbying very hard).

**Actions.** The Delegation and Presidency have written to conferees on the Mack amendment. The chances of this amendment being dropped or that a compromise be found are not that good. Delegation will continue to press with staff and Administration contacts. One useful additional element is the UK's announcement of its intent to invoke its blocking statute if the Mack amendment passes (this information was passed confidentially by the UK Embassy here).

3) HR. 1415, The Foreign relation Authorization Act (State Department Authorization).

**Brief description.** In general, the Bill would authorize appropriations for fiscal year 1992 and 1993 for the State Department.

On July 29, the Senate passed HR. 1415 incorporating S. 1433 and adopting an amendment on "Chemical and Biological Weapons (CBW) Control (see our telecopy of 29/7 no 6113). The CBW amendment, inter alia, provides for the application of unilateral US requirements and sanctions in respect of activities undertaken outside the territorial jurisdiction of the US by companies incorporated within the EC and other third countries. These CBW provisions are nearly identical to those encompassed in the Export Administration Act vetoed by President Bush last November (largely due to this issue) and in S. 320. The most relevant difference between the CBW amendment and S. 320 is a reduction of the consultation period with the foreign government from 180 to 90 days.

Furthermore, HR. 1415 contains a Buy America provision. With

concern to contract of procurement of goods the Bill would give a 6% preference to US firms, if the final product is assembled in the US and has more than 50% domestic content. According to the Bill, the President can waive the Buy America if he determines that it would be in violation of GATT.

**Status.** The Bill is now headed for a Conference Committee which is tentatively scheduled on September 17 and 23.

The Administration, which opposed the CBW provisions, is not hopeful about getting them removed.

**Actions.** In previous similar legislative initiatives in this area (eg. S. 320), the Delegation has argued that extraterritorial extension of US jurisdiction is unacceptable as a matter of law and policy. We would propose to reiterate the same message to key conferees in the next weeks.

The same message should be also relayed to the House if and when the House version of the Export Administration Act (S. 320) is taken up by the Subcommittee on International Economic Policy and Trade of the House Foreign Affairs Committee (Chairman Gejdenson (D-CT)). No Bill has been tabled nor mark-up scheduled, but some action is likely in September.

(The text of the CBW amendment has been sent to you by pouch of 20/8/91)

**4) HR. 2624, Technology Preservation Act of 1991 ("Collins Bill").**

**Brief description.** The bill would amend Exon-Florio. In particular, it would give the Administration a broad discretion to block foreign acquisitions for industrial policy considerations. It would also increase Congressional oversight.

A mark-up hearing in the Commerce, Consumer Protection and Competitiveness Subcommittee of the House Energy and Commerce Committee foreseen for August 2 was postponed until members had time to digest the content of the redrafted Bill (the draft amendment has been sent to you by pouch of 9/8).

On August 17, the President signed into law HR. 991 (a short term reauthorization of the Defense Production Act) which extends permanently Exon-Florio.

The Administration has strongly opposed the Bill explicitly stating that if presented in the current form it would be vetoed.

**Actions.** On July 30, the Delegation submitted a demarche to the State Department and Treasury objecting key provisions of the Bill. Letters have also been sent to key members of the Subcommittee.

**5) S. 479, National Cooperative Research Act Extension (Joint Production Ventures Bill).**

**Brief description.** The Bill would relax antitrust rules with regard to joint production ventures.

The Senate Bill did not originally contain the discriminatory provisions of the House Bill, (no more than 30% foreign content of the joint venture and all production to be located in the US) which passed the House Judiciary Committee on June 25.

On July 18, S. 479 was amended by a clause stating that the relaxation of antitrust rules applies only to joint production ventures whose principal facilities are located within the US and whose parties make a long-term substantial commitment to the US economy (see our telecopy of 22/7).

**Status.** Both measures now await House and Senate floor action.

The Administration is against the limits on eligibility and has threatened to recommend Presidential veto, but it appears that there are enough Senate votes to override the veto.

**Actions.** The Delegation sent letters on both bills to key Congressmen opposing the discriminatory and local content provisions of the bills.

**6) S. 173, Telecommunications Equipment Research and Manufacturing Competition Act (Hollings Bill).**

**Brief description.** The Bill would lift the research, development and manufacturing restrictions currently imposed on the Regional Bell Operating Companies (RBOCs) by the antitrust decree that broke up ATT. It would require all manufacturing activities to take place in the US using exclusively US-made components.

**Status.** On June 5 the Senate adopted S. 173. Prior to the vote, the Administration opposed the Bill because of its provisions on local content and domestic manufacturing threatening the Presidential veto if those provisions remain in the final Bill.

The debate is now in the House where three Bill have been introduced. In particular, HR. 1527, by Slattery (D-KS) and HR. 452, by Bryant (D-TX) would contain a similar local manufacturing rule, while HR. 1523, by Oxley (R-OH), the Republican Bill, would not.

Rep. Markey (D-MA), Chairman of the House Telecommunications and Finance Subcommittee, has announced his intention to introduce a Bill soon and a staff discussion draft already exists. He has initiated a series of hearings on RBOCs' entry into manufacturing to reach, inter alia, a preliminary consensus on his draft Bill. This approach is likely to slow the process down. At the first hearing, which took place on July 11, the Administration restated its opposition to local content provisions (see our telecopy of July 12 no 5356).

In addition, the House debate is expected to be complicated by Judge Green's recent decision to allow the RBOCs to provide information services (see our telecopy of July 26 no 5668).

**Actions.** The Delegation sent a demarche on S. 173 to the State Department and key Senators opposing the provisions on local content and domestic manufacturing.

**7) HR.1303, Cable Television Consumer Protection and Competition Act of 1991.**

**Brief description.** The Bill contains, inter alia, a provision which would extend to cable television, wireless cable and direct broadcast satellites systems restrictions on foreign ownership that currently apply to broadcasters and common carriers under Sec. 310 of the Communications Act of 1934.

**Status.** The Bill does not have any Republican co-sponsor. This

suggests that it may be more difficult to get the Committee's approval. A hearing was held on June 27 but no date has been set for mark-up.

On the Senate side, the Senate Commerce Committee adopted S. 12, a cable TV bill that could lead to the renewed regulation of Cable TV. S. 12 has no provision on foreign investment comparable to HR. 1303. The debate on the Senate floor has not been scheduled.

**Actions.** With concern to previous similar bills, the Delegation already conveyed to the State Department and key representatives the EC concern about the proposed restrictions on foreign ownership of US cable TV systems.

It may be desirable at some point to send a letter to key members of the House Committee to remind them the EC opposition to the investment restriction provision. However, the best chance for removing this provision may be in a House-Senate conference.

8) HR. 2056, Shipbuilding Trade Reform Act of 1991.

**Brief description.** The Bill would prevent foreign-built ships from docking in US ports until government subsidies are repaid. The Bill would also amend antidumping and countervailing duty laws so as they would apply to commercial vessels.

**Status.** The Bill, which was approved by the Trade Subcommittee of the House Ways and Means on July 11, will be submitted to the Full Committee. No hearing has yet been scheduled but contacts suggest that the Full Committee intends to act soon (see our telecopy of 12/7).

On June 20, a similar Bill (HR. 2709, the Shipbuilding and Repair Industry Free Trade Act of 1991) was introduced by Repp. Bentley (R-MD) and Gaydos (D-PA). The Bill would mandate subsidies repayment. In case of default, the Coast Guard would levy an annual assessment in the same amount as the subsidy to be paid before ships could dock at US ports. This bill does not contain any extension of antidumping and CVD laws to commercial vessels.

On June 25, a bill identical to HR. 2709 (S. 1361, by Mikulski (D-MD) and Lott (R-MS)), was introduced in the Senate. No mark-up has yet been scheduled but contacts suggest that activation of the bill depends on the results of the next OECD meeting of mid-September.

On August 2, the Senate Finance Trade Subcommittee Chairman Sen. Baucus (D-MT) held a hearing urging the Administration to fight foreign shipbuilding subsidies. Intending to pursue the OECD negotiations the Administration explicitly opposed any legislative initiative.

**Actions.** The Delegation sent a demarche on HR. 2056 to key Congressmen and to the State Department. (The texts of HR. 2709 and S. 1361 have been sent to you by pouch of 5/7).



Andreas van Agt

