U.S. lays out plan to strengthen anti-dumping regime

By Doug Palmer
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WASHINGTON - The United States on Thursday announced plans to toughen rules against what it sees as unfair foreign trade practices, proposing a number of changes likely to irk China, its biggest import supplier.

"The Obama administration is committed to aggressively enforcing our trade laws to ensure a level playing field for U.S. companies and their workers - the engines of our economic growth," U.S. Commerce Secretary Gary Locke said in a statement. "Today's announcement is another demonstration of our continuing efforts to sharpen our trade enforcement tools."

At least some of the proposals could lead to higher anti-dumping or countervailing duties on goods from China, which has been the most frequent target of U.S. complaints about unfair trade in recent years.

But the plan seeks to strengthen the effectiveness of U.S. trade protection measures "across a range of areas," a senior Commerce Department official told Reuters. "This is a process that will play out during the course of the fall."

With President Barack Obama's popularity falling and Democrats in danger of losing control of Congress in November elections, the party has been pushing a "Made in America" agenda aimed at revitalizing the U.S. manufacturing base and creating jobs.

Locke ordered a review of the department's rules and procedures governing anti-dumping and countervailing duties as part of Obama's initiative to double exports in five years, which he announced in his State of the Union speech.

Conspicuously missing from the new proposals is a decision on whether to investigate China's exchange rate practices as an unfair foreign subsidy, a diplomatically explosive issue before the department in two pending trade cases.

Many lawmakers and manufacturers say China's "undervalued" currency gives it an unfair price advantage in global markets. The department has been mulling for months whether it has a strong legal footing to investigate the charge.

China accounted for 19 percent of U.S. goods imports in 2009 for a total of $296.4 billion. Next on the list was Canada with $224.9 billion, followed by Mexico, Japan, Germany, Britain, South Korea, France, Taiwan and Venezuela.

Roll-out of the new proposals follows a recent Commerce Department report showing that imports surged unexpectedly in June, one of many indicators that have raised concern about the strength of the U.S. economic recovery.

However, less than 3 percent of imports into the United States are hit with anti-dumping or countervailing duties, so the proposed changes would affect a small portion of trade.

The Commerce Department will formally release individual proposals in coming months, beginning a process of public comment before any are final.

Department officials spotlighted three proposals they believed would have the most impact.

One would require importers to pay a cash deposit to cover preliminary duties once they are announced.

Currently, importers have the option of posting bonds at a fraction of their liability for the five or six months until final duties are set.

PROPOSAL TARGETS CHINA

That has led to problems collecting the full amount the government is owed, department officials said.

"We think this is a way to better ensure that companies that ... may ultimately be liable for a dumping duty actually have the wherewithal to pay," a department official said.

A second proposed change would allow the department to subtract Chinese export taxes when calculating the size of anti-dumping or countervailing duties.

That is common practice now for unfairly traded goods from "market economies" like Japan and countries in Europe. But it has not been the case for "non-market economies" like China on the theory the taxes are too hard to measure.

China will "undoubtedly" be upset by the proposal because it will lead to higher duties on its goods, the Commerce Department official said.

The third major proposal would stop the practice of removing individual foreign companies from anti-dumping orders if they can show during three annual administrative reviews they haven't dumped products in the United States.

Such companies could still receive a zero duty rate under the new proposal. But they would remain subject to the order, keeping them on notice that their duty could be increased if Commerce finds new evidence of unfair trading.

"This provides us with more of a guarantee that we can have better surveillance of the effectiveness of the order," the Commerce Department official said.

A trade attorney briefed by Reuters on the proposed changes described them as long overdue and said he was confident none of them violated World Trade Organization rules.

"I think they will be helpful to domestic industries who are having problems with unfair foreign trade practices," said Paul Rosenthal, managing partner at the Washington office of Kelley Drye and Warren, which has represented many clients seeking trade relief.

They should not lead to a surge of new anti-dumping or countervailing duty cases, but will improve the effectiveness of relief when it is provided, he said.

(Reporting by Doug Palmer; editing by Todd Eastham and Vicki Allen)