OPINION: REVIEW & OUTLOOK

Obama's Trade Jeopardy

A bipartisan revolt threatens his main pro-growth policy.

President Obama's second-term agenda is in tatters, and now his declining clout is jeopardizing a rare pro-growth proposal—freer trade with Asia and Europe. He needs to spend political capital to head off a bipartisan revolt on Capitol Hill.

The revolt comes in the form of left-right opposition to Mr. Obama's request for Trade Promotion Authority, which allows the President to submit an agreement for a straight up-or-down vote. Also known as "fast-track" authority, this is essential to passing the separate trade accords that Mr. Obama is negotiating with 38 nations on the Pacific Rim and with the European Union. Countries aren't about to trade concessions with the U.S. if they think Congress can rewrite a deal.

The revolt on the left is led by House Democrats Rosa DeLauro of Connecticut and George Miller of California, who are close friends of Big Labor. They've collected more than 150 Democratic signatures on a letter warning that they'll "oppose 'fast-track' trade promotion authority or any other mechanism delegating Congress's constitutional authority over trade policy that continues to exclude us." That's more than three of four Members of the President's own party in the House.

They want to transform trade policy into "a tool for creating and retaining family-wage jobs in America, safeguarding the environment, maintaining consumer protection"—i.e., to impose the labor and environmental agenda that liberals can't pass legislatively. These are intended to be poison pills.

As ominously, a pair of Republicans, Minnesota's Michele Bachmann and North Carolina's Walter Jones Jr., have gathered 23 House Republican signatures on a letter claiming that the Constitution's Commerce Clause gives Congress exclusive authority to regulate trade. They must be reading "The Constitution for Dummies."

The real Constitution clearly empowers the President to propose and negotiate agreements with foreign countries, which Congress can vote down. Trade promotion authority merely streamlines the process for passing an agreement through Congress.

Presidents of both parties have used such authority to pass numerous trade deals, including Bill Clinton with Nafta. Congress last renewed fast-track authority in 2002, and it let President Bush wrap up pacts with Chile, Singapore, Australia and Peru. Mr. Obama also benefited because the free-trade agreements with Colombia, Panama and South Korea, which Congress approved in 2011, were initiated and thus grandfathered before the authority's 2007 sunset.

Trade agreements are often difficult to pass, as local or regional interests pressure Congress. That's why a President has to lead by explaining the national interest. Bill Clinton did this with regularity, making the case that trade was vital to American prosperity.

Mr. Obama has rarely mentioned trade in his speeches, and he hasn't reached out to House Republicans who will have to provide most of the free-trade votes. Instead, he's left Senate Finance Chairman Max Baucus and House Ways and Means Chairman David Camp to thread the needle between unions that oppose free trade and tea partiers who are suspicious of the President.

As for Republicans, distaste for Mr. Obama isn't enough to justify opposition to trade pacts that would raise U.S. living standards. This is something Newt Gingrich understood in the 1990s working with Mr. Clinton, and Speaker John Boehner has continued the bipartisan tradition.

Negotiating a trade agreement is impossible for the U.S. if 535 Members of Congress get a chance to rewrite it. Mr. Obama needs to build a bipartisan free-trade coalition, and one place to start would be to stop demonizing the House Republicans whose votes he's going to need.

Hong Kong's Classless Act

Domestic politics drives a sanctions threat against the Philippines.

Talk about bad timing. As the rest of the world offers disaster relief, Hong Kong is threatening the Philippines with sanctions. This strange and embarrassing state of affairs speaks volumes about the Hong Kong government's dysfunction.

The conflict began in 2010 when a rogue former police officer took a bus full of Hong Kong tourists hostage in Manila. The authorities bungled both the negotiations and a rescue attempt, leading to the death of eight hostages.

Although Philippine officials have not formally apologized, President Benigno Aquino has expressed regret and the government offered compensation for victims' families via a nongovernmental organization. On Tuesday Manila offered an additional payment to a survivor who needs surgery as a result of her injuries.

But the families, egged on by opportunistic politicians, want more. They say Manila's offer of monetary compensation is insufficient, and they also expect an official apology from Mr. Aquino.

Both demands are unrealistic, and more astute politicians wouldn't have pursued them. Although the police botched the hostage situation, ultimate responsibility lies with the lone gunman, not with the head of state.

In recent months, this issue has increasingly deranged the territory's political mind. Over the summer, pro-democracy activists started using the issue to embarrass Chief Executive Leung Chun-ying over his supposed inability to secure an apology. Last month, they demanded an economic boycott of the Philippines.

Now the government has been swept along. Earlier this month, the Legislative Council passed a nonbinding resolution supporting eliminating visa-free entry for Filipino tourists and other measures. The government has set a one-month ultimatum for Mr. Aquino to apologize before Hong Kong would consider those sanctions. Chief Secretary Carrie Lam said last week that Hong Kong will stick to that deadline despite the storm damage.

Hong Kong's leaders say they can pursue the bus issue and offer humanitarian aid of around $5 million on separate tracks. But they seem determined to ignore how the relentless claims are hurting the territory's reputation.

This is the result of the Hong Kong government's deepening crisis of legitimacy. As officials continue to deny the public's growing calls for greater democracy and accountability, they must come up with other ways to appeal to citizens. Meanwhile, frustrated democracy activists exploit every opportunity to embarrass the government.

Now the affair has gained so much momentum that both sides within Hong Kong's political class are unable to back down. Filipinos are left to worry about their ability to travel to or work in Hong Kong in the future. And everybody else wonders how a wealthy city is being so petty toward a developing country in the grip of an unprecedented humanitarian crisis.

Big Ethanol Finally Loses

The political fuel is losing support as its costs and harm grow.

It's not often that the ethanol lobby suffers a policy setback in Washington, but it got its head handed to it Friday. The Environmental Protection Agency announced that for the first time it is lowering the federal mandate that dictates how much ethanol must be blended into the nation's gasoline. It's about time. It's been about time from the moment the ethanol mandate came to life in the 1970s.

The 16% reduction is a modest pullback, which EPA says will hold ethanol blends in gasoline at the standard 10% (E10). But we hope this is a precedent-setting victory. After 35 years of exaggerations about the benefits of renewable fuels, the industry has lost credibility.

For years the biofuels lobby has boasted that its product was a green alternative to emissions from oil and gas. But a growing body of scientific evidence is showing that ethanol consumes so much energy and fertilizer, and requires planting so much marginal cropland, that the impact on air quality is at best neutral and on water quality may be negative.

A report released earlier this year by the National Research Council concluded: "Although it may seem obvious that subsidizing biofuels should reduce CO_2 emissions because they rely on renewable resources rather than fossil fuels, many studies we reviewed found the opposite." Environmental outfits such as the Environmental Working Group and the Sierra Club now oppose ethanol subsidies.

The EPA reduction is a small win for consumers. Since 1978 when the first "gasohol" subsidies were enacted, renewable fuel production tax credits have drained the Treasury of almost $40 billion. The tax subsidies expired recently, but consumers have still been forced to dole out billions at the pump because of the renewable fuel standards.

About 40% of corn production is now used not for food or livestock feed, but for fuel. This has raised the price of corn, and a 2009 study by the Congressional Budget Office found that in some years ethanol has raised retail food prices by 5% to 10% for everything from corn flakes to ground beef.

EPA hopes to prevent a 2014 replay of the biofuels fiasco that hit the gasoline market this year. When the original levels for renewable fuel standards were set in 2007, none of the sages in Washington anticipated that gasoline demand in the U.S. would plateau as it has over the past four years, largely because of more fuel-efficient cars.

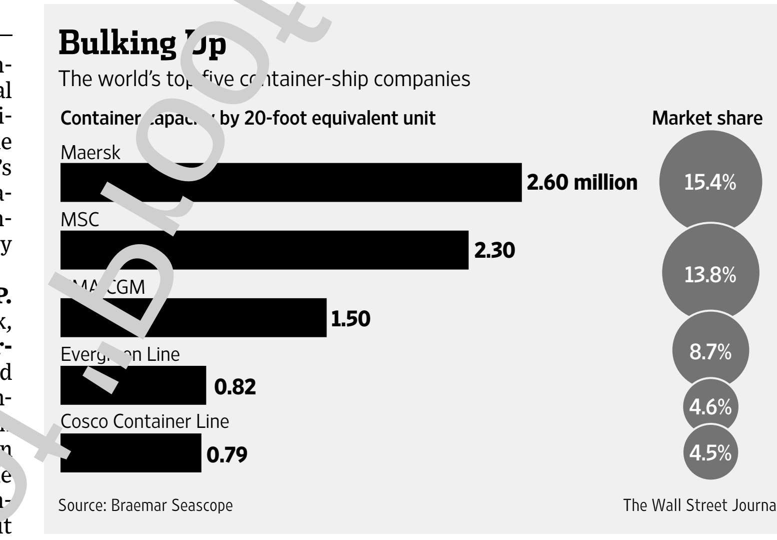
This year's 14 billion gallon mandate required refiners such as Marathon and Valero to pay for hundreds of millions of gallons of renewable energy "credits" to avoid busting through the E10 blending wall. Few cars on the road are equipped to handle higher ethanol blends that can end up doing harm to engines. Despite a lack of demand, the ethanol lobby wants government to force a blend of E15 or higher on millions of consumers and force car makers to adapt their fleets to a fuel that offers less octane per mile traveled and no environmental benefit.

The EPA's modest reduction is a nod in the direction of market and technological reality. But expect the lobby to fight back ferociously, and it has powerful supporters in Agriculture Secretary Tom Vilsack and GOP Senator Chuck Grassley. Democrats and Republicans who don't bow to Big Ethanol should unite to repeal the mandate for the good of consumers, business and the environment.

BUSINESS & FINANCE

Shipping Deal Sparks Call for Global Review

By Costas Paris



The U.S. Federal Maritime Commission has called for an unusual meeting with its European and Chinese counterparts to scrutinize the proposed alliance of the world's three biggest container-ship operators, amid concerns by global competitors that it might unfairly squeeze smaller shippers.

The proposed tie-up among **A.P. Moller-Maersk** A/S of Denmark, **CMA CGM** of France and **Mediterranean Shipping** Co. of Switzerland would give the three European companies joint control of more than 40% of total sea-cargo capacity in some of the world's busiest trade routes. The three companies announced the tie-up in June, but it must be approved by U.S., European and Chinese regulators.

"There is a lot of concern by carriers and the shipping community about the impact of such an alliance," said Mario Cordero, the chairman of the FMC, the U.S. regulator. "That's why I called for a summit with our fellow regulators to see where they stand—and the sooner it takes place, the better."

Mr. Cordero said the meeting could be scheduled for as soon as mid-December. He said it would be the first time the three regulators would meet at such a senior level to examine a shipping alliance.

A spokesman for Joaquín Almunia, the European Union's competition commissioner, said the EU would participate in the meeting. Officials at China's Ministry for Transport weren't immediately available for comment.

Analysts say the so-called P3 alliance would control an estimated 43% of Asia-to-Europe container shipping, 41% of the trans-Atlantic market and about 24% of the trans-Pacific market.

"We have an open mind on the P3 alliance, but the single operating entity they've proposed coupled with the magnitude of this undertaking, both in the number of ships and the number of container slots, raises concerns," said Bruce Carlton, president of the National Industrial Transportation League, which lobbies on transportation matters for U.S. companies.

The alliance is slated to go into effect in the second quarter of next year, if approved.

Maersk Chief Executive Nils Andersen said the company is confident that the pact would gain approval from regulators. The threat to competition in the industry has to be kept in perspective, he said.

"It's very difficult for small alliances with 2% market share to really compete effectively in the large trade lanes. P3 or no P3, small companies must seriously consider their position," Mr. Andersen said.

CMA CGM declined to comment. A spokesman for MSC said only that the company is in confidential talks with regulators.

For the three shipping companies, the pact's logic rests on sharing ships and port facilities from Shanghai to Rotterdam, New York and the U.S. West Coast as slack global economic growth, stubbornly low freight rates and high fuel costs erode their profit margins. The partners would use their biggest ships, which can carry more than 12,000 containers—including Maersk's new 18,000-container Triple E's—as part of the alliance.

J&J to Settle Hip-Joint Lawsuits

By Jonathan D. Rockoff

In its latest multibillion-dollar legal settlement, **Johnson & Johnson** has agreed to pay at least $2.5 billion to resolve thousands of lawsuits filed by patients who allege they were injured by some of the company's artificial hips, according to people familiar with the matter.

Under the proposed deal, J&J would pay $250,000 for each surgery to replace the hips in about 8,000 patients in the U.S., these people said.

In addition, they said, the company would set up a $475 million fund to cover the costs of certain medical injuries sustained by hip-replacement patients, such as strokes, heart attacks or multiple surgeries to replace artificial hips.

The sides are still negotiating the timing of J&J's payments and other final terms, the people said. But the sides reached a tentative understanding about the broad outlines of a deal a few weeks ago, one of the people said. And an announcement could come soon, possibly as early as Tuesday.

A federal judge in Toledo, Ohio, who must approve the settlement, is set to consider it later Tuesday.

J&J has already spent an undisclosed sum to pay for surgeries replacing ASR metal-on-metal hip-system implants in some patients. It could also face additional costs.

One person familiar with the settlement talks said J&J would also pay off liens costing around $60,000 to $75,000 for each patient; the liens were taken by government health plans like Medicare and private insurers while covering the medical costs of the patients. But a second person familiar with the talks said that wouldn't be part of any announcement.

A deal would allow J&J, based in New Brunswick, N.J., to move past another set of long-running legal issues. On Nov. 4, the company agreed to pay a total of $2.2 billion and plead guilty to a misdemeanor in a deal with federal prosecutors to settle investigations into the company's marketing of the antipsychotic Risperdal and other drugs.

The company still faces significant litigation, including more than 23,000 lawsuits related to the surgical-mesh products implanted in women to relieve severe discomfort in their pelvises after childbirth, according to J&J's quarterly securities filing. And J&J will still face litigation over the hips. The latest settlement wouldn't resolve the lawsuits of patients outside the U.S.

J&J faced more than 12,000 lawsuits over the hips made by its DePuy Orthopaedics unit, according to a recent securities filing, which didn't break down the number in the U.S. and outside the U.S.

The company has had said 37,000 patients in the U.S. and 93,000 worldwide received the implants.

Yet J&J did secure some terms that would keep down its overall cost. Chiefly, the company wouldn't have to pay for hip-replacement surgeries performed after Aug. 31, the people familiar with the settlement talks said.

The artificial hip joints were developed by J&J and other companies to stand up better to the rigors of use than older products. Both the hip ball and socket were made of metal, rather than the metal-on-plastic that had been typically used but could leave plastic debris in the bloodstream.

Instead, the design raised its own issues. The U.S. Food and Drug Administration asked J&J and other makers of the all-metal hips to monitor patients for possible health risks, out of a concern that potentially toxic metals might wear off and make their way into a patient's blood. Such metal particles can lead to symptoms like skin rashes, impaired hearing or vision or depression, according to the FDA.

In some of the lawsuits, patients alleged that J&J kept selling the devices even after learning they were failing at a higher rate than generally accepted standards.

J&J said it recalled the parts in 2010, when it got its first indication of flaws, from data collected from patients in the U.K., showing the artificial hips were wearing down or otherwise requiring replacement at unusually high rates.

ITV Results Boosted By Ads, Production

By Simon Zekaria

LONDON—U.K. media company **ITV** PLC Tuesday said a revitalized television advertising market and its globally expanding production and distribution business boosted revenue in the nine months ended Sept. 30.

The U.K.'s biggest free-to-air commercial broadcaster, which shows music competition "The X Factor" and British period drama "Downton Abbey," said revenue in the period rose 6% to £1.66 billion ($2.67 billion).

Advertising revenue from the company's channels increased 11% in the third quarter, with the year-earlier figure damped by Olympic Games coverage on rival **British Broadcasting** Corp. ITV said it expects advertising revenue to be up around 2% in the full year, compared with a 3% decline in the first six months of the year.

Nine-month advertising revenue rose 1%, beating the company's July forecast of a broadly flat top line.

"The television-advertising market is showing signs of improvement," said Chief Executive Adam Crozier, adding that strong viewing numbers for ITV's main channels puts the company in "good stead" for advertising contracts in 2014.

The U.K.'s overall television-advertising spending is expected to accelerate to 5.3% growth in 2013 from 2.1% in the first six months, according to October data from the Advertising Association, an industry body, and marketing group Warc.

Still, ITV is intent on generating business away from volatile advertising markets.

Nine-month nonadvertising revenue increased 11% to £810 million, driven by ITV Studios, the company's production arm. Revenue at ITV Studios rose 11% to £555 million, with a "strong" fourth quarter to come, the company said.

ITV is spending to create TV shows, like the popular series "Mr. Selfridge," both for its own channels and to sell to overseas broadcasters, such as major U.S. television networks. Highly rated "Downton Abbey" is co-produced by Carnival Films, part of **Comcast** Corp.'s NBC-Universal, and PBS's Masterpiece.

In addition to increasing production of original content, ITV Studios is bolstering business through acquisitions at home and abroad, including the U.S.

As well as snapping up companies in the U.K, it has spent around $100 million this year on deals for American producers Thinkfactory Media, Gurney Production—which has hit reality show "Duck Dynasty" on its roster—and High Noon Entertainment to further expand its U.S. business. ITV says it is now a top-five independent content producer in the U.S.

ITV, which set out a five-year plan in 2010 to generate half its revenue from sources other than traditional TV-advertising breaks, is also pushing its digital-media presence to capture tablet and smartphone users, as well as sponsorship deals.

The company reiterated that ITV Studios, online, pay and interactive are on track to post full-year double-digit revenue growth.

ITV shares fell 1.1% in London Tuesday.

Numis Securities analyst Paul Richards said the updated results were "encouraging" in an improving economic backdrop, with advertising set for a further boost next year from the FIFA soccer World Cup.

However, ITV made no mention of whether the company would secure highlights rights for the UEFA Champions League, Europe's premier-club soccer competition. An ITV decision on whether to pursue those rights is "imminent," a person familiar with the situation said. Earlier this month, ITV, along with **British Sky Broadcasting Group** PLC, lost live rights to the championship to rival **BT Group** PLC for three seasons starting in 2015.

ITV said it expects cost savings of £25 million this year, £5 million higher than previous forecasts.


Associated Press
'Downton Abbey' is among the programs shown by British broadcaster ITV.