

Trump Puts China Under Microscope With WTO Envoy Nom

By Alex Lawson

Law360, New York (July 12, 2017, 6:25 PM EDT) -- President Donald Trump's surprise move to nominate veteran China hawk Dennis C. Shea as the top U.S. envoy to the World Trade Organization signals the administration's likely intent to use the WTO as yet another forum for exerting more commercial pressure on Beijing.

Tuesday's appointment of Shea to serve as the deputy U.S. trade representative in Geneva marked a departure from the administration's usual tack of courting petitioner-side trade remedy attorneys into government jobs, but nevertheless brings another China critic into the fold.

Shea has spent the last decade on the U.S.-China Economic and Security Review Commission, a congressionally created panel that issues reports examining China's often-shaky compliance with international trade rules, a job that offers a clue as to how the Trump administration plans to use him in his new gig.

"The main focus of this administration has been the impact of China's accession to the WTO," Covington & Burling LLP partner and former deputy USTR John Veroneau told Law360. "To the extent that there are concerns about the WTO these days, it's often revolved around questions about China, so having a China hand in the post makes sense."

Indeed, Trump spent nearly his entire presidential campaign pillorying China for a litany of trade practices that he believed had savaged the U.S. economy. Thus far, the White House has pumped the brakes, entering into a cooperative dialogue with China and backing off of Trump's promise to label the country as a currency manipulator.

But with the looming addition of Shea to a deep roster that includes former Skadden Arps Slate Meagher & Flom LLP partner Robert Lighthizer as USTR, Lighthizer's former colleague Jeffrey Gerrish awaiting confirmation as deputy, and former King & Spalding LLP enforcement advocate Stephen K. Vaughn as general counsel, the administration has the personnel in place to take a hard line with Beijing.

In testimony given to the Senate Banking Committee last year, Shea offered an unambiguous view about the role the WTO should play in helping to ameliorate points of friction in the U.S.-China bilateral relationship.

"USTR needs to be more assertive in bringing enforcement cases against China when it violates its WTO

commitments,” he said. “Companies are often reluctant to complain because they fear retribution from the Chinese government. Congress should therefore encourage the USTR to bring cases whenever U.S. interests are being hurt, even if U.S. companies will not speak up.”

Though Shea holds a law degree from Harvard, he has not practiced in several years, opting instead to supplement his work on the commission with the founding of his own lobbying firm, Shea Public Strategies LLC, in 2010.

He got his start in public service in 1988 when he joined former Sen. Bob Dole’s office as counsel, and later worked on Dole’s 1996 presidential campaign. He has also served on the President’s Commission on the United States Postal Service and at the U.S. Department of Housing and Urban Development.

Some observers raised eyebrows at the White House’s decision to select someone who has not been closely involved in the day-to-day minutiae of the WTO. But those reservations may be overblown, according to Stewart and Stewart partner Terence P. Stewart.

“Historically, most individuals who have been picked for that slot have not been WTO experts going in, but often had experience in government in some other capacity,” Stewart told Law360. “With the strong team at USTR, both in Washington and in Geneva, a talented individual like Mr. Shea will have no problem handling the challenges of the DUSTR post if he is confirmed.”

Veroneau agreed with Stewart’s assessment, recalling former President George W. Bush’s decision to nominate Charles Schwab Corp. executive Linnet F. Deily at the outset of his administration.

Perhaps the more significant takeaway is that Trump nominated anyone at all. There were rumblings that the post would be left unoccupied as the administration continues its somewhat fractious relationship with the WTO.

The White House’s first formal trade policy agenda suggested that the U.S. would not abide by adverse WTO decisions, and Trump even floated the notion of withdrawing from Geneva on the campaign trail. But appointing a WTO envoy at least demonstrates that the U.S. will be taking a proactive role on the multilateral stage.

“It confirms that they recognize the WTO as an important institution, and it’s going to be important that to the extent the president and his team have concerns about the WTO, those are best addressed by being active within the organization and not standing outside it,” Veroneau said.

--Editing by Philip Shea and Aaron Pelc.