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BIS Nominee Ashooh Gets Moment in Spotlight

Sitting on a panel of six seemingly unrelated nominees, Richard Ashooh, nominated to be Bureau of Industry and Security (BIS) assistant secretary, got his moment in the sun July 18 at a Senate Banking Committee hearing. As has come to be expected, Ashooh was mum on specific policy views in response to the few questions the committee directed his way.

> His answer to a question from Committee Chairman Mike Crapo (R-Idaho) about export control reform reflected this. "Many good things were done," including some that were long overdue, Ashooh noted. "I do believe there is more to do," but he was careful not to prejudge any of those actions. There are "opportunities to do things even better," he said.

In his opening statement, Ashooh acknowledged that the BIS workload has increased and will continue to do so. Citing his experience in the aerospace industry, including stints at Lockheed Martin and BAE Systems, he said, "I understand better than most both the challenges and necessities associated with technology development, believing that our success as a nation is underpinned by our ability to remain ahead of our adversaries in this area, both commercially and strategically."

Ashooh's nomination was sent to the Senate May 25. He is currently director of economic partnerships at the University System of New Hampshire. A committee vote on his nomination is scheduled for July 25. The committee approved Ashooh's potential boss, Mira Ricardel, by voice vote May 23 but her name has not been scheduled for a floor since then (see **WTTL**, May 29, page 10).

ExxonMobil Challenges $2 Million OFAC Penalty

Citing administration guidance and prior Supreme Court rulings, ExxonMobil July 20 challenged a $2 million civil penalty Treasury's Office of Foreign Assets Control (OFAC)

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imposed over the company's supposed violation of Ukraine sanctions through contracts with Russian oil company Rosneft and its president and chairman, Igor Sechin. OFAC announced the penalty earlier the same day. Charges involved the signing of eight legal documents related to oil and gas projects in Russia in May 2014. Sechin was added to OFAC's Specially Designated Nationals (SDN) list in April 2014 under Executive Order (EO) 13661. Rosneft separately was added to sectoral sanctions, "but those authorities are not implicated in this action," OFAC noted.

In its filing in Dallas U.S. District Court, Exxon called the penalty "arbitrary, capricious, an abuse of discretion, and otherwise not in accordance with law," challenging the fine under the Administrative Procedure Act (APA). "OFAC seeks to retroactively enforce a new interpretation of an executive order that is inconsistent with the explicit and unambiguous guidance from the White House and Treasury issued before the relevant conduct and still publicly available today," Exxon noted.

> "ExxonMobil followed the clear guidance from the White House and Treasury Department when its representatives signed documents involving ongoing oil and gas activities in Russia with Rosneft -- a non-blocked entity -- that were countersigned on behalf of Rosneft by Sechin in his official capacity," the company said in a statement announcing the court challenge.

OFAC defended the language of the regulations from Exxon's claims. "The plain language of the Ukraine-Related Sanctions Regulations (which were issued after the Executive branch statements) and E.O. 13661 do not contain a 'personal' versus 'professional' distinction, and OFAC has neither interpreted its Regulations in that manner nor endorsed such a distinction," OFAC noted in its penalty notice July 20. ExxonMobil did not voluntarily self-disclose the violations, and the violations constitute an egregious case, the agency said.

In April, Treasury rejected Exxon's request for a waiver to drill in parts of Russia subject to U.S. sanctions under its Rosneft deal (see **WTTL**, April 24, page 8). "In consultation with President Donald J. Trump, the Treasury Department will not be issuing waivers to U.S. companies, including Exxon, authorizing drilling prohibited by current Russian sanctions," Treasury Secretary Steven Mnuchin said in a statement at the time.

Perhaps not needed to be said is the fact that Secretary of State Rex Tillerson was Exxon CEO at the time of the documents signing. State spokesperson Heather Nauert fielded multiple questions at the daily press briefing July 20 on Secretary Tillerson's commitment to upholding sanctions programs, which she either refused to comment or referred to ExxonMobil or Treasury for further information.

This is not the first action against OFAC civil penalties. In May, the D.C. Circuit Court of Appeals affirmed in part and reversed in part a 2016 D.C. U.S. District Court ruling on a civil penalty OFAC issued against Epsilon Electronics in Montebello, Calif., regarding "reason to know" about potential reexports in violation of U.S. sanctions (see **WTTL**, May 29, page 2).

Administration Unveils NAFTA Negotiating Objectives

The administration released its NAFTA negotiating objectives July 17 and yielded few surprises, including the fact that the goals mimic much of the Trans-Pacific Partnership (TPP). The first round of NAFTA negotiations will take place in Washington Aug. 16-20, the U.S. Trade Representative's (USTR) office announced two days later. The objectives garnered immediate reactions from lawmakers and industry groups (see related story, page 4).

To no one's surprise, the first stated objective concerning trade in goods is to "improve the U.S. trade balance and reduce the trade deficit with the NAFTA countries." The U.S. has a $63.2 billion trade deficit with Mexico and a $10.9 billion deficit with Canada, which prompted Trump to criticize the trade agreement while campaigning. Echoes of the TPP, which Trump also criticized during his campaign and from which he withdrew in his first days in office, can be seen throughout the document.

> Negotiating objectives related to labor and the environment, for example, are to be brought into the core of the agreement rather than in side agreements. On the financial services and digital trade fronts, the administration wants to prohibit localization requirements. State-owned and controlled enterprises (SOEs) should be defined on the basis of government ownership including minority shareholding and "ensure that SOEs act in accordance with commercial considerations with respect to such purchases and sales."

As expected, the administration called for the elimination of the Chapter 19 dispute settlement mechanism and underscored the U.S.' ability "to enforce rigorously its trade laws, including the antidumping, countervailing duty, and safeguard laws." On government procurement, the administration explicitly called for exclusion of state and local governments from NAFTA commitments and to keep in place domestic preferential purchasing programs for small businesses, women and minority-owned businesses, "Buy America' projects, and the Defense Department.

Only one sentence was dedicated to currency: "Through an appropriate mechanism, ensure that the NAFTA countries avoid manipulating exchange rates in order to prevent effective balance of payments adjustment or to gain an unfair competitive advantage."

"Too many Americans have been hurt by closed factories, exported jobs, and broken political promises. Under President Trump's leadership, USTR will negotiate a fair deal. We will seek to address America's persistent trade imbalances, break down trade barriers, and give Americans new opportunities to grow their exports. President Trump is reclaiming American prosperity and making our country great again," USTR Robert Lighthizer said in a statement on the objectives' release.

John Melle, assistant USTR for the Western Hemisphere, will serve as chief negotiator and will handle the "day-to-day negotiations at the staff level," according to the USTR announcement. Melle joined USTR in 1988 and has held positions covering Mexico, Canada and Central America. Previous battles include the gambling dispute with Antigua and Barbuda (see **WTTL**, Aug. 3, 2015, page 9).

Domestic Reaction Falls Along Familiar Lines

Reaction to the NAFTA negotiating objectives came swiftly from the usual suspects. Democrats, buoyed by labor unions and environmental groups, sharply criticized the objectives for being too similar to the TPP and not going far enough to protect workers. Pro-trade Republicans lauded the administration's negotiating priorities.

> Rep. Debbie Dingell (D-Mich.) went so far as to introduce legislation to promote transparency during NAFTA negotiations (H.R. 3339). The "Promoting Transparency in Trade Act" would require USTR to release the text of trade deals before each negotiating round, at the conclusion of each round, and ensure the USTR Transparency Officer has no conflicts of interest. The post was created under Obama and was filled by then-general counsel Tim Reif.

House Ways and Means Ranking Member Richard Neal (D-Mass.) said the objectives raise more questions than answers. "The gravest concern, however, raised by today's summary is that the Administration is seeking to modernize NAFTA without any plan for how it will create jobs, raise living standards, and help hardworking, middle-class families in America. I urge the Administration to figure out its game plan quickly and actually work closely with Congress to make sure that there are good answers for these questions."

Labor and environmental groups blasted the administration for borrowing heavily from the TPP. "In a blunt display of hypocrisy, Donald Trump appears to want to copy and paste the weak labor and environmental provisions of the TPP, a deal that Trump claimed to hate. Based on today's 'plan,' one could be forgiven for concluding that Trump's opposition to the TPP was merely political theater and this administration has no intent of fundamentally changing NAFTA," Sierra Club Executive Director Michael Brune said in a statement.

AFL-CIO President Richard Trumka said the administration falls "woefully short" in its objectives. "If the administration is serious about renegotiating NAFTA in a way that raises wages and creates good jobs, it cannot continue to promise significant trade policy changes on the one hand, and produce vague, unambitious objectives in its officialcommunications on the other. These objectives largely replicate those of the failed Trans-Pacific Partnership and won't satisfy the expectations the president created for a revival of America's manufacturing heartland," Trumka said in a statement.

But some industries support the similarities between the NAFTA objectives and the TPP. "The United States, Canada, and Mexico are all strong advocates of free trade and science-based regulations," said Mike Miller, chairman of U.S. Wheat Associates. Miller's organization and the National Association of Wheat Growers want to see updated rules on sanitary and phytosanitary health and safety standards outlined in the TPP. “We should go big in this negotiation and agree to align around those gold standard rules. That will ensure that all three countries can’t throw out regulations that are just flimsy excuses to restrict trade,” Miller added.

> U.S. Chamber of Commerce Executive Vice President and Head of International Affairs Myron Brilliant said, “The Chamber and its members are ready to roll up our sleeves and get to work modernizing the NAFTA. We commend the administration’s recognition that we must do no harm to the American jobs, businesses, and industries that depend on trade with Canada and Mexico and adhere to the process laid out in the TPA law.”

Pro-trade House Ways and Means Committee Chair Kevin Brady (R-Texas) praised the objectives. “These objectives set an ambitious standard for improving NAFTA and make clear that the United States is seeking strong, enforceable rules that go beyond any agreement ever negotiated. For example, the Administration intends to go well beyond TPP in imposing disciplines on state-owned enterprises that distort trade. Setting such high standards allows us to use an improved NAFTA as a model for future trade agreements, which means that the United States would be setting global rules – not our competitors,” he said.

“I’m also pleased to see enforcement highlighted in these objectives, through the inclusion of enforceable standards and strong dispute settlement procedures. A rigorous investor-state dispute settlement process is essential to holding other countries accountable and ensuring that other countries play by the same rules,” he added.

Senate Finance Committee Chair Orrin Hatch (R-Utah) welcomed the objectives, but noted future talks need to go further. “Future negotiating objectives must include stronger protections for intellectual property rights, upgraded rules and enforcement procedures for American exporters and investors, and improved regulatory practices that treat American goods and services fairly,” Hatch said.

Canada, Mexico Offer Restrained Responses on NAFTA

Canada and Mexico didn’t tip their hands in their official statements July 17 regarding the published negotiating objectives. Trade officials from both countries noted they will continue with domestic processes already in place to strengthen their own trade stance.Canada’s Foreign Affairs Minister Chrystia Freeland maintained an even keel. “Today’s report from the United States is part of its internal process and is required under U.S. Trade Promotion Authority legislation. We continue to consult with Canadians on the modernization of NAFTA, and invite all Canadians to share their ideas, perspectives, and priorities — including through our online consultation,” Freeland said.

“When negotiations begin, we will be ready to work with our partners to modernize NAFTA, while defending Canada's national interest and standing up for our values.

Canada is the top customer of the United States. Canada buys more goods from the U.S. than China, Japan, and the United Kingdom combined," she added.

A translated statement published on the Mexican government website echoed that perspective, "Mexico, for its part, will continue with the period of public consultations that began on February 1, 2017 and will end on July 31 of this year, reaffirming its willingness to update NAFTA to meet the challenges of the 21st century, and continue to strengthen the competitiveness of companies in the region."

"The Free Trade Agreement has been of immense benefit to all parties. Mexico expects a constructive negotiation process by its two trading partners, the United States and Canada, to increase trade and investment flows, to consolidate economic cooperation and integration, and to foster competitiveness in North America," the statement noted.

No New Outcomes from U.S.-China Dialogue

When President Trump announced the U.S.-China Comprehensive Economic Dialogue in April, the administration's hopes were high that the two countries would make big announcements on stalled initiatives, but the honeymoon looks to be over. Commerce Secretary Wilbur Ross and Treasury Secretary Steven Mnuchin hosted Chinese Vice Premier Wang Yang in Washington July 19, but the two sides did not issue a joint statement touting any breakthroughs and cancelled a scheduled press conference.

> Steel remains the most contentious issue, though agriculture has been a winner over the past 100-plus days. Ross has been a vocal critic of Chinese steel overcapacity, and the administration is weighing actions it can take following Ross' Section 232 investigation (see related story, page 8).

"China acknowledged our shared objective to reduce the trade deficit which both sides will work cooperatively to achieve," Mnuchin and Ross said in a joint statement. "The principles of balance, fairness, and reciprocity on matters of trade will continue to guide the American position so we can give American workers and businesses an opportunity to compete on a level playing field," the secretaries added.

Perhaps the lack of tangible next steps to reduce the trade deficit should not have been surprising, given Wang's opening remarks to the meeting. Wang warned his U.S. counterparts that dialogue is different from negotiation and that "dialogue cannot immediately address all differences, but confrontation will immediately damage the interests of both." The two countries have, however, reached an agreement on U.S. rice exports. China is the world's largest rice producer, but since 2013 it is also the world's largest importer. Following a Chinese audit of U.S. rice facilities, U.S. producers can begin exporting rice to China. "The agreement with China has been in the works for more than a decade and I'm pleased to see it finally come to fruition, especially knowing how greatly it will benefit our growers and industry," Agriculture Secretary Sonny Perdue said in a statement. The two countries also reached a deal last month on U.S. beef exports (see **WTTL**, July 3, page 8).

Industry Opposition to Ex-Im Nominee Grows

As another board member's term expires, leaving the Export-Import Bank (Ex-Im) with only one standing, industry opposition to the president's Ex-Im chairman nominee, former Rep. Scott Garrett (R-N.J.), is growing. Major industry groups had already called for both a new nominee and quick confirmations to give the bank a board quorum (see **WTTL**, July 17, page 2).

Acting Vice Chairman and First Vice President Scott Schloegel's term expired July 19, leaving the bank with only one board member. The day before, Aerospace Industries Association President and CEO David Melcher called on President Trump to withdraw Garrett's nomination. "Aerospace workers across the country need an Ex-Im champion, not an ardent foe with a long public record of wanting to eliminate the Bank's support of U.S. manufacturers, at the helm of the Bank," said Melcher.

> Business Roundtable (BRT) released a similar statement on Twitter. "BRT cannot support Scott Garrett or any #ExIm nominee who does not demonstrate strong support for the bank and commitment to get it promptly back to work, fully executing its mission. When fully functioning, #ExIm bank helps businesses of all sizes expand US exports and support American jobs," the group said in its tweets.

At the same time, the Coalition for Employment through Exports (CEE) July 19 denounced a House Appropriations Committee July 19 vote to rescind the $165 million currently held in the Ex-Im Tied Aid War Chest. "Unilateral disarmament runs contrary to the President's stated priority of making American exports competitive against other nations' unfair trade practices," CEE said in a statement. The group urged the Senate to "reject this action and preserve the … Ex-Im Bank's ability to defend U.S. exporters," it added.

Trudeau Pitches U.S. Governors on Trade with Canada

For 20 minutes July 14, Canadian Prime Minister Justin Trudeau urged U.S. governors to reject protectionist policies ahead of NAFTA renegotiations. "Such policies kill growth. And that hurts the very workers these measures are nominally intended to protect. And once we travel down that road, it can quickly become a cycle of tit for tat, a race to the bottom, where all sides lose," Trudeau told the state executives convened in Rhode Island at the National Governors Association's summer meeting.

In his pitch to the governors, Trudeau said nine million U.S. jobs depend on trade between Canada and the U.S., and that Canada is the largest export destination for 35 states. "To boil this down to one point: Canada is the U.S.' biggest, best customer by far," he noted.

"NAFTA isn't perfect," Trudeau conceded. "We think it should be updated and modernized, as it has been a dozen times over the past quarter century, and I have every expectation that it will be, to the ultimate benefit of working people in all three partner countries," said Trudeau.

Vice President Mike Pence, who was also a featured speaker, separately vowed to "modernize NAFTA for the 21st century so that it is a win-win-win for all of our trading partners in North America." The administration released its NAFTA priorities July 17 (see related story, page 3).

Iran Nuclear Deal Recertified, New Sanctions Announced

The administration continues to review U.S. policy toward Iran, but in the meantime it certified to Congress July 17 -- almost the second anniversary of the Iran nuclear deal -- that the conditions of the Joint Comprehensive Plan of Action (JCPOA) have been met. The next day, State and Treasury sanctioned 18 entities and individuals supporting Iran's ballistic missile program, the Islamic Revolutionary Guard Corps (IRGC), and Iran-based criminal organizations.

The U.S. "continues to waive sanctions as required to continue implementing U.S. sanctions-lifting commitments in the JCPOA, and is certifying to Congress that, based on available information, the conditions …are met as of July 17, 2017. We also note Iran's continued malign activities outside the nuclear issue undermine the positive contributions to regional and international peace and security that the deal was supposed to provide," noted a State press release.

"The United States will continue to use sanctions to target those who lend support to Iran's destabilizing behavior and above all, the United States will never allow the regime in Iran to acquire a nuclear weapon," the release concluded.

Indeed, State July 18 sanctioned the IRGC Aerospace Force Self Sufficiency Jihad Organization and the IRGC Research and Self Sufficiency Jehad Organization pursuant to Executive Order (EO) 13382. The same day, Treasury's Office of Foreign Assets Control designated 16 entities and individuals, also pursuant to EO 13382, as well as EO 13581.

"These sanctions target procurement of advanced military hardware, such as fast attack boats and unmanned aerial vehicles, and send a strong signal that the United States cannot and will not tolerate Iran's provocative and destabilizing behavior. We will continue to target the IRGC and pressure Iran to cease its ballistic missile program and malign activities in the region," Treasury Secretary Steven Mnuchin said in a statement.

Aluminum, Steel Organizations Press Ross on 232 Investigations

It remains anybody's guess as to when Commerce will publish its Section 232 investigations on steel and aluminum. Rather than taking a wait-and-see approach, industry continues to press their often contradictory concerns to Commerce Secretary Wilbur Ross.

The Aluminum Association wrote to Ross July 18 in response to a request to exclude rolled aluminum can sheet and primary aluminum and ingot used for food and beverage containers. "For all our products, we are denied access to Chinese lower cost inputs while at the same time having to compete on price with subsidized Chinese products. We therefore believe that any action taken by the President under the Section 232 investigation should exclude U.S. imports of aluminum and aluminum products from countries that abide by trade laws," wrote Heidi Brock, association president and CEO.

"Excluding can sheet products will likely result in China transferring its production from other rolled products to can sheet products. From 2012 to 2020, Chinese capacity of aluminum rolled products is expected to have increased at an annual rate of 9.3%; however, China's consumption is expected to only grow at an annual rate of 6.8%," she noted.

"This overcapacity is forecasted to reach 7.0 million metric tons (MMT) by 2020. For comparison, the entire North American rolled product market was 4.2MMT in 2016. This excess capacity is increasingly being exported to other Asian countries and to the U.S., where imports of aluminum sheet have more than tripled from 2012 to 2016, and have captured almost 10% of the U.S. market," Brock wrote.

> Agriculture groups previously voiced their fears about retaliation should import restrictions be enacted as a result of the Section 232 investigation, and senators briefed on the subject thought the final report was close to release (see **WTTL**, July 17, page 4).

In its own letter to Ross July 18, the Coalition for a Prosperous America, whose chairman is Nucor Steel Chair Emeritus Dan DiMicco, encouraged remedial action for American steel and aluminum industries. "We disagree with objections by some importing industries that oppose the U.S. protecting its national security interests. Vague speculation about trade retaliation is unwarranted," the group wrote.

"The 1994 General Agreement on Tariffs and Trade Article XXI allow countries to protect national security. Many countries make use of that provision. Uncontrollable trade retaliation for doing so has not erupted and indeed is prevented by the World Trade Organization system," it added.

* * * Briefs * * *

<u>EXPORT ENFORCEMENT</u>: Joao Pereira da Fonseca, Portuguese citizen, pleaded guilty July 17 in D.C. U.S. District Court to conspiring to export goods and technology to Iran without BIS or OFAC licenses. Items included precision lens equipment from N.H. company and inertial guidance system test table manufactured by North Dakota company. Sentencing is set for Sept. 7. Precision lens equipment is categorized under ECCN 2B001 and controlled for national security (NS) and anti-terrorism (AT) reasons; inertial guidance system test table under ECCN 2B120 and controlled for missile technology (MT) and AT reasons.

<u>MORE EXPORT ENFORCEMENT</u>: Indictment against two Iranian nationals was unsealed July 17 in Burlington, Vt. U.S. District Court on charges of hacking Arrow Tech Associates Inc., Vermont software company, and exporting proprietary defense software to Iran without license. At same time, OFAC added Mohammed Reza Rezakhah, Mohammed Saeed Ajily and two related

companies to its Specially Designated Nationals (SDN) List. Also mentioned in indictment was Iranian national Nima Golestaneh, who pleaded guilty to wire fraud and other charges in December 2015. He was pardoned in January 2016 as part of prisoner swap with Iran in parallel to nuclear deal (see **WTTL**, January 25, 2016, page 5).

FCPA: Amadeus Richers, former director of Cinergy Telecommunications, pleaded guilty July 19 in Miami U.S. District Court to conspiracy. Richers was arrested in February, six years after federal indictment on charges of FCPA violations, wire fraud and money laundering, after being extradited from Panama (see **WTTL**, March 13, page 7). Richers, Cinergy, its president, plus president of Florida-based Telecom Consulting Services Corp. and two former Haitian government officials were charged in July 2011. Indictment alleges Cinergy and its related company, Uniplex Telecommunications, paid more than $1.4 million to shell companies to bribe officials of Telecommunications D'Haiti (Haiti Teleco). Charges against Cinergy itself were dismissed in February 2012. Sentencing is set for Sept. 20.

MORE FCPA: Dmitrij Harder of Huntingdon Valley, Pa., former owner of financial consulting firm Chestnut Consulting Group, was sentenced July 18 in Philadelphia U.S. District Court to 60 months in prison and $1.9 million in forfeiture for violating Foreign Corrupt Practices Act (FCPA). Harder pleaded guilty in April 2016 (see **WTTL**, April 25, 2016, page 8). He was indicted in January 2015. From 2007 through 2009, Harder paid approximately $3.5 million in bribes to European Bank for Reconstruction and Development (EBRD) official to influence applications.

DIOCTYL TEREPHTHALATE: In 3-1 final vote July 20, ITC found U.S. industry is materially injured by dumped imports of dioctyl terephthalate (DOTP) from Korea. Vice Chairman David S. Johanson voted no.

HIZBALLAH: House Foreign Affairs Committee Chairman Ed Royce (R-Calif.) and Ranking Member Eliot Engel (D-N.Y.) July 20 introduced bill to increase sanctions on terrorist group Hizballah (H.R. 3329). President Obama signed Hizballah International Financing Prevention Act of 2015 (H.R. 2297) in December 2015 (see **WTTL**, Dec. 21, 2015, page 16). "U.S. cannot allow Hezbollah to threaten our ally Israel and undermine our interests in Syria. These sanctions will severely limit Hezbollah's financial network and transnational criminal activities, as well as crack down on its backers – most importantly Iran," Royce said in statement. Sens. Marco Rubio (R-Fla.) and Jeanne Shaheen (D-N.H.) introduced companion Senate bill (S. 1595) at same time.

USDA: Administration announced July 19 intent to nominate Ted McKinney to be Agriculture under secretary for trade and foreign agricultural affairs. McKinney has been director of Indiana State Agriculture Department since 2014. He spent 19 years with Dow AgroSciences and 14 years with Eli Lilly subsidiary Elanco as director of global corporate affairs.

RUSSIA: White House July 20 sent Senate nomination of Jon Huntsman, Jr. to be ambassador to Russia. Huntsman is chairman of Atlantic Council's Board of Directors. He served as ambassador to China from 2009-2011 and ambassador to Singapore from 1992-1993. He was Utah governor from 2005-2009 and previously served as deputy USTR and other government roles.

USTR: Administration July 20 announced intent to nominate C.J. Mahoney to be deputy USTR for investment, services, labor, environment, Africa, China and Western Hemisphere. Mahoney is partner at Williams & Connolly LLP. Prior to joining law firm, Mahoney clerked for Judge Alex Kozinski, U.S. Court of Appeals for Ninth Circuit.

ENERGY TRADE: Industry groups July 21 launched Energy Trade Action Coalition (ETAC) to fight "misuse of trade remedies with an initial focus" on Section 201 petition on imported solar components filed in April (see **WTTL**, May 1, page 1). Launch press release includes statements from conservative groups including Heritage Foundation, R Street and ALEC.

MTB: In advance of report on Miscellaneous Tariff Bill (MTB) due in August, House Ways and Means and Senate Finance committee leadership urged ITC to provide evidence of domestic production and consider additional information. "Any determination that domestic production exists must be based on a demonstration by the domestic producer of production or imminent production in the United States of an identical, like, or directly competitive article. Accordingly, the Committees emphasize that blanket assertions regarding domestic production without evidence demonstrating such production should be deemed insufficient," lawmakers wrote. Commission reopened MTB online portal in June (see **WTTL**, June 12, page 6).

REBAR: Commerce July 21 announced final affirmative determination in antidumping investigation of imports of steel concrete reinforcing bar (rebar) from Taiwan. Mandatory respondents Power Steel Co., Ltd. and Lo-Toun Steel and Iron Works Co., Ltd. received final dumping margins of 3.50% and 32.01%, respectively, while Commerce assigned 3.50% to all other producers/ exporters. In 2016, rebar imports from Taiwan were estimated at $53 million, department said.

KORUS: In letter July 17, leaders of House Ways and Means and Senate Finance committees reminded USTR Robert Lighthizer of obligation to consult with their committees when revisiting U.S.-Korea Free Trade Agreement (KORUS). "Even where the President exercises authorities that Congress has already delegated, Congress fully expects to be consulted in the exercise of those authorities. Accordingly, for the proposed special session of the Joint Committee to be successful, the Administration must consult closely with the Chairs and Ranking Members of the committees of jurisdiction, and Congress more broadly, throughout the process," letter noted. Lighthizer called for special joint committee under KORUS deal July 12 (see **WTTL**, July 17, page 1).

WTO: At WTO Dispute Settlement Body (DSB) meeting July 20, countries failed to reach agreement on proceedings to replace two Appellate Body members. Ricardo Ramirez-Hernandez's term expired June 30, though he continues to work on three appeals, and Peter Van den Bossche's term expires Dec. 11. … Canada circulated documents related to streamlining panelist selection; electronic filings; third-party requests for participation; and publishing procedural documents and preliminary rulings. Next DSB meeting scheduled for Aug. 31.

SHELVING: Court of Appeals for Federal Circuit (CAFC) July 18 reversed and remanded CIT ruling that imported elfa® top tracks and hanging standards were properly classified as "metal mountings, fittings and similar articles suitable for furniture." CAFC Judge Haldane Mayer concluded that subject imports instead should be classified as "parts of unit furniture," he wrote for three-judge panel in *The Container Store v. U.S*. "Just as a swivel device is an indispensable skeletal component of a revolving chair and a window frame is an indispensable skeletal component of a completed window assembly, the top tracks and hanging standards are essential skeletal components of an elfa® modular storage unit," Meyer noted.

SHRIMP: CAFC July 12 affirmed CIT ruling affirming Commerce's final results in seventh and eighth administrative reviews of antidumping duty order on certain frozen warmwater shrimp from India. "Commerce's decision to preserve the maximum amount masked dumping by zeroing the negative A-A [average -to-average] margin was a reasonable exercise of its delegated authority, to which we defer," Circuit Judge Raymond Clevenger wrote for three-judge panel in *Apex Frozen Foods Private Ltd v. U.S.*