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DDTC Issues Revised Guidelines for Preparing TAAs, MLAs

State's Directorate of Defense Trade Controls (DDTC) issued final revisions to its "Guidelines for Preparing Agreements," responding to industry comments both positive and negative. While DDTC did not identify who made each comment, it detailed whether it accepted or rejected the changes.

> DDTC posted the proposed revisions in January to reflect policy changes adopted over the last 18 months as part of export control reforms (see **WTTL**, Jan. 11, page 1). The advice for filing Technical Assistance Agreements (TAAs) and Manufacturing Licensing Agreements (MLAs) also deals with the transfer of parts and components from the U.S. Munitions List (USML) to the Commerce Control List.

Changes posted March 16 include changing Section 2.1 to "further emphasize that limited defense services via DSP-5 is only available in exceptional cases," removing the proposed language requiring all freight forwarders be identified on the DSP-5 vehicle, revising Section 3.2 to allow for sublicensee name or address changes under the Expedited Execution process, and adding clarifying language to Section 3.2.e to specify where to include the Expedited Execution clause, DDTC noted.

In addition, the agency deleted the "routine, anticipated maintenance" clarification in Section 15.5, and added clarifying language to Sections 3.3 and 16.5 on how to determine the value of hardware manufactured abroad. It also revised Section 3.9 to clarify that the section applies only to non-regular contractor employees, and updated Section 3.5.2.b to clarify that identification of dual national/third country national (DN/TCN) nationalities is not required.

Canada Takes Paper Dispute to WTO

Canada notified the World Trade Organization (WTO) Secretariat March 30 that it had initiated dispute proceedings against the U.S., challenging the 17.87 to 20.18% counter-

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vailing duties imposed on imports of supercalendered paper, often used in glossy publications. Canada claims that the countervailing measures are inconsistent with provisions of WTO's Agreement on Subsidies and Countervailing Measures.

"Our government is committed to defending the interests of Canadian companies. We are pursuing this matter in both binational and multilateral bodies to ensure trade practices are fair, allowing businesses to operate on a level playing field," said Canadian Trade Minister Chrystia Freeland in a statement.

> In November 2015, the International Trade Commission (ITC) found U.S. industry is materially injured by these subsidized imports from Canada. Canada then requested a binational panel review under NAFTA Chapter 19 of Commerce's countervailing duty (CVD) determination (see **WTTL**, Nov. 23, page 11).

The U.S. is evaluating the request for consultation and must respond within 10 days and enter into bilateral consultations within 30 days. Consultations shall not exceed 60 days unless both WTO members agree to an extension or suspension. If the U.S. and Canada cannot resolve the issue through talks, then Canada can request the dispute settlement body create a panel of experts to decide the matter.

"The U.S. Department of Commerce and U.S. International Trade Commission have both determined that Canada has been providing export-related subsidies to their super-calendered paper industry to the detriment of American manufacturers and producers," USTR spokesman Andrew Bates wrote in an email to WTTL.

The U.S. "asked Canada to remove the offending subsidies for more than two years prior to the industry filing its WTO-based CVD case; Canada refused. It is ironic now for Canada to be invoking WTO remedies to address a legitimate U.S. response to massive large Canadian provincial subsidies that caused harm to U.S. companies and workers," Bates added.

CAFC Denies Request for Review of Section 337 ClearCorrect Ruling

The Court of Appeals for the Federal Circuit (CAFC) declined March 31 to reopen a November ruling by a CAFC panel that the unfair trade rules under Section 337 of the Trade Act only apply to imports of "articles" and doesn't cover digital technology. The court denied a government request for an en banc review of the earlier decision in *ClearCorrect Operating v. ITC,* which drew a split 2-1 decision by the circuit panel (see **WTTL**, Nov. 16, page 2).

The case involved claims that technology patented by Align Technology, Inc., was being infringed by the transmission of teeth measurements to Pakistan where they were converted to specifications that were sent back to the U.S. for production of corrective devices. The International Trade Commission (ITC) had found infringement, but the appellate panel reversed that decision. While the decision to deny en banc review was

issued *per curiam*, Chief Judge Sharon Prost and Appellate Judge Kathleen O'Malley wrote a joint opinion supporting the denial. The pair had been the two votes in the panel for reversing the ITC. A dissenting opinion was written by Judge Pauline Newman, who was the dissenting voice in the first case.

"We write briefly only to address certain points newly raised by the dissent, none of which support its incorrect interpretation of the statute," Prost and O'Malley wrote in their opinion. "First, the dissent cites a hodgepodge of other legislative enactments," they argued, citing the several statutes that Newman cited in her dissent.

> "These wholly separate statutory regimes have no bearing on congressional intent regarding Section 337; what Congress has chosen to do in connection with a completely different statute is of little relevance here," they argued.

"Even if we were to accept their relevance to this case, they would prove the opposite of the dissent's point—namely, that when Congress wanted to bridge the gap between the non-digital world and the digital world, it did so affirmatively. Congress's failure to do so here supports the conclusion drawn by the panel majority, not the dissent. Moreover, the dissent is wrong to suggest that it falls on us to change the law in order to address changing times. Any action on that front must be taken by Congress, not us," they declared.

In her dissent, Newman said she wanted to elaborate on the conflicts created by the court's first ruling and to address concerns raised by *amici curiae*. "The court's decision is inconsistent with decisions of the Supreme Court, the Federal Circuit, the Court of Customs and Patent Appeals, the Court of International Trade, the Tariff Commission, the Department of Labor, the Bureau of Customs and Border Protection, the Arms Control Export Act, and the Bipartisan Congressional Trade Priorities and Accountability Act," Newman wrote.

"This court now holds that the Commission has no 'jurisdiction' to exclude infringing digital goods that are imported electronically. The court's removal of this jurisdiction conflicts with our recent decision in *Suprema, Inc. v. International Trade Commission*, 796 F.3d 1338, 1350 (Fed. Cir. 2015) (en banc), wherein the court reaffirmed that 'the legislative history [of Section 337] consistently evidences congressional intent to vest the Commission with broad enforcement authority to remedy unfair trade acts'. This conflict requires resolution," Newman contended.

Senators Urge Crackdown on Trade Violations

Ohio Sens. Sherrod Brown (D) and Rob Portman (R) spearheaded a letter to Commerce Secretary Penny Pritzker urging her to apply adverse facts available (AFA) in trade cases with foreign companies or governments that are uncooperative. AFA provides for the U.S. to "use all the information and facts otherwise available during an investigation in which the other party is not cooperating," the senators said in a statement. AFA was a compo-

nent of the Leveling the Playing Field Act (LTPF), which President Obama signed into law in June 2015 as part of the Trade Preferences and Extension Act (see **WTTL**, June 29, 2015, page 1). According to a White House fact sheet, LTPF "closes loopholes and codifies important Department of Commerce practices, providing support to domestic industry users of U.S. trade remedy laws— such as the steel and steel products, paper, and chemicals industries, as well as labor and trade unions."

> "Failure to use AFA in the face of uncooperative respondents allows trade cheats to get away with violating international trade law and prevents American manufacturers from competing on a level playing field. The result has been devastating for domestic production and employment," the senators wrote to Pritzker March 21.

The letter was cosigned by Sens. Jeff Sessions (R-Ala.), Debbie Stabenow (D-Mich.), Al Franken (D-Minn.), Richard Durbin (D-Ill.), Tammy Baldwin (D-Wisc.), Michael Bennet (D-Colo.), Joe Donnelly (D-Ind.), Joe Manchin (D-W.Va.), John Boozman (R-Ark.), Mark Kirk (R-Ill.), Amy Klobuchar (D-Minn.), Chuck Schumer (D-N.Y.), Shelley Moore Capito (R-W.Va.), Richard Burr (R-N.C.), Bob Casey (D-Pa.), Chuck Grassley (R-Iowa), Joni Ernst (R-Iowa), James Inhofe (R-Okla.), Daniel Coats (R-Ind.) and Lindsey Graham (R-S.C.).

Industry Still Unclear About Aircraft Rules

While industry still mostly supports the efforts of export control reform, most companies still want their individual products under less strict controls and are questioning specific definitions and terms that might apply.

In comments posted March 28, industry responded to another round of clarifications the Bureau of Industry and Security (BIS) and State's Directorate of Defense Trade Controls (DDTC) made to U.S. Munitions List categories VIII (aircraft) and XIX (gas turbine engines) and the accompanying 600 series on the Commerce Control List (CCL) (see **WTTL**, Feb. 15, page 6).

Esterline cited a previous rule revising the definition for "civil aircraft" following a change made at the Wassenaar Arrangement (WA) 2014 plenary meeting. "Under this definition, an aircraft is not a "civil aircraft" if it has not yet received a type certificate from a WA member state, even if the aircraft manufacturer was planning for that civil type certificate, and exclusively marketed the aircraft to and held orders from civil operators," Esterline wrote.

"This worsened a wide and poorly defined gap between 'military aircraft' and 'civil aircraft.' Industry needs to clearly understand how those aircraft are correctly classified," the company added. Boeing asked DDTC for guidance on conflicting controls on USML Category VIII and Export Control Classification Number (ECCN) 9A610 aircraft parts and components incorporating USML Category XIII coatings, materials and treatments. "One result of classifying parts or components according to their Category XIII materials,

coatings, or treatments is confusion between materials and commodities, which could have far-ranging implications," it wrote.

UTC commented that under the proposed rule, certain materials that were developed several decades ago and are clearly in commercial use may now be subject to control in ECCNs 9C610 and 9C619. The company said it "cannot easily confirm that they are not 'caught' by subparagraph (a)(l) of the 'specially designed' definition. In other words, UTC may not be able to definitively prove that these materials were not developed to have properties peculiarly responsible for achieving or exceeding the performance levels, characteristics, or functions in the relevant ECCN or USML paragraph."

> GE took issue with different types of "fluid" controls. "There appears to be a similar discrepancy between clamps related to oil lines and clamps related to non-oil fluids. GE does not believe that bent lines are significantly more important than straight lines, or that clamps for oil lines are more important than clamps for non-oil fluid lines. All fluid lines and related components should be treated similarly," it wrote.

Lockheed Martin also cited the confusion between controls on commercial and military aircraft. "Whether a commercial aircraft is derived from a military aircraft or vice versa is no longer relevant to export control jurisdiction. Control list reform was specifically intended to move away from design-origin as the basis for control and focus on critical and sensitive military capabilities. In fact, it is the integrated military systems/equipment that transforms a commercial aircraft into a viable military aircraft, not the basic airframe or performance parameters," it wrote.

"In defining military airlift platforms worthy of control on the USML, the current broad criteria does not meet this objective. The LM-100J offers no unique or sensitive military capability that would warrant control on the USML. The range/payload, austere operating capability, and RO/RO capacities identified as the rationale for inclusion on the USML are all common attributes that commercial aircraft operators around the world are looking for to fulfill their civil, commercial, and humanitarian requirements," Lockheed Martin noted.

Textron also questioned the use of "range" as a parameter to distinguish between unmanned aerial vehicles (UAVs) with military and civilian uses. "Textron understands the intent behind the definition, and we share the U.S. government's desire to prevent UAVs and other aircraft from being repurposed and used for nefarious ends," it wrote.

"However, our potential customers have expressed the desire to purchase UAVs that are capable of remaining on station for extended periods of time, which requires a certain amount of fuel. As DDTC is aware, an aircraft that can fly in circles for hours over an oil pipeline or fishing territory could easily trip the MTCR range thresholds if not for operational restrictions and limitations imposed by telemetry and data links," Textron added.

Peterson Experts Refute TPP Critics' Concerns

While the Obama administration continues its hard sell on the Trans-Pacific Partnership (TPP) and partners are beginning to question the prospects for ratification, researchers at

the Peterson Institute for International Economics (PIIE) downplayed critics' concerns about the deal in its newest publication, Assessing the Trans-Pacific Partnership Volume 2: Innovations in Trading Rules.

As it did with Volume 1, PIIE hosted a forum March 28 in Washington to showcase how TPP and its side agreements offer benefits in the areas of currency manipulation, pharmaceuticals and labor (see **WTTL**, Feb. 8, page 7).

> "What [the TPP countries] have agreed is to avoid persistent exchange rate misalignments and to refrain from competitive devaluation. This is what critics of the TPP have been concerned about, this is what has been committed to by officials of the TPP countries," explained PIIE Senior Fellow Jeffrey Schott.

The Joint Declaration of the Macroeconomic Policy Authorities of TPP Countries is parallel to the trade agreement and is therefore not subject to dispute settlement, Schott explained. "But it does provide more ammunition to more effectively monitor the exchange rate policies of the member countries," he said.

"Because it does require broader disclosure of foreign exchange reserves and interventions spot and forward currency markets, data which is necessary to determine whether currencies are being manipulated for commercial advantage," Schott noted. Future TPP countries are required to abide by the joint declaration, he added.

Biologics protection is another area in which the Peterson report differs from critics. PIIE nonresident fellow Lee Branstetter said that controversial provisions in TPP were included in previous TRIPS-Plus free trade agreements (FTAs) with "no statistically significant impact on imported drug prices, longevity, infant mortality, or the ratio of health expenditures to GDP." Pharmaceutical opponents upset with eight-year protections rather than the 12 years the U.S. currently has in place, greatly exaggerate potential negative outcomes, he said.

Labor unions, too, have been vocal in their opposition to TPP, but PIIE research associate Cathleen Cimino-Isaacs said labor protections in the TPP were a good step toward raising labor standards, particularly in the Asia-Pacific.

TPP does upgrade NAFTA (where labor cooperation was not part of the core text but was relegated to side agreements), and TPP upholds and expands upon the May 10, 2007 agreement. In addition, the deal includes bilateral labor plans for Brunei, Malaysia and Vietnam, which have the lowest labor standards, according to the International Labor Organization (ILO).

Though the TPP includes language that addresses "acceptable conditions of work," the enforcement of ILO rights in export processing zones, and the discouragement of forced labor, Cimino-Isaacs conceded that the language could be stronger, but is still an upgrade from past trade deals in relation to labor rights. "Of recent FTAs, TPP does include the most ambitious labor obligations. That doesn't mean it addresses all of the concerns of

labor advocates, I would argue that it does, however, move the labor agenda forward," she said. At the same time, a number of big players came out in support of TPP the week of March 28, including the Outdoor Industry Association - albeit with some objections by four of the industry group's board members - and the Internet Association (IA).

"The Internet industry is encouraged that the TPP recognizes the Internet as an essential American export, and supports the agreement's passage. Historically, pro-Internet policies have been absent from trade agreements, which is why the TPP is an important step forward for the Internet sector that accounts for 6% of the GDP and nearly 3 million American jobs," said IA president and CEO Michael Beckerman in a statement March 30.

The endorsements come at a time when USTR is making a hard sell domestically. USTR Chief Agricultural Negotiator Darci Vetter, Assistant USTR for Agricultural Affairs and Commodity Policy Sharon Bomer Lauritsen, and Deputy Assistant USTR for Small Business Christina Sevilla were on the road March 29-31 championing the TPP to stakeholders in Arkansas, North Dakota and Missouri, respectively.

Meanwhile, TPP partner countries are nervous about U.S. ratification prospects. In a speech at the U.S. Chamber of Commerce March 30, New Zealand Prime Minister John Key warned that the absence of U.S. leadership and participation in TPP would allow China to dominate the Asia-Pacific market. Should that occur, New Zealand would be forced to work with China on the Regional Comprehensive Economic Partnership deal.

U.S. Small Exporters Hope TTIP Will Streamline Business

Small business owners who export to the European Union (EU) explained their support for the Transatlantic Trade and Investment Partnership (TTIP) at a panel discussion in Washington March 29.

The president of a medical device manufacturer spoke about the challenges his company faces "below ground" as opposed to the "30,000 feet above ground" level where EU and U.S. negotiators operate. The duplicitous certification is a burden on his 15-person company, he said.

As it stands now, despite the FDA and the National Science Foundation (NSF) having European partners, some EU countries still require their own audits. The result is paying twice for what is essentially the same inspection. One business owner said he would like to see TTIP passed because it will streamline the auditing process.

"When the NSF comes in, why can they not do the CE certifications for their partner in Europe?" he said. "Right before Christmas, two men from Turkey, knocked on our door, day-and-a-half, I get a bill for $3,500 - travel, room, whatever their expenses for the audit. We passed no problem...but still, $3,500 unbudgeted for and that's part of the agreement, you have to pay them." Differing customs standards and inspection times in European

countries is another barrier for small and micro exporters who have neither the capital nor the experts to help them navigate the different standards, a business owner from Alabama shared.

> "If you have $100 million you can make with your product, and $30 million is here and $70 million is there, then why wouldn't you want to go tap into that $70 million as simple and as inexpensively as possible? And that's the way I look at this trade agreement," the Alabama business owner said.

"We are running through the tape" in terms of getting the deal done, one EU official said, but cautioned, as European Commissioner for Trade Cecilia Malmstrom has repeatedly, that while there is urgency to get the deal done this year, participating countries will not pass a TTIP-lite.

The same officials emphasized that TTIP negotiations have nothing to do with the conversation surrounding TPP in Congress, though the trade deals are sometimes conflated. The Bertelsmann Foundation, which sponsored the panel discussion, found through their TTIP Town Hall program that while there is "great potential for TTIP," communication with American stakeholders is lacking.

USTR Still Doesn't Quantify Foreign Trade Barriers

After 31 years of issuing its annual National Trade Estimate (NTE) of foreign trade barriers, the U.S. Trade Representative's (USTR) office still is unwilling or unable to put a dollar price tag on what all those restrictions are costing U.S. business. In the 31st annual report issued March 31, the office said it would not release figures involving disputes that are under negotiation.

The few financial estimates it makes are often based on industry projections or complex supply and demand price elasticity calculations. "The resulting estimate of lost U.S. exports is approximate, depends on the assumed elasticities, and does not necessarily reflect changes in trade patterns with third countries," the report states.

"The task of estimating the impact of nontariff measures on U.S. exports is far more difficult, since there is no readily available estimate of the additional cost these restrictions impose," it says. "Without detailed information on price differences between countries and on relevant supply and demand conditions, it is difficult to derive the estimated effects of these measures on U.S. exports. Similarly, it is difficult to quantify the impact on U.S. exports (or commerce) of other foreign practices, such as government procurement policies, non-transparent standards, or inadequate intellectual property rights protection," it explains. Over the years, despite negotiation of numerous trade agreements and dispute settlement, the size of the NTE has not shrunk. This year's 474-page result covers trade barriers in 61 countries, the Arab League and the European Union (EU) and addresses everything from tariffs, nontariff barriers, phyto-sanitary

and sanitary restrictions, to government procurement, standards, import and customs procedures, quotas and intellectual property protection.

As in previous years, the USTR's office used the report's release to tout its accomplishments and highlight barriers that it has succeeded in eliminating or at least commitments it has received to drop restrictions.

> "The Obama Administration has worked tirelessly on a global scale to erase these barriers and guarantee American workers, farmers, and businesses the economic opportunities they deserve across the world," said USTR Michael Froman in the release.

The report gives particular attention to the same trade partners that have been the focus of previous NTEs, including China, Japan and the European Union. The section on China covers 16 pages; Japan gets 17 pages; and the EU, 42 pages. While the U.S. succeeded in getting Tokyo into the Trans-Pacific Partnership (TPP), problems with the EU underscore the tough negotiations the U.S. has undertaken in reaching a Transatlantic Trade and Investment Partnership (TTIP) deal with the EU.

Among the many barriers cited in the EU section is slow pace for getting approval of biotech crops or genetically modified organisms. "Delays in the EU's approval process for biotech crops has [sic] prevented biotech crops from being placed on the EU market even though the events have been approved (and grown) in the United States. Moreover, the length of time taken for EU approvals of new biotech crops appears to be increasing." As of March 14, 54 biotech applications were pending review. "In practice, total approval times are taking an average of 47 months," the report notes.

The recitation of barriers in Japan is long and old. Among the continuing U.S. concerns is the planned privatization of Japan Post, the country's postal system, which also serves as a bank and insurance company.

The report acknowledged the beginning of the first phase of privatization in November 2015. "The United States continues to monitor carefully the Japanese government's postal reform efforts to ensure that all necessary measures are taken to achieve a level playing field between the Japan Post companies and private sector participants in Japan's banking, insurance, and express delivery markets," the NTE states.

An example of Japan's ingrained barriers to foreign competition is also seen in how it treats foreign rice imports, which have been the subject of past U.S.-Japan negotiations. Japan has a tariff-rate quota for rice imports, and the U.S. exported $278 million in rice to Japan in 2015. But "imports of U.S. rice under the OMA tenders are destined almost exclusively for government stocks. MAFF releases these stocks exclusively for non-table rice uses, such as industrial food processing or feed sector and for re-export as food aid," the report complains.

* * * Briefs * * *

FERROVANADIUM: Vanadium Producers and Reclaimers Association (VPRA) and VPRA members AMG Vanadium LLC, Bear Metallurgical Company, Gulf Chemical & Metallurgical Corporation and Evraz Stratcor filed antidumping and countervailing duty petitions March 28 at ITA and ITC against imports of ferrovanadium from Korea.

NEPAL: USTR March 30 asked ITC to conduct Section 131 investigation into "probable economic effect on total U.S. imports, on U.S. industries producing like or directly competitive articles, and the U.S. consumers of the elimination of U.S. import duties" on 66 textile and apparel products from Nepal. Items include certain handbags, carpets, shawls and hats. Two days earlier, USTR requested comments on country's eligibility for preferential treatment for certain articles under AGOA and GSP benefit programs (see **WTTL**, March 28, page 11).

CHINA: Customs and Border Protection (CBP) issued withhold release order March 29 against Tangshan Sanyou Group and its subsidiaries in China. Order requires detention of soda ash, calcium chloride, caustic soda and viscose/rayon fiber imported from Chinese company due to purported use of convict labor in production process. "CBP will do its part to ensure that products entering the United States were not made by exploiting those forced to work against their will, and to ensure that American businesses and workers do not have to compete with businesses profiting from forced labor," CBP Commissioner R. Gil Kerlikowske said in statement.

BIT: China did not table new negative list offer in Bilateral Investment Treaty as expected by April 1. "This outcome is disappointing, though we understand that China did reaffirm that the BIT remains a top priority for them," US-China Business Council Senior VP Erin Ennis said in statement. "To complete an agreement in 2016, China would need to table an ambitious revised offer this spring that offers significant, meaningful new market access and genuine national treatment for American companies. The closer the calendar gets to the end of the year, however, the stronger China's offer will need to be, since the time to work out the details with this administration will get shorter and shorter," Ennis added.

INDIA: India will appeal WTO ruling on origin of solar cells and modules used in country's domestic solar energy program (see **WTTL**, Feb. 29, page 1). Indian government is looking into nine U.S. states that have protective programs for their domestic manufacturers, India's Power Minister Piyush Goyal said in address to CII-Young Indians Summit March 25. "We will file a case against them soon. I am examining them," said Goyal, reported The Hindu newspaper.

TUNISIA: U.S.-Tunisia Trade Investment Council held its sixth session March 22 in Washington. Delegations reviewed opportunities for SMEs through Tunisian use of Generalized System of Preferences (GSP) program and discussed Tunisia's intent to ratify WTO Trade Facilitation Agreement (TFA) and become observer to WTO Government Procurement Agreement. Council will meet in Tunis in 2017 to review progress on mutual goals. Two-way trade between countries totaled more than $1 billion in 2015, according to USTR.

TRADE PEOPLE: Anne McKinney was named new director of investment services at SelectUSA March 31. McKinney previously served as deputy executive director of Colombian American Chamber of Commerce in Bogota and prior to that as consultant to Cisco Systems in Latin America. She also spent more than 12 years at U.S. Trade and Development Agency.

ISDS: N.Y.-based Dominion Minerals Corp moved ahead with investor-state dispute case against Panama March 29. Dominion has sole ownership of Cerro Chorcha project and exclusive extraction

of commercial quantities of minerals found at site, company said in its filing. In 2010, new Panamanian government declared site "mineral reserve," thereby prohibiting Dominion from mineral extraction, in violation of U.S.-Panama bilateral investment treaty, Dominion said. Company is seeking minimum of $268.3 million in damages.

PET RESIN: In 6-0 final vote March 31, ITC found U.S. industry is materially injured by dumped imports of polyethylene terephthalate (PET) resin from Canada, China, India and Oman and subsidized imports from China and India. Commission also made negative finding on critical circumstances for imports from India. "The domestic industry is extremely pleased that the Commission agreed and that these importers will now be subject to the discipline of trade orders to offset these practices," commented Paul Rosenthal of Kelley Drye, lead counsel to petitioners.

ACID: Compass Chemical International LLC filed antidumping and countervailing duty petitions March 31 at ITA and ITC against 1-hydroxyethylidene-1, 1-diphosphonic acid from China.

NAME CHANGE: CBP in Federal Register April 1 terminated one COAC, Advisory Committee on Commercial Operations, and established another: Commercial Customs Operations Advisory Committee, as required by Trade Facilitation and Trade Enforcement Act of 2015. New COAC will be comprised of 20 members, including two joint co-chairs, Treasury assistant secretary for tax policy and Customs Commissioner.

MISSILE TECHNOLOGY: BIS in Federal Register April 4 updates its Export Administration Regulations (EAR) to reflect changes to Missile Technology Control Regime (MTCR) agreed to at 2015 plenary meeting. Final rule revises six Export Control Classification Numbers (ECCNs) -- 1B101, 1C111, 7A116, 9A012, 9A610 and 9B106 -- "to better align the MT controls on the CCL with the MTCR Annex," BIS said.

ALUMINUM EXTRUSIONS: CIT Chief Judge Timothy C. Stanceu March 31 denied plaintiff's motion in *Aluminum Extrusions Fair Trade Committee v. U.S.* challenging Commerce ruling that aluminum frames for screen printing, with mesh screen attached, are outside scope of anti-dumping and countervailing duty orders on aluminum extrusions from China. "The court's analysis of the scope language of the Orders differs somewhat from that applied by Commerce in the Final Scope Ruling. Nevertheless, the question before the court is whether the court should grant or deny plaintiff's motion for judgment on the agency record, not whether the court agrees entirely with the Department's analysis. Because the screen printing frames would not fall within the scope of the Orders under either analysis, plaintiff's motion must be denied and judgment entered for defendant," Stanceu wrote (slip op. 16-31).

MTB: House Ways and Means Committee Chair Kevin Brady (R-Texas) unveiled new Miscellaneous Tariff Bill (MTB) process March 29. Instead of individual members introducing bills, new process would begin with petitions filed by businesses at ITC. ITC would conduct its analysis, then report to Congress "with suggested technical changes and adjustments in product scope to protect our domestic producers," committee document noted. "Action on a new MTB process is long overdue. We strongly urge Congress to work quickly and jointly to pass a new MTB process that will eliminate distortions in the U.S. tariff code," Ken Monahan, director for international trade policy at National Association of Manufacturers (NAM), wrote in blog post March 31.