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State Claims It's Fixing DDTC's Morale, Personnel Problems

State officials claim they are correcting planning, morale and personnel problems in the Bureau of Political-Military Affairs (PM) and the Directorate of Defense Trade Controls (DDTC), which is part of PM. They are reacting to a State Office of Inspector General (OIG) report released in July that cited numerous problems in the bureau, including how DDTC is organizing to deal with export control reforms (see related story page 7).

PM officials considered the report mostly positive because it acknowledged steps that were underway to address issues found by OIG investigators.

"We value the work of the Inspector General and are currently making solid progress toward addressing the recommendations to further improve our programs' performance," PM Spokesman David McKeeby told WTTL.

"Participants in pre-inspection surveys and interviews shared with the OIG team perceptions of unfairness, favoritism, and lack of transparency in hiring. In DDTC, the ongoing reorganization and the unfolding effects of the Export Control Reform Initiative on office structure and staff allocation has contributed to these concerns," the OIG report said. State's civil rights office had already ratified DDTC plans "to build confidence in fair treatment and improve sensitivity to workplace issues," it added.

Although DDTC has undergone a reorganization to deal with export reforms, the OIG said "delays in rolling out a strategic management plan that describes the changes, lack of transparency in the process, and concerns about workload shifts without commensurate staffing adjustments have affected the directorate's morale." In some cases, "confusion about eventual goals and fear of change or job loss have outweighed the benefits of the restructuring in breaking down old barriers between licensing experts and other trade controls professionals," the report (ISP-I-15-27) noted.

Report Forecasts Third Wave of Globalization in Coming Decades

The slow growth of world trade since 2009 may turn around in the coming decades, with trade projected to quadruple by 2050, claims a new report released Nov. 24 by HSBC Bank. The report, which runs counter to some doomsday forecasts of the future of trade and economic growth, looks back at two previous waves of globalization in the late

nineteenth century when globalization peaked before World War I and after 1950 and predicts a similar spurt of growth fueled by lower transportation costs, changing business models and trade liberalization, including the Trans-Pacific Partnership (TPP) and the Transatlantic Trade and Investment Partnership (TTIP).

By 2050, just as today, China, the U.S. and Germany will be the world's top exporters. The rest of the top 10 will change dramatically, however, with South Korea, India and Mexico rising to fourth, fifth and sixth position and Singapore and Vietnam joining the group at ninth and tenth place. But the Netherlands, Italy, Canada and United Kingdom will fall off the top list.

“Although there remains downside risks to the outlook, the next few years should carry the global economy into the next wave of globalisation, critically underpinned by sophisticated and pervasive digital technology that reduces international trade barriers, improves communication between cultures, levels the playing field for entrepreneurs and startups, and forms the foundation for an ‘always-on’ global economy. Our projections show that world trade is expected to quadruple in value to reach \$68.5 trillion of goods traded each year by 2050,” the report states.

On the transportation side, costs will be reduced by the introduction of larger container ships, the widening of the Panama and Suez canals, construction of new airports in developing countries, improved energy efficiency for ships and planes and the streamlining of border control processes, the report says. Also fostering growth will be the continued enlargement of the European Union, the reduction of existing internal EU trade barriers through creation of a Digital Single Market, growth of intra-Asia and intra-Africa trade, harmonization of standards, more plurilateral trade agreements such as those on electronics and services, and the lifting of trade sanctions on Iran and Cuba.

The report sees trade benefiting from TPP and TTIP. “We believe there are good reasons to be optimistic about multilateral trade liberalisation in the years ahead, with negotiations on a number of important accords advancing or close to being finalised. History tells us that lowering the taxes paid on exports or imports (tariffs) and reciprocal trade policies (free-trade agreements) promotes trade flows by opening up markets to international competition and reducing transaction costs,” the HSBC report suggests.

The third wave of globalization won't go straight up through 2050. “While our forecasts do indicate that growth in the volume of merchandise trade will be moderate after 2025, in part due to there being less to be gained from trade policy and business operating models having extracted the major gains from economies of scale, the shift to mass customisation and 3-D printing will continue to drive trade – although the gains certainly won't apply to all goods or happen overnight,” the report concedes.

JCCT Helps Keep U.S.-China Relations on Even Keel

Annual meetings of the U.S.-China Joint Commission on Commerce and Trade (JCCT) don't actually produce concrete actions but they have helped manage the bilateral relationship and kept the two sides talking about issues rather than starting trade wars. The latest meeting in Guangzhou, China, Nov. 22-23, the 26th JCCT session, continued the process of monitoring the slow opening of the Chinese market and the removal of trade irritants, particularly in China's administrative practices and rules. As with past

JCCT meetings, this session produced nebulous commitments to “fully exchanged views,” “create a favorable environment,” “work together,” “strengthen policy and information exchange,” and “expand dialogue and cooperation.” All of the commitments Chinese officials made during the talks remain to be verified by actual practice.

“We obtained firm commitments from China in the areas of competition law, intellectual property protection, standards setting, and environmental conservation that will level the playing field for our companies in China,” U.S. Trade Representative (USTR) Michael Froman said in a statement.

“Significantly, in the area of technology policy, we concluded a year of intensive engagement around proposed measures in the banking sector, by confirming that banks in China are free to resume purchasing information and communication technology (ICT) products of their choosing. While more needs to be done, we achieved significant outcomes that will benefit and help level the playing field for American businesses in China and promote the growth of China’s own innovation economy,” Froman said.

Agriculture Secretary Tom Vilsack also said progress was made on the approval of genetically modified organisms. “The Government of China indicated today it would move quickly to review the 11 agricultural biotechnology events pending approval, and continue our dialogue on access for U.S. beef. My hope is that over the next 30 to 60 days, these words are met with consistent action,” he said in a statement.

In the wake of continuing complaints from U.S. business on how Beijing is applying its Anti-monopoly Law (AML), the Chinese promised to take into consideration how the law affects intellectual property rights. “In the development of AML-related rules, China will take into account these effects and the potential effect intellectual property licensing has on eliminating or restricting competition. China’s anti-monopoly enforcement agencies are to conduct enforcement according to the Anti-monopoly Law and are to be free from intervention by other agencies,” a U.S. fact sheet on the outcome of the talks explained.

The two sides also agreed to address China’s overcapacity in steel and aluminum production. “The U.S. and Chinese governments and industry representatives agreed to hold discussions in 2016 regarding capacity, production and trade in the steel sector,” the fact sheet noted. “The two sides will exchange information on steel capacity developments in each economy through the JCCT’s U.S.-China Steel Dialogue,” it said.

The U.S. fact sheet cited concerns that China’s Integrated Circuit (IC) Industry Development Plans could hurt U.S. semiconductor manufacturers if it were not implemented fairly. It noted that China is the largest end-market for U.S. semiconductor exports. “China confirms that the Semiconductor Industry Development Plan policies are equally applicable to and available for foreign-invested enterprises. For legally binding policies and measures for promoting the semiconductor industry development, China will publish them for public comment according to the procedures and time limits of relevant Chinese laws, and to enhance policy transparency,” the fact sheet stated.

The U.S. also claimed progress on the protection of trade secrets in China. “The United States and China are committed to providing a strong trade secrets protection regime that promotes innovation and encourages fair competition. China clarifies it is in the process of amending the Anti-Unfair Competition Law; intends to issue model or guiding court cases; and intends to clarify rules on preliminary injunctions, evidence preservation

orders and damages,” the U.S. fact sheet noted. At a Nov. 22 China-U.S. CEO Roundtable, Chinese Vice Premier Wang Yang noted the goals of the fifth plenary session of the 18th Communist Party of China Central Committee. “China’s modern enterprise system building has not existed for a long time, but enjoys a fast progress. The western enterprise system has experienced development for hundreds of years, while China’s enterprise system has experienced only a few decades,” he said, according to a Chinese Foreign Ministry release.

“China’s corporate governance reform should draw on the experience of the developed countries, proceed from the reality, and make choices and make innovations in accordance with China’s national conditions, and should not just imitate or copy to accomplish in only one action,” he said.

The JCCT also discussed fisheries, food safety, intellectual property rights, pharmaceuticals, medical devices, agriculture, health care, sports broadcasts and standards. “The United States confirms that Chinese firms participate in the setting of voluntary consensus standards in the United States on a non-discriminatory basis, consistent with the rules and procedures of the relevant standards organizations,” the fact sheet added.

OIG Finds “Significant Deficiencies” in BIS Security Practices

For an agency with the word security in its title, the Bureau of Industry and Security (BIS) has “significant deficiencies” in its security practices and how it scans its systems for viruses and other intrusions and remediates problems, Commerce’s Office of Inspector General (OIG) found. Due to these shortcomings, “BIS systems are more likely to be vulnerable to cyber attack,” the OIG said in the report issued Oct. 16.

BIS was hacked in 2006, forcing employees of the Internet for months. It had to replace most of its computers (see **WTTL**, Oct. 9, 2006, page 1).

Specifically, OIG found that “(a) an outdated vulnerability scanning tool was used to identify security weaknesses, (b) required credentialed vulnerability scans were not always performed, (c) vulnerability scanning results were not reviewed to determine remediation actions, and (d) BIS had no assurance that all system components were scanned for vulnerabilities.”

In addition, the OIG said “BIS neither consistently followed the required process nor used the required tool to ensure that security weaknesses were remediated.” Not only did BIS not take corrective action to address basic IT security weaknesses for over five years, it also did not always develop plans of action and milestones (POA&Ms) in the established in Cyber Security Assessment and Management (CSAM) tool to “track the known security weaknesses, resulting in avoidance of Department oversight.” BIS did not clearly define responsibilities for remediating vulnerabilities, the OIG said.

“The findings presented in this report raise our concerns about BIS’ commitment to follow fundamental security practices required for implementing an effective continuous monitoring program. Until BIS leadership gives serious attention to effectively implementing fundamental security practices, its continuous monitoring program will not provide adequate information for BIS authorizing officials to make risk-based decisions,” it said in the report (No. OIG-16-003-A). The OIG recommended that the BIS under

secretary direct the agency's acting chief information officer (CIO) to: ensure that an accurate inventory of hardware components and software products that make up its systems is established and maintained; and establish an effective vulnerability scanning procedure to scan all components in BIS's inventory, update the vulnerability scanning tool regularly, use credentials for scanning, and review vulnerability scanning reports in a timely manner.

In addition it recommended the acting CIO: ensure that responsibility for vulnerability remediation, including patching, for BIS system components, is clearly documented; ensure that POA&Ms are created for all un-remediated security weaknesses; and implement procedures to provide accountability and greater management oversight of the POA&M process, and ensure supporting artifacts to be included in the POA&Ms.

BIS concurred with all the recommendations in the report. In a letter to the OIG, BIS Under Secretary Eric Hirschhorn said he has directed the bureau's acting CIO to "establish a robust action plan, with tasks and timelines" that "will ensure our IT security and will fully respond to your recommendations." The agency "has made progress in the areas you identify which has strengthened our IT security posture that supports our systems. But I recognize that there is more to do," Hirschhorn added.

USTR to Review Thailand Labor Practices

The USTR's office has opened a review of Thailand's worker rights' practices as part of the annual review of the Generalized System of Preferences (GSP), it announced in the Federal Register Nov. 25. The review joins ongoing USTR investigations into labor practices in Ecuador, Fiji, Georgia, Iraq, Niger and Uzbekistan under the GSP program, which was renewed in June as part of package of trade laws along with Trade Adjustment Assistance. The office will hold a public hearing on the cases in January.

The AFL-CIO filed a petition with the USTR against Thailand as part of the 2015 annual review of the GSP program. The country "is not taking steps to afford internationally recognized labor standards, including (1) the right to freedom of association (including discrimination against and victimization of union officers and activists), (2) the right to organize and bargain collectively, (3) the prohibition of any form of forced or compulsory labor, and (4) the right to acceptable conditions of work with respect to minimum wages, hours of work and occupational safety and health," the group wrote.

It asked the USTR "to withdraw, suspend, or limit the application of the duty-free treatment accorded under [the GSP program]" unless the government of Thailand "promptly works to develop a comprehensive work-plan to afford its workers internationally recognized worker rights, both in law and in practice, and, shortly thereafter, demonstrates concrete evidence of substantial implementation."

Previously, the International Trade Commission sent a confidential report and advice to USTR in August on the potential impact on U.S. business from waiving competitive need limits for GSP benefits for coconut products and certain copper alloy wire from Thailand (see **WTTL**, Sept. 7, page 5). In the Federal Register, the USTR also said it has decided to close the country practices review of worker rights in the Philippines "in view of

progress made by the government of the Philippines in addressing worker rights issues in that country.” The International Labor Rights Forum (ILRF) first filed a petition against Philippine practices in 2007, and the USTR accepted it in 2013.

CAFC Upholds Tie ITC Vote in Wind Tower Case

A three-three tie vote at the International Trade Commission (ITC) is still considered an affirmative ruling even when the affirmative votes are divided between commissioners finding injury and threat of injury, the Court of Appeals for the Federal Circuit (CAFC) decided Nov. 25. “When reviewing a divided vote of the Commission, each category of inquiry that contributes to the tie is separately determined, in implementation of the statute” and in the case of antidumping and countervailing duty investigations of utility scale wind towers from China and Vietnam, commissioners voting injury met the standard of review to produce an affirmative ruling.

In *Siemens Energy, Inc. v. U.S.*, Siemens argued that the findings of present material injury and threat of injury were incorrect. The three-judge CAFC panel said there was enough evidence in the ITC decision that a reasonable mind might accept as adequate to support those conclusions. “We conclude that the Court of International Trade correctly upheld the Commission’s affirmative injury determination,” the court rule in a decision written by Appellate Judge Pauline Newman.

The CAFC declined to address whether Commerce was correct in applying the countervailing duties prospectively in accordance with the “Special Rule” in the trade statute. “This aspect was previously sustained by the Court of International Trade, reported at *Wind Tower Trade Coal. v. United States*, 904 F. Supp.2d 1349 (Ct. Int’l Tr.2013), and affirmed by the Federal Circuit at *Wind Tower Trade Coal. v. United States*, 741 F.3d 89 (Fed. Cir. 2014) (denying injunction in view of the ‘fragmented voting pattern’ where four of the six Commissioners did not find present material injury),” Newman wrote.

Although the Wind Tower Trade Coalition, which represents domestic tower makers, questioned this result, “that ruling is the law of this case,” Newman wrote. “We discern no basis for reconsideration,” she asserted.

Judge Evan Wallach wrote a separate opinion, concurring in part and dissenting in part. “I concur in the result that the majority reaches, but write separately to ensure that what we say (or do not say) today is not misconstrued,” he wrote. “Siemens contests the ITC’s decision to combine the vote for threat of material injury with the two votes for material injury to reach a final affirmative injury determination. I agree with the majority that the unambiguous terms of the statute support the ITC’s interpretation,” he declared. “I agree with the majority that substantial evidence supports the ITC’s material injury and threat of material injury findings,” he added.

“At the end of the opinion, the majority discusses our recent decision in *Wind Tower Trade Coalition*, which addressed when antidumping and countervailing duties become effective under 19 U.S.C. §§ 1671e(a) and 1673e(a). I decline to join this portion of the decision,” Wallach wrote. “In any event, it is highly unlikely that Siemens would contest our holding in *Wind Tower Trade Coalition*, given that it had the effect of limiting Siemens’s antidumping and countervailing duty liability,” he added.

State Also Faces Challenges Using USXports

It isn't just BIS that has had problems with integrating its export licensing systems into Defense's USXports computer system. A report from State's Office of Inspector General (OIG) also noted that the Directorate of Defense Trade Controls (DDTC) has failed to address problems it has with USXports (see related story page 1). DDTC shifted its licensing system to USXports in July 2013 (see **WTTL**, Nov. 23, page 1).

State's Bureau of Political-Military Affairs (PM), of which DDTC is part, created a USXports user group to meet periodically to discuss problems with the Defense system operated by the Defense Trade Security Agency (DTSA). "However, the user group has never been formalized, nor has it held regular meetings," the OIG report noted.

"The user group developed a charter that outlines its scope and purpose with details on the points of contact in the various PM offices. However, the charter has not been finalized or approved. Further, the user group has not met since February 2013, contrary to the quarterly basis stipulated in the draft charter," the report added.

"PM intended to establish the user group as a forum for the user community to consolidate requests to DOD for future enhancements. PM officials have put the user group on hold, thinking that DOD would not make changes to USXPORTS until other Federal agencies, including the U.S. Department of Commerce, join the system. However, without a forum for PM users of USXPORTS to express their viewpoints and develop needed changes to the system, each user provides required changes to DOD individually," the report stated.

"A formalized user group that meets on a regular basis will ensure that issues and needed improvements for USXPORTS are developed and shared with DOD in a prioritized manner rather than as individual needs," the report advised. It recommended that PM finalize and approve the charter for the user group.

The OIG also noted that DDTC has several legacy systems that collect information and feed into USXports. "These systems assist with submitting and tracking license applications and registrations as well as collect information to track companies and individuals that do not conform to International Traffic in Arms Regulations guidelines. The legacy systems also track data related to individual cases and directed and voluntary disclosures of International Traffic in Arms Regulations infractions. PM has determined that these legacy systems can no longer be updated for the bureau's continued use and is working to replace them," the report explained.

Software Firm Pays BIS, OFAC for Sales to Embargoed Countries

A California software sales company agreed Nov. 24 to settle charges by BIS and Treasury's Office of Foreign Assets Control (OFAC) of violating U.S. sanctions on Iran, Sudan and Syria. Barracuda Networks, Inc. of Campbell, Calif., and its UK subsidiary agreed to pay BIS \$1.5 million and OFAC \$38,930 for selling and updating Web filtering products to individuals and entities in those countries. From 2009 through 2012, Barracuda UK sold Web filtering products including products that could be used to block or

monitor Internet activity; internet security products; and related software subscriptions, while Barracuda U.S. provided the firmware and software updates for these and other software subscriptions. “For Barracuda devices to work properly, Barracuda customers must also purchase a subscription to ‘Energizer Updates,’ which entitles the user to receive the necessary updates for the purchased product. Energizer Updates provide updates for software classified as 5D002 and include spam and virus email information, bug fixes, and firmware updates,” the BIS settlement said.

“Although sold by regional Barracuda subsidiaries such as Barracuda UK, Barracuda’s Energizer Updates are exported electronically by Barracuda from the United States and are subject to the Regulations. Energizer Updates are classified the same as the ECCN 5D002 software they update and are controlled for National Security and Anti-Terrorism reasons,” it said.

In the case of its Syrian exports, “Barracuda and Barracuda UK sold encryption items to end users identified in order documents as being located in Syria. For two orders, the ‘ship to’ address was identified as Syria. For another shipment, the purchase order made reference to Damascus or Syria. On the other two orders, the Syrian end user was identified, and following the initial sale, Barracuda UK shipped a replacement device knowing the item was destined for Syria,” BIS alleged.

The company “knew or had reason to know that it was exporting goods, technology, and services to Iran and Sudan because IP addresses associated with those countries were used to contact the company; further, Barracuda knew or had reason to know that it was exporting technology to Syrian SDNs because the SDNs were listed on sales invoices,” OFAC noted.

BIS and OFAC both noted that Barracuda voluntarily self-disclosed the alleged violations. Because the company had no prior sanctions history, OFAC said that made it eligible for a 25% “first offense” mitigation. BIS also said that the company “received significant mitigation” due to its voluntary disclosure of the alleged violations.

The company “took significant remedial steps including developing a method to disable products in sanctioned countries, prioritizing U.S. sanctions and export controls compliance by establishing an Office of Trade Compliance and hiring a general counsel with subject matter expertise in these areas, issuing company-wide a statement from the CEO about sanctions-related policy, implementing a trade compliance manual, and enhancing its sales software to include red flags for orders that may require a license,” OFAC said.

Azevedo Wants Ministerial to Focus on Developing Countries

World Trade Organization (WTO) Director-General Roberto Azevedo wants the WTO first ministerial conference in an African nation to focus on the trade needs of the WTO’s poorest members. The expectation for the Dec. 15-18 ministerial in Nairobi, Kenya, is to “deliver outcomes for both Africa and developing and least developed countries,” Azevedo told reporters Nov. 26.

Least developing countries (LDCs) are the biggest losers if the WTO “remains stuck and paralyzed and not doing anything,” but they could be the biggest winners if “a way out” of the deadlock can be found, Azevedo said. All members agree that a development

component should come out of the conference and “at least” a package for LDCs, he said. The Nairobi meeting also will look at regional trade initiatives, which cover some areas where the WTO has “no disciplines.” Trade rules usually “come to the multilateral system” from these smaller accords, Azevedo acknowledged. Nonetheless, regional initiatives can also result in different standards that can become a “burden for business,” he suggested. Countries also need to address how such agreements affect global value chains and developing countries, Azevedo said. The WTO has to be “attentive” to trade initiatives around the world, he added.

WTO members took one step toward helping developing countries with an agreement Nov. 23 at the council on Trade-Related Intellectual Property Rights (TRIPS). They agreed on a draft ministerial statement that would extend the TRIPS “non-violation” agreement until 2017.

Under WTO rules, members can seek dispute-settlement when they believe they have been deprived of a benefit even when no agreement has been violated. Since the founding of the WTO, ministerial have repeatedly extended a moratorium on this provision, which mainly applies to drug patents.

Azevedo also expects the ministerial to deal with conflicting proposals on food export subsidies, export credits, food aid and state trading enterprises. Progress will be made in Nairobi in this area, but not without a fight, he said. Food security will be back on the agenda, including a special safeguard mechanisms and the public stock-holding initiative. Something could be delivered in Nairobi, but “big gaps” remain, Azevedo admitted.

Azevedo also will use the Nairobi ministerial to tout the WTO’s achievements this year. Among them are the agreement on expanding the Information Technology Agreement (ITA), progress in talks on environmental goods and services, and the success of the dispute-settlement system, which received its 500th case this year. The ITA agreement is expected to have a “very significant economic impact” around the world, Azevedo said.

The accession of Seychelles and Kazakstan to the WTO and the pending membership of Liberia and Afghanistan also will be highlighted. Azevedo also will stress the progress in implementing the “Bali Package” adopted at the WTO’s last ministerial and in particular the Trade Facilitation Agreement (TFA). Azevedo noted expectations that the TFA will boost world exports by \$1 trillion and by \$730 billion for developing countries. He said 52 members have already ratified the accord, which is about half the number needed.

Azevedo also noted that 46 countries have notified the WTO that they intend to extend trade preference to developing countries for services trade, allowing those nations to export services exempt from other WTO rules. The LDCs Services Waiver was adopted in 2011 at the 8th WTO ministerial conference and is set to end 15 years from its adoption. The European Union notified the WTO Nov. 18 that it will apply the preference to LDCs as of that date.

WTO Needs to Address Negotiating Function, Azevedo Says

Two weeks before the WTO’s ministerial meeting in Nairobi, Kenya, WTO Director-General Roberto Azevedo holds out little hope that members will address how the organization will conduct negotiations in the future in light of the failure of the Doha

Development Agenda (DDA) to reach a conclusion after 14 years. WTO negotiations are “stuck,” he said. Agreement on a pact for future negotiations would be part of the best case scenario for Nairobi, but that’s “very unlikely,” he told reporters Nov. 26. The future of the WTO negotiating function is on the agenda for the meeting and could become a more pressing issue without progress in other areas, Azevedo said.

The WTO has never really had the discussion about how to make the system better, he noted; saying members need to figure out how to renew the negotiating function. Azevedo acknowledged divisions within the WTO about what to do about the Doha Round.

Some members want to keep the round going to preserve advances already achieved. Others want to limit future DDA work, while still others support continued work on the round but also want to explore new issues, Azevedo said. Another camp doesn’t think progress on DDA issues is possible without a reorientation. They say continuing down the same track is a waste of time and would paralyze the organization, he said. Developed countries believe the WTO is “the best forum” to negotiate and to be “active in shaping the global trade scenario,” Azevedo said.

These views are “impossible” to reconcile at this time, he conceded. The question is whether to use the same mandates and decisions or “a whole new set of terms of engagement,” Azevedo said. “That I think is the discussion,” he added. “Achieving the DDA objectives” is the goal of WTO members, Azevedo said; “I have no doubts about that.”

Trade observers in Geneva say emerging economies won’t accept a change in their status in negotiations, while the U.S. and EU won’t engage in negotiations under the status quo. Nobody believes short-term progress is possible, one source said. Multilateral progress isn’t possible unless the current state of the WTO’s negotiating function is addressed, he said.

Developing countries, however, led by India, will continue to insist on maintaining the “special and differential” treatment, which exempts them from many WTO disciplines, he noted. At the same time, China is moving from a developing country to a major industrial partner and remains focused on implementing its WTO accession protocol. That makes new concessions for China in the Doha Round very difficult, he said.

* * * Briefs * * *

CUBA: OFAC Nov. 25 updated its FAQ on Cuba travel to address whether financial institutions are “required to independently verify that an individual’s travel is authorized when processing Cuba travel-related transactions.” Answer is “No. A financial institution may rely on U.S. travelers to provide their certifications of authorized travel directly to the person providing travel or carrier services when processing Cuba travel-related transactions, unless the financial institution knows or has reason to know that the travel is not authorized by a general or specific license,” OFAC wrote.

FCPA: French power and transportation company Alstom S.A. was formally sentenced Nov. 13 in New Haven U.S. District Court for violating Foreign Corrupt Practices Act (FCPA) and will pay previously announced record \$772,290,000 fine. Case focused on bribery schemes in countries including Indonesia, Saudi Arabia, Egypt, Bahamas and Taiwan. Alstom pleaded guilty in December 2014, and two U.S. subsidiaries entered deferred prosecution agreements

with Justice, admitting that they conspired to violate FCPA (see **WTTL**, Jan. 5, page 2). Three corporate executives have also pleaded guilty, and Lawrence Hoskins, Alstom's former senior vice president for Asia, is awaiting trial in April 2016.

EXPORT ENFORCEMENT: Egyptian national airline EGYPTAIR Nov. 23 agreed to pay BIS \$140,000 to settle charges of reexporting two Boeing aircraft to Sudan without required licenses. Aircraft was classified under ECCN 9A991 and controlled for anti-terrorism reasons. Planes were flown under Sudan Airways flight numbers from August 2010 to February 2011.

BURUNDI: Citing violence against civilians and significant political repression in Burundi, President Obama Nov. 23 issued executive order imposing sanctions on government officials of central African country. OFAC added four individuals to its list of Specially Designated Nationals, including country's minister of public security, deputy director-general of national police, former minister of defense and former chief of Burundi intelligence service. "I'm glad the Obama administration is taking this important step, but make no mistake: more must be done, now. If the conflict in Burundi is allowed to continue, I fear that mass atrocities could be just around the corner," House Foreign Affairs Committee Chairman Ed Royce (R-Calif.) said in statement. Previously, White House Oct. 30 notified Congress of intent to terminate AGOA benefits for Burundi as of Jan. 1, 2016 (see **WTTL**, Nov. 9, page 10).

PRINTERS: CIT Senior Judge R. Kenton Musgrave agreed Nov. 23 with Xerox Corp. that its iGen3 Digital Production Press is part of automated data processing (ADP) system and thus imports of pre-clean dicorotron high-voltage power supply units for that press are duty free. Customs had argued machine was printing press and part should be subject to 1.5% duty. "All in all, the evolution of Johannes Gutenberg's machine to unimpressive digital print is rather impressive. That the iGen3 can perform operations formerly or alternatively performed by non-ADP machines does not mean that it is not an ADP unit, because, as Customs earlier pointed out, the tariff nomenclature is designed to adapt to changing technologies," Musgrave wrote (slip op. 15-132).

REBAR: In response to Commerce request for voluntary remand, CIT Senior Judge R. Kenton Musgrave sent back to department Nov. 23 its final negative antidumping determination on steel concrete reinforcing bar from Turkey (slip op. 15-130). Plaintiffs, Rebar Trade Action Coalition, Commerce and Turkish exporters differed on issues to address on remand. "In light of such confusion, with a view towards addressing all the concerns expressed above, it is appropriate that this issue also be remanded, along with the others, for further explanation or reconsideration of the support for Commerce's determination in the first instance," he wrote.

SYRIA: OFAC Nov. 25 added four individuals and six entities to list of specially designated nationals (SDNs) for providing support to government of Syria. Companies include HESCO Engineering and Construction Company, Russian Financial Alliance Bank (RFA Bank), Cyprus-based Primax Business Consultants Limited, Hudsotrade Limited and Belizean front company Kremsont Commercial Inc., which all are owned or controlled by listed individuals.

LIBERIA: President Obama Nov. 12 lifted Liberian sanctions that had targeted former President Charles Taylor and affiliates. Obama cited freely held presidential elections in 2005 and 2011; 2012 conviction and 50-year prison sentence for Taylor; "the diminished ability of those connected" with Taylor to undermine Liberia's progress, and United Nations Security Council's termination of asset freeze obligations. OFAC same day removed more than 100 entities from list of specially designated nationals (SDNs), including Taylor family members, airlines, freight companies, and Texas businessman Richard Chichakli (see **WTTL**, Feb. 27, 2012, page 4).