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Obama Reaffirms Support for Conventional Arms Exports

Current export licensing policies for conventional arms sales aren't likely to change in the near-term under a new Presidential Policy Directive (PPD-27) that President Obama issued Jan. 15, but the guidance could be used as leverage to link arms sales to U.S. foreign policy, sources say. The directive updates a policy that was last issued in 1995 and reflects a broad interagency review of licensing policies for military and dual-use items, commercial exports, human rights, proliferation and cooperation with U.S. allies.

“All arms transfer decisions will be guided by a set of criteria that maintains the appropriate balance between legitimate arms transfers to support U.S. national security and that of our allies and partners, and the need for restraint against the transfer of arms that would enhance the military capabilities of hostile states, serve to facilitate human rights abuses or violations of international humanitarian law, or otherwise undermine international security,” the directive says.

At the same time, the government “will provide support for proposed U.S. exports that are consistent with this policy,” the directive adds. This support may include “tasking our overseas mission personnel to support overseas marketing efforts of U.S. companies bidding on defense contracts; actively involving senior government officials in promoting transfers that are of particular importance to the United States; and supporting official Department of Defense participation in international air and trade exhibitions when the Secretary of Defense, in accordance with existing law, determines such participation to be in the national interest and notifies the Congress,” it declares.

“This policy is really a revalidation of a lot of stuff that sits in the backdrop of everything we do, the regulatory and policy business,” Deputy Assistant Secretary of State Ken Handelman told State's Defense Trade Advisory Group (DTAG) Jan. 16. “Ultimately, it's about foreign policy,” he said. “The good news for all of us who have to manage this system is that it's not revolutionary,” Handelman said.

Froman No-Show at Senate Finance TPA Hearing

One witness not at the table during a Senate Finance Committee hearing Jan. 16 on fast-track legislation was U.S. Trade Representative (USTR) Michael Froman. The absence

of Froman and any administration official didn't go unmentioned by Ranking Member Orrin Hatch (R-Utah). "I just want to take a moment to express my sincere disappointment that the U.S. Trade Representative did not accept my invitation to testify at this hearing today," Hatch said. "If the administration does not get more involved in this effort to pass trade negotiating authority, we're not going to be successful. It's just that simple. Put simply, this is not an issue where the President can lead from behind," Hatch added. His statement reflects the growing concern of Republicans that they will have to carry President Obama's trade agenda without much Democratic support.

At his weekly press conference Jan. 16, House Speaker John Boehner (R-Ohio) repeated his call for President Obama to become more active in backing Trade Promotion Authority (TPA) legislation (see **WTTL**, Jan. 13, page 1). "If the president means what he says about Trade Promotion Authority, I think it's time for him to pull out all the stops," Boehner said.

The day before the hearing Finance Chairman Max Baucus (D-Mont.) sounded sanguine about getting Democratic support for his TPA bill (S. 1900/H.R. 3830), including in the House. "We'll get support," he told reporters. "Trade bills are always difficult but they always pass," he said (see **WTTL**, Jan. 13, page 2).

While Baucus is pressing to report out a TPA bill from Finance before he leaves the Senate to become the next U.S. ambassador to China, his likely successor, Sen. Ron Wyden (D-Ore.), has not committed himself to the legislation. "The Finance Committee has one chairman at a time," he told **WTTL** Jan. 15. "I want to hear about the chairman's plans," he said.

Comments by Democratic senators at the hearing suggest that Baucus may have to amend his bill to address some of their concerns, particularly regarding extension of key Trade Adjustment Assistance (TAA) provisions, which is not in his bill. To do that, Baucus would have to walk a tightrope with his Republican co-sponsors, Hatch and House Ways and Means Committee Chairman Dave Camp (R-Mich.), who would likely oppose such changes. As with past trade deals, an accommodation may have to be reached to bring TAA along in parallel with TPA.

At the hearing, Baucus tried to assuage concerns over TAA. "In order for our job-creating trade agenda to succeed, we have to act, and we have to renew trade promotion authority now, as well as Trade Adjustment Assistance," he said. "TPA and TAA have always gone together, and it will be no different in this case," Baucus told the hearing.

So far, 15 Democratic senators have come out against the current fast track legislation. In a letter to Froman Jan. 9, five Finance Committee Democrats said they are not prepared to support the current framework for TPA without "mechanisms that enable Congress to hold USTR more accountable throughout the negotiation process." Ten other Democrats opposed the bill in a letter to Senate Majority Leader Harry Reid (D-Nev.) Jan. 15. "We must not return to an outdated and inadequate legislative process for shaping and approving trade agreements," they wrote.

Instead of administration witnesses, the Finance hearing featured speakers from industry, agriculture and labor. Not surprisingly, witnesses from such diverse sectors as high-tech, medical devices and apple growing said they support TPA as well as free trade agreements. Larry Cohen, president of the Communication Workers of America, testified that

his group supports global trade, and acknowledged that some form of TPA is needed. Nonetheless, he argued that stricter, enforceable standards should be put in the bill, including the International Labor Organization's conventions on freedom of association and child labor. Provisions on environmental standards and currency manipulation should also be added to TPA, he said.

The hearing showed division even in the ranks of the left. Protesters held up signs at the start of the hearing totally opposing TPA. After the hearing they shouted out complaints that Cohen wasn't seeing the forest for the trees in expressing support for a modified fast-track bill. Afterwards, Cohen told WTTL that he didn't think the current bill would come to a vote on the floor as it is now drafted. If the bill came to the floor without change, "we'd be working against it," he said.

Honeywell Chairman and CEO David Cote, who testified on behalf of the Business Roundtable, conceded the need for a balanced approach to trade legislation to address legitimate concerns about labor and environmental laws, helping those disrupted by trade and adherence to agreements. "If the U.S. is not in the vanguard of pursuing new agreements, we risk falling behind other countries," he said.

When asked about the hearing, White House Spokesperson Jay Carney told reporters Jan. 16 that passing TPA "is a priority of the president's." He said the administration is "going to continue to push for it."

Conservative Groups Oppose Fast-Track, Pacific Trade Deal

There may be fewer Republican votes for pending trade legislation and future trade deals than hoped due to strong opposition that numerous tea party-related organizations announced Jan. 14 to fast-track negotiating authority and the Trans-Pacific Partnership (TPP). A letter to all House and Senate members from groups calling themselves "Patriot Organizations" said they opposed both fast-track and TPP. The opposition from these groups is one reason GOP leaders have insisted on getting at least 50 Democratic votes for the measures (see WTTL, Jan. 13, page 1).

"We write to demand that you oppose the Obama administration's Trans Pacific Partnership global governance agreement...and Fast Track authority. These initiatives are threats to our constitutional republic and our economy," declared the letter from the Coalition for a Prosperous America and 57 "liberty organizations" and tea party groups mostly from Florida and Alabama.

While it is too early to tell how many Republicans will oppose recently introduced bipartisan fast-track legislation (S. 1900/H.R. 3830), also known as Trade Promotion Authority (TPA), 22 mostly conservative GOP House members wrote to President Obama in November to raise objections to fast-track rules. The combined opposition to trade legislation from both conservative and progressive groups will create a strange mix of political bedfellows when the measures come up for votes.

In their letter to lawmakers, the liberty organizations complained that TPP "will transfer large swaths of our sovereignty to international institutions and tribunals." It said the majority of the deal "is about global governance rather than trade. Unelected bureaucrats

are negotiating away federal authority in areas including financial regulation, copyrights, patents, immigration, energy, food safety, energy policy, labor and government procurement.” TPP would also infringe on states’ rights, they wrote. The letter claimed that President Obama wants fast track “to push this anti-sovereignty agreement.”

U.S., China Fling Cross Charges over Electrical Steel Cases

If two trading partners both claim the other’s exports are being dumped and injuring their domestic industry, who’s right? In the trade war over grain-oriented electrical steel (GOES) between the U.S. and China, the answer may be both. In the tit-for-tat battle over GOES trade, the U.S. took China to the World Trade Organization (WTO) over Chinese antidumping duties on imports produced by U.S. steel producers AK Steel Corporation and Allegheny Ludlum LLC. Those companies have now filed antidumping petitions against GOES imports from China.

Although the U.S. won its case at the WTO, U.S. Trade Representative (USTR) Michael Froman announced Jan. 12 that the U.S. was requesting consultations with China on Beijing’s alleged failure to comply with the 2012 WTO ruling that the Chinese improperly found injury to their industry from dumped imports of GOES from the U.S.

If China doesn’t agree to consultations, the U.S. will ask the WTO Dispute-Settlement Body (DSB) to seat a compliance panel in Geneva to hear its complaint. China has already agreed not to block that request. A panel could take six to nine months to issue a ruling. “We were right, and China was wrong. The WTO found that China’s duties are inconsistent with WTO rules,” Froman said at a press conference announcing the decision. “Unfortunately, it appears that China has not corrected those inconsistencies,” he added. Attorneys for the USTR’s office said they are not seeking recompense, but rather asking the panel to “affirm our views.”

After the WTO ruling, China said it reexamined the case and still found injury. “After the reexamination, the Ministry of Commerce ruled that there were dumping of and subsidies for imports of grain oriented flat-rolled electrical steel originated in the U.S.; China’s domestic industry of grain [sic] oriented flat-rolled electrical steel was substantially damaged, and there was causal relationship among the dumping, the subsidies and the substantive damage.” China’s Ministry of Commerce wrote in August 2013 after an extension of the deadline to comply with the ruling (see **WTTL**, May 6, 2013, page 8).

In the antidumping case that AK Steel, Allegheny Ludlum and the United Steelworkers (USW) brought against GOES imports, the International Trade Commission (ITC) determined in an unanimous preliminary vote Nov. 19 that U.S. industry may be materially injured by dumped imports of GOES from China and several other countries. The two companies are the only makers of GOES in the U.S.

Controls Hurt UAV Exports, Advisors Contend

U.S. export licensing rules and procedures hurt the ability of U.S. firms to compete effectively in the rapidly growing global market for commercial unmanned aerial vehicles

(UAVs), State's Defense Trade Advisory Group (DTAG) advised Jan. 16. Because the U.S. considers UAVs to be military items subject to the Missile Technology Control Regime (MTCR), licensing review time for these products is long, involves extensive interagency consideration, including by armed services branches, and produces licenses with provisos that undermine chances for a sale, a DTAG working group complained.

The working group noted forecasts that there will be 20,000 commercial UAVs operating in the U.S. by the middle of the next decade. UAVs are being used commercially in disaster relief, agriculture, law enforcement, border patrols, mapping and demographics, the group's report said.

The group also pointed to widespread foreign availability of UAVs in some 80 countries, with countries such as Israel, China and Russia producing UAVs or helping other countries build them. It said Israel exported \$4.5 billion's worth of UAVs from 2005 to 2010, twice the value of U.S. exports.

DTAG urged State to clarify the definition of "military" in the International Traffic in Arms Regulations (ITAR) to make it less ambiguous. UAVs should not be considered military if they are intended for non-combat use and are certified for civil end-use, it said. DTAG said further changes are needed in U.S. Munitions List (USML) Category VIII (aircraft) and Commerce Control List (CCL) categories to eliminate confusing and overlapping controls on UAV systems, launch and recovery systems, navigation equipment, flight controls systems and communications systems. It also called for shorter licensing review times, expedited treatment for exports going to MTCR members and more transparency on licensing decisions.

Bureau of Industry and Security (BIS) Assistant Secretary Kevin Wolf, who attended the DTAG meeting, conceded that officials "couldn't figure out how to define UAVs" when they were drafting changes to Category VIII. "We still don't have a clear answer on a definition," he added. Wolf also complained that industry didn't provide useful comments on proposed changes to the category when they were published. If there are still civil UAV applications on the USML, "tell us," he urged.

Where firms are uncertain about which controls apply, "the most authoritative way [to be certain] is a commodity jurisdiction decision," State Deputy Assistant Secretary Ken Handelman told DTAG. He said there has been a lot of thinking in the government about UAVs and officials have gotten the message from industry. They expect to have a lot of "dialogue with industry and foreign partners about UAVs," Handelman said.

Advisors Cite "Unintended Consequences" of Export Reforms

Although the exporting community has been overwhelmingly positive about the export control reform (ECR) initiative, State's Defense Trade Advisory Group (DTAG) Jan. 16 still identified six major "unintended consequences" from the changes to export regulations and policies. Many of industry's concerns involve the differences between State's enforcement policies and those of BIS' Office of Export Enforcement (OEE). DTAG adopted a working group report that noted the more than 86 Federal Register notices that have been published in the last three years on ECR changes and burden that has placed on industry. "There is a cost that industry is bearing with the implementation

of ECR,” said working group member Alfred Furrs of BAE Systems. One concern for industry is the different approaches that State and OEE take to enforcement. Directorate of Defense Trade Controls (DDTC) consent agreements generally deal with an exporter’s failure to manage existing authorizations, while OEE is focused on stopping proliferation, DTAG members noted. As firms shift from DDTC to OEE enforcement, “we are looking for a level of sensitivity,” Furrs said in presenting the working group report.

Other concerns questioned how voluntary self-disclosures will be handled for items moved from the USML to the CCL, the temporary destabilization of industry compliance programs, the cost to industry of implementation, managing authorizations for items moved to the CCL but still supporting existing Technology Assistance Agreements (TAAs) and restrictions on the use of License Exception Strategic Trade Authorization (STA).

Deputy Assistant Secretary of State Ken Handelman told DTAG that the government had two options in implementing ECR. It could “pull off the Band-Aid” or apply “water torture” to industry and implement it slowly. Despite the immediate burdens and concerns about implementation, he said he sees it as “an investment in the future bottom line.” He also played down industry concerns about enforcement. The compliance cases he has seen during his brief time at State have overwhelmingly involved companies that “were doing something nefarious and deliberate,” he said.

Twenty Years On, No Agreement on NAFTA Benefits, Damage

Twenty years after the North American Free Trade Agreement (NAFTA) was enacted, the trade pact still engenders controversy and disagreement over whether it helped or hurt the U.S. economy and jobs. Who can forget presidential candidate Ross Perot’s warning that NAFTA would create a “great sucking sound” of jobs going to Mexico? Two decades after the deal went into effect, supporters and opponents appear to be using conflicting data to continue their debate.

At a House Foreign Affairs Committee Western Hemisphere subcommittee hearing Jan. 15, former USTR Carla Hills, who negotiated most of the deal, defended the pact, saying it “achieved broader and deeper market openings than any prior trade agreement anywhere in the world.” She rejected claims that NAFTA has depressed wages, citing studies by economists at Yale University and the Federal Reserve that concluded that wages when adjusted for inflation have risen as a result of the NAFTA in all three countries.

“It is widely agreed that the market openings created by the agreement generated a substantial increase in jobs connected to exports, which on average pay 15 to 20% more than jobs that are purely domestically focused,” she said. “Intra-regional trade flows have increased roughly 400% from roughly \$290 billion in 1993 to over \$1 trillion in 2012. More than \$2 billion in goods and services cross our Northern border each day, while roughly \$1 billion per day cross our Southern border,” Hills noted.

Not surprisingly, non-governmental organizations like Public Citizen have a different view. “Rather than creating the promised 170,000 jobs per year, NAFTA has contributed to an enormous new U.S. trade deficit with Mexico and Canada, which had already equated to an estimated net loss of one million U.S. jobs by 2004,” Public Citizen wrote

in a report on NAFTA released Jan. 1. “NAFTA has contributed to downward pressure on U.S. wages and growing income inequality. According to the U.S. Bureau of Labor Statistics, two out of every three displaced manufacturing workers who were rehired in 2012 experienced a wage reduction, most of them taking a pay cut of greater than 20 percent,” it wrote. Other groups, including the Sierra Club and AFL-CIO, have also used the accord’s 20th anniversary to complain about its impact on labor and the environment (see **WTTL**, Oct. 21, page 8).

Leaked TPP Environment Text Spurs Battle of the Blogs

The spin battle over the Trans-Pacific Partnership (TPP) continued Jan. 15 as environmental groups and the USTR’s office waged a blog war after WikiLeaks leaked the draft text of the TPP’s chapter on environmental rules. The controversial website released text that dated from the negotiating round in Salt Lake City Nov. 24 but before the Singapore meeting of TPP ministers in December (see **WTTL**, Dec. 23, page 2).

Unlike the previous leaked chapters, this text is not bracketed, which normally indicates that there is not agreement on the language. “The following draft Trans-Pacific Partnership (TPP) environment text is without prejudice to the positions of any TPP Party,” the leaked text notes. The chapter was drafted by Canada in response to a request by TPP Ministers for a consolidated text reflecting “concerns and redlines and possible landing zones.”

The chapter is divided into 18 subsections, covering topics such as environmental goods and services, conservation, fisheries, climate change and biodiversity. The section on conservation, for example, includes each country’s commitments to: “affirm the importance of combating” illegal trade in wildlife; to “promote conservation;” and to “adopt or maintain appropriate measures that allow it to take action to prohibit the trade, trans-shipment or transaction within its territory” of wildlife.”

Without mentioning the leaked chapter specifically, the USTR’s office posted a blog Jan. 15 defending its stance on environmental protections in the TPP. The U.S. “position on the environment in the Trans-Pacific Partnership negotiations is this: environmental stewardship is a core American value, and we will insist on a robust, fully enforceable environment chapter in the TPP or we will not come to agreement,” it wrote.

“U.S. negotiators have made clear where we don’t agree with weaker TPP proposals on environmental provisions, and just how serious we are about making sure that the obligations in the environmental chapter are subject to the same enforcement processes as obligations elsewhere in the TPP, including recourse to trade sanctions,” the USTR blog noted.

The leaked draft drew immediate reaction from such groups as the Sierra Club, World Wildlife Fund and National Resources Defense Council (NRDC), which repeated their opposition to the provisions. In a joint statement, the three environmental advocates objected to the draft’s language on multilateral environmental agreements (MEAs), the dispute resolution and conservation, specifically on bans on shark finning and illegally harvested timber, wildlife and fish. “The leaked environment chapter is unenforceable and rife with weak language,” wrote Ilana Solomon, director of the Sierra Club’s Responsible Trade Program, in her own blog post Jan. 15. “Instead of committing

countries to uphold their obligations under MEAs, each TPP country is merely asked to ‘affirm its commitment’ to implement the MEAs to which it is a Party. That's like affirming that you made New Year's Resolutions rather than actually being held accountable for keeping them,” Solomon argued. She acknowledged, however, that “the text does confirm that the U.S. has been pushing to strengthen the chapter, but they face strong resistance from other TPP countries.”

Amendments to Basel III Ease Worries about Export Financing

Changes that the Basel Committee on Banking Supervision adopted Jan. 12 to its credit-risk rules have eased concerns that the reserve requirements in its Basel III directive would have hurt financing offered by government export credit agencies (ECAs), including the Export-Import Bank (Ex-Im). “After carefully considering comments received and thoroughly analysing bank data to assess potential impact, the Committee adopted a package of amendments, which pertains to the leverage ratio's exposure measure,” the committee said in a release. The original Basel III rules published in 2012 drew objections from Ex-Im, the WTO and exporting groups (see **WTTL**, Oct. 29, 2012, page 3).

In response to concerns raised by ECAs, the committee revised requirements for off-balance sheet items. “Off-Balance Sheet: Instead of using a uniform 100% credit conversion factor (CCF), which converts an off-balance sheet exposure to an on-balance sheet equivalent, the leverage ratio will use the same CCFs that are used in the Basel framework's Standardised Approach for credit risk under the risk-based requirements, subject to a floor of 10%,” the committee's release noted.

The revised text also follows a new approach for trade financing. “For short-term self-liquidating trade letters of credit arising from the movement of goods (e.g., documentary credits collateralised by the underlying shipment), a 20% CCF will be applied to both issuing and confirming banks,” the new rules state.

“This decision is of particular significance for the availability of trade finance in the developing world,” said WTO Director-General Roberto Azevedo in a statement. “This is good news for developing countries, for the expansion of their trade and for the continued growth of South-South trade flows,” he said.

Tod Burwell, president of Bankers Association for Foreign Trade, said he welcomed the changes. “Amendments on the treatment of off-balance sheet trade finance instruments recognize the intrinsically safe nature of these products and their importance to companies, consumers and job creation. Through this agreement, the Basel Committee has taken significant steps to ensure trade finance remains available and affordable to importers and exporters,” he said in a statement.

Customs Morale to Get Attention of New Commissioner

At his confirmation hearing before the Senate Finance Committee Jan. 15 to be the next commissioner of Customs and Border Protection (CBP), Richard (Gil) Kerlikowske said addressing morale problems at the agency would be one of his priorities. “If confirmed,

this will be a major priority,” he told the committee. Because CBP morale is at the bottom “there is nowhere to go but up,” he said. Kerlikowske drew almost unanimous praise from both Democrat and Republican committee members at the hearing and a pledge from Committee Chairman Max Baucus (D-Mont.) to try and move his nomination to the Senate floor as quickly as possible.

In addition to border security issues, Kerlikowske said his priorities include more attention to the trade side of CBP’s mission and continued implementation of Automated Commerce Environment (ACE). “CBP needs to continue its efforts to transform its business processes, eliminating paperwork, expanding enrollment in trusted traveler programs and deploying technology to minimize wait times at ports of entry,” said Kerlikowske, who is currently director of the Office of National Drug Control Policy.

While praising his experience and voicing support for his confirmation, committee members also tried to get commitments from Kerlikowske on such issues as faster service for foreign passengers at Kennedy Airport in New York and at the Peace Bridge in Buffalo; more ports of entry along the Canadian border with more open 24 hours a day; enforcement of antidumping orders on honey from China; better treatment of persons held for deportation; use of excess force by border agents and filling vacant positions.

After the hearing, Kerlikowske told WTTL that he is aware of the morale problems identified in a Federal Employee Viewpoint Survey. “I know from the survey that DHS [Department of Homeland Security] overall has some significant morale issues,” he said. “I think it’s been a tough few years for federal employees; the lack sometimes of outside support for their work and also some funding,” he told WTTL.

“I am going to do my best to support them,” he added. He said he didn’t know enough to say the reorganization that CBP went through when DHS was created contributed to the morale problems. “Anytime you reorganize and bring people together there is a lot of work to do to bring everybody on board,” he said. Kerlikowske also said the 2,000 additional border patrol guards authorized in the appropriations bill that Congress approved, although shy of the 3,800 requested, “is a great step in the right direction.”

Defense Trade Treaties Too Burdensome, Industry Complains

In reaction to industry complaints about the defense trade treaties the U.S. has with the United Kingdom (UK) and Australia, Deputy Assistant Secretary of State Ken Handelman admitted Jan. 16 that the governments “need to do a little more to make them useable.” Handelman said a report adopted by the Defense Trade Advisory Group (DTAG) on the problems with the treaties is timely because it comes as U.S. and UK officials have been discussing the pact. He said both governments recognize that unless there is a business case for using the treaty’s provisions, industry won’t use it.

The DTAG report noted that only four facilities in the UK have been designated as “approved community” members eligible to receive U.S. exports under the U.S.-UK treaty and only one facility in Australia. Two dozen applications for approved community status are pending. A DTAG working group report complained about the extra recordkeeping burdens that go with a treaty-based export, with 17 documents required versus just seven for individual license exports. In addition, it said the list of restricted

technologies and items not eligible for export under the treaties is too long. Requirements for each exported item to be labeled individually are also overly burdensome, the report said. Restrictions on which freight forwarders and foreign intermediary consignees can be used also discourage use of the treaty provisions that are intended to ease exports to the two close U.S. allies.

The DTAG report recommended updating the list of excluded technologies to be in line with export control reforms and cooperative programs; switching to positive request for proposal statements for U.S. government contracts; recognizing as regular employees dual and third-country nationals who have security clearances; deleting individual marking requirements; eliminating requirements for use of freight forwarders and foreign intermediary consignees; and aligning recordkeeping requirements with the rest of those in the International Traffic in Arms Regulations (ITAR).

* * * **Briefs** * * *

TUNA: Mexico is expected to ask WTO Dispute Settlement Body Jan. 22 to establish compliance panel to hear its complaint that U.S. has failed to comply with previous decision that U.S. labeling regulations for dolphin-safe tuna violate WTO rules (see **WTTL**, July 15, page 1). Mexico contends changes made to U.S. rules in July still create different requirements for Mexican-caught tuna and U.S.-caught tuna.

SECTION 337: Court of Appeals for Federal Circuit (CAFC) Jan. 10 affirmed ITC's Section 337 decision that Apple didn't infringe Motorola Mobility's '333 patent on application registry and communication in smartphones and ITC finding that Motorola failed to satisfy technical prong of domestic industry requirement with its Droid 2 phone. "Motorola relies on the proposition that the word 'a' in patent claims generally means 'one or more.' As a general rule, the indefinite article 'a,' when used in conjunction with the open transitional word 'comprising,' carries the meaning of 'one or more,'" wrote CAFC Judge Jimmie Reyna for three-judge panel. "But this general rule does not apply when the context of the use of 'a' within the claim clearly demonstrates that it is limited to the singular," he stated.

TAPERED BEARINGS: CIT Judge Timothy Stanceu Jan. 15 remanded to Commerce its 23rd administrative review of antidumping order on tapered roller bearings from China, saying department didn't adequately explain its use of surrogate country data (slip op. 14-4). Changshan Peer Bearing Company, Ltd., which was acquired by Swedish conglomerate, AB SKF, challenged ITA's ruling on valuation of steel bar used to produce bearings. "Although Commerce has discretion in selecting a method for valuing FOPs [factors of production], the court will not sustain the Department's selection absent reasoning that adequately explains the Department's choice," Stanceu ruled.

SODIUM NITRITE: ITC voted 6-0 in "sunset" determination Jan. 16 that ending countervailing duty order on sodium nitrite from China and antidumping duty orders on product from China and Germany would cause renewed injury to U.S. industry.

PIPE FITTINGS: In another 6-0 "sunset" vote Jan. 16, ITC said ending antidumping order on non-malleable cast iron pipe fittings from China would cause renewed injury to U.S. industry.

ITC: Senate Finance Committee Jan. 15 for second time unanimously voted to report favorably nomination of Rhonda Schnare Schmidlein to be member of U.S. International Trade Commission (see **WTTL**, Dec. 23, page 10). Her nomination was one of those withdrawn and resubmitted by President Obama under agreement with Senate.