ISSN 0276-8275

WTTLonline.com

A Weekly Report for Business Executives on U.S. Trade Policies, Negotiations, Legislation, Trade Laws and Export Controls

Washington Tariff & Trade Letter®

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Vol. 33, No. 50 December 23, 2013

Agencies Post "Myths and Facts" about Export Reforms

The Obama administration has become extremely sensitive to charges that export control reforms (ECR) will make it easier to export arms to rogue states, terrorists and human rights abusers. In reaction, it has posted a new "Myths and Facts" fact sheet on its export.gov website. The fact sheet attempts to rebut what it calls 10 myths about the impact reforms will have on U.S. foreign policy. It uncannily raises the same defense of reforms as a recent industry paper (see **WTTL**, Nov. 25, page 6).

> The first myth claims the U.S. doesn't need the reforms because it is already the world's largest arms exporter. The fact sheet's response says reforms are separate from the administration's National Export Initiative, which does seek to expand all U.S. exports. "In fact, the Administration is tightening its implementation of both U.S. and U.N. arms embargoes by adding items not previously subject to these embargoes," it contends.

Among other myths is one concerned about the export of firearms and ammunition to terrorists and drug cartels, as well as human rights abusers. "The Administration has no plans, and never had plans, to decontrol any firearms or ammunition," the fact sheet declares. "***Importantly, the Administration is not considering removing the export license requirement for any guns or ammunition, even if it proposes consolidation, regardless of which agency has licensing jurisdiction or the proposed destination,***" it declares (original emphasis).

Other myths contend reforms will reduce the government's ability to consider human rights in licensing decisions because Commerce doesn't have experience weighing this factor in its reviews. "The Department of Commerce has a long history of vetting export license applications for human rights reasons, a statutory requirement dating back to the Export Administration Act of 1969," the fact sheet asserts. In 2012, it processed over 6,000 license applications for items controlled solely for human rights reasons, it said.

Baucus' China Nomination Raises Questions about Trade Agenda

In what was Washington's worst-kept secret and the subject of multiple press reports ahead of time, President Obama announced Dec. 20 that he will nominate Senate Finance Committee Chairman Max Baucus (D-Mont.) to be the next U.S. ambassador to China,

WTTL is published weekly 50 times a year except last week in August and December. Subscriptions are $697 a year. Additional subscriptions with full-priced subscriptions are $100 each. Site and corporate licenses also available.

succeeding Gary Locke. Baucus had said previously that he would not seek reelection in 2014. Baucus, who has served in Senate since 1978, has long been leading actor on trade issues and was planning to co-sponsor fast-track negotiating authority bill, also known as Trade Promotion Authority (TPA), in January (see **WTTL,** Dec. 16, page 9).

> Because the nomination process is likely to take a couple of months, Baucus and Ranking Member Orrin Hatch (R-Utah) are expected to push to get fast-track done before Baucus leaves. The speed of a fast-track measure will depend on White House commitment to bill and its willingness to pressure Senate Democrats to go along. "If it becomes a negotiation, it will be dead," one source said.

With Baucus' departure, Sen. Ron Wyden (D-Ore.), who chairs Finance's trade subcommittee, is expected to take over the full committee. In a statement praising Baucus' nomination, Wyden didn't mention taking the chairmanship or trade but said he looks forward to "continuing my work on preserving the Medicare guarantee and protecting retirement security, updating the nation's tax system with a focus on growth, fairness and efficiency and ensuring that fiscal policy supports keeping jobs here in America." He also said energy and natural resources issues – "from restoring forests and creating jobs in the woods, to streamlining and increasing incentives for lower-carbon energy – are crucial and I look forward to pressing forward on these issues."

Philippines Eyes Joining TPP, Farm Groups Draw Line in Sand

Add one more country to the queue of those waiting to be on the Trans-Pacific Partnership's (TPP) dance card. In a press conference with Philippine Foreign Secretary Albert del Rosario Dec. 17, Secretary of State John Kerry acknowledged Manila's interest in the talks. "We discussed today the possibilities of the Philippines interest in joining the Trans-Pacific Partnership," Kerry said. "We will be welcoming an initial team to engage with us in early January to have technical discussions regarding this possibility."

> Rosario said his country's president "would like us to positively explore to what extent we can participate, and the U.S. has offered guidance, and we are accepting that offer." South Korea had previously expressed interest but has been told it will have to wait until current talks are concluded before it can come on board (see **WTTL**, Dec. 2, page 5).

Although trade ministers from the 12 TPP-participating countries failed to close the deal during their talks in Singapore Dec. 7-10, critics of a potential accord continue to cite concerns about what might be included in a final agreement. Besides members of Congress, some business groups are also raising objections to provisions. In a letter Dec. 18 to U.S. Trade Representative (USTR) Michael Froman, 17 agriculture associations said they would likely oppose a TPP agreement if it includes provisions that would allow Japan to exclude agriculture sectors.

"Japan – a rich, developed country – is demanding special treatment for its agricultural sector. We consider an agreement that includes such special treatment for Japan to be unacceptable," said the letter signed by groups representing pork, corn, rice, wheat, beef, chicken and other farm products. "If Japan continues to insist on unreasonable protections to a range of agricultural categories, we ask you to consider concluding TPP

without Japan. It will ultimately be difficult for our organizations to support a TPP agreement with Japan that does not include comprehensive trade liberalization for all agricultural sectors," the letter warned.

> Meanwhile, in a paper published Dec. 19 by the Cato Institute, a libertarian think-tank in D.C., K. William Watson argued that enactment of Trade Promotion Authority (TPA) might be useful, but "the current political climate in Washington reduces its benefits, and the late stage of the TPP negotiations raises the risk that trade promotion authority will do more harm than good." To be useful in the TPP negotiations, TPA "must subtract rather than add negotiating objectives," he wrote.

"The TPP, as envisioned by U.S. negotiators, will push forward a lot of unpopular, new U.S. demands as a condition for access to the U.S. market. None of these 'ambitious' goals — like stricter intellectual property enforcement, investment protections, and regulatory good governance — helps American consumers or furthers the goal of trade liberalization. They do, however, attract substantial political opposition at home and abroad," Watson contended.

Court Divided over "Induced Infringement" in Section 337 Case

A Section 337 case on patents for fingerprint scanners has produced a mixed decision from the Court of Appeals for Federal Circuit (CAFC) on the question of "induced infringement" and whether the International Trade Commission (ITC) can exclude products before they are imported. In a Dec. 13 decision, two members of a CAFC panel said it couldn't and one dissenter said it could. In *Suprema, Inc. and Mentalix Inc. v. ITC*, the court majority vacated the ITC's cease and desist order, vacated its limited exclusion order in part, and remanded the order so it can be revised to bar only a subset of scanners that violate patent '344. But it also affirmed part of the commission's finding of non-infringement of patent '562 and infringement of patent '933.

> "We conclude that Section 337(a)(1)(B)(I), by tying the Commission's authority to the importation, sale for importation, or sale within the U.S. after importation of *articles that infringe* a valid and enforceable U.S. patent, leaves the Commission powerless to remedy acts of induced infringement in these circumstances. Accordingly, we vacate the Commission's rulings regarding the '344 patent," Circuit Judge Kathleen O'Malley wrote for herself and Judge Sharon Prost.

"We do not agree with the dissent that today's holding will materially impact the ITC's ability to carry out its mandate," she wrote in footnote. "Our holding is far narrower than the dissent asserts; as we explain, virtually all of the mischief the dissent fears can be addressed by the ITC via resort to Section 271(a) or Section 271(c), or even to Section 271(b) where the direct infringement occurs pre-importation," she wrote. "Simply put, the issue we address today has never been presented to or decided by us. We are unpersuaded by either Cross Match's or the Commission's efforts to read more into *Kyocera* and *Alloc* than is there, O'Malley added.

In an opinion concurring in part and dissenting in part, Circuit Judge Jimmie Reyna said he opposed the ruling on ITC's authority to stop induced infringement at the border. "My

problem with the majority's opinion is that it ignores that Section 337 is a trade statute designed to provide relief from specific acts of unfair trade, including acts that lead to the importation of articles that will result in harm to a domestic industry by virtue of infringement of a valid and enforceable patent," Reyna wrote.

> "To negate both a statutory trade remedy and its intended relief, the majority overlooks the Congressional purpose of Section 337, the long established agency practice by the Commission of conducting unfair trade investigations based on induced patent infringement, and related precedent by this Court confirming this practice. In the end, the majority has created a fissure in the dam of the U.S. border through which circumvention of Section 337 will ensue, thereby harming holders of U.S. patents," he warned.

State Getting Fewer Licenses, But Commerce Not Getting More

The first transfer of licensing jurisdiction for some items that were on U.S. Munitions List (USML) Category VIII to the Commerce Control List (CCL) has reduced licenses going to State's Directorate of Defense Trade Controls (DDTC) but not caused a commensurate increase in licenses at the Bureau of Industry and Security (BIS), agency officials report (see **WTTL**, Dec. 16, page 8).

> Before the first USML to CCL transfers occurred, BIS was seeing a slight uptick in its licensing load. In fiscal year 2013, which ended Sept. 30, 2013, the agency processed 24,782 applications compared to 23,229 in fiscal 2011, Matthew Borman, BIS deputy assistant secretary for export administration, told the Practicing Law Institute's export controls program Dec. 13. Of the licenses handled in 2013, BIS approved 20,948, RWA'd 3,656 and denied only 177, he reported. The average processing time was 26 days.

Borman also noted the success of encryption rule changes BIS adopted in 2010. In fiscal 2013, the agency received 1,500 requests for formal encryption classifications, which is half the number submitted in 2010. In 2013, 1,450 firms registered as encryption exporters, he said. Borman acknowledged calls from industry for further revisions to the rules, and that is something "we will try to tackle in 2014," he said.

The BIS official also claimed that use of License Exception Strategic Trade Authorization (STA) has had a "pretty significant impact" on BIS licensing. Since the STA rules went into effect in 2011, 153 firms have used it to export controlled goods, including a handful that fall under the 600 series on the CCL, he said. There have been 2,700 shipments using STA, which means 2,700 licenses that were not applied for, Borman claimed. From July 2011 to October 2013, th value of STA exports was $253.7 million, with 38% under $2,500 in value, he reported.

TTIP Talks Focus on Regulatory Cost Savings

A recurring theme from the third round of U.S. and European Union (EU) negotiations on a Transatlantic Trade and Investment Partnership (TTIP) deal in Washington Dec. 16-20 was how an agreement could reduce business costs by eliminating "unnecessary

divergence" in regulations. While the talks covered all 24 areas that might come under an accord, it appears that special focus was given to sectoral talks on such areas as automobiles, pharmaceuticals, medical devices, cosmetics, textiles, chemicals, and infomation and communications technology. "These are sectors that both sides have indicated an interest in moving forward in terms of exploring specific sectoral commitments," Chief EU Negotiator Ignacio Garcia Bercero told a closing press conference Dec. 20.

> "In the regulatory area in particular, we are continuing our discussions of the various ways to facilitate the development of regulations on both sides of the Atlantic that both achieve the regulatory objectives, such as levels of environmental protection, consumer protection and health, but also minimize the costs and barriers to trade and investment that are caused by unnecessary divergence in these regulations," Chief U.S. Negotiator Dan Mullaney said.

A range of ideas is being discussed on how to reduce the cost of regulations, both officials indicated. Among those ideas are the mutual recognition of technical standards for cars, mutual recognition of factory inspections for drugs, devices and cosmetics, acceptance of conformity assessment results for chemicals, and sharing of information and analysis of specific products. Sectoral commitments are expected to be included in annexes to the final agreement, but how those commitments would be melded into the "architecture" of a final pact has not yet been determined, Mullaney said.

Access to energy and raw material exports was also a subject of discussion during the week. The EU wants "a clear guarantee of security of access to U.S. resources," Garcia Bercero said. Mullaney noted that there is a presumption that gas exports are in the U.S. national interest. "The negotiations can offer opportunities for increased trade, but, of course, ultimately whether trade actually takes place depends on the customers, the pricing and private-sector actors," Mullaney stated.

Investor-state dispute settlement issues also were on the agenda. Garcia Bercero noted that nine EU members already have bilateral investment treaties (BIT) with the U.S. containing such provisions and they are also in BITs the EU has with other countries. Mullaney stressed the importance of investor protection in trade agreements but also Washington's "key goal" of protecting the right to regulate. "That is something we will never negotiate away," he declared.

The next round of talks will be in Brussels, but no date has been announced yet. The negotiators said they expected to present specific tariff-cutting offers early next year. Negotiations will continue in all areas, including on rules of origin for textiles and apparel. The two officials emphasized that no deadline or timetable has been set for completing the negotiations.

Before the talks began, leaders of AFL-CIO, International Trade Union Confederation (ITUC) and European Trade Union Confederation (ETUC) warned that inclusion of U.S proposals on drug and device pricing in TTIP and Trans-Pacific Partnership (TPP) "could threaten various national health systems." In a letter to USTR Michael Froman and EU Trade Commissioner Karel De Gucht Dec. 12, they said "cross-fertilization of these provisions with the investor-to-state dispute settlement (ISDS) and other provisions of the investment chapters could give private companies excessive power to challenge societal choices about how to best protect public health."

Lower Tariff for Yarn Triggers Higher Rate for Sweaters

When is a lower tariff rate a bad thing? Answer: In the perverse world of U.S. textile and apparel tariffs, when it comes with a new tariff classification that hurts sales to finished goods makers. That's the dilemma that Best Key Textile, Inc., claimed it faced when Customs and Border Protection (CBP) issued a revocation ruling changing the classification of the firm's BKMY yarn from "metalized yarn" with a duty rate of 13.2% to "polyester" yarn with a rate of 8%.

> In its suit before the Court of International Trade (CIT), Best complained that the change in classification might cause sweaters made with the yarn that it and other companies planned to import to be classified as polyester sweaters with a higher rate than metalized-yarn sweaters. CIT Senior Judge R. Kenton Musgrave Dec. 13 didn't buy that argument and dismissed Best's plea for its original tariff to be restored (slip op. 13-148).

After initially classifying the sweaters as polyester sweaters with a rate of 32%, CBP reconsidered and classified them as man-made fibers "other" with a rate of 6%. Best thought they should be classified with a rate of 5.6% and claimed the change left sweater makers uncertain about the rates for their products.

"The plaintiff also avers that in seeking to confirm the 'duty rate benefits' of the Yarn Ruling, it made, or ordered made, a garment, the 'Johnny Collar' shirt, comprised of BKMY, and it requested from Customs a ruling concerning the garment's classification," Musgrave noted. "Under the current status quo resulting from the Revocation Ruling, if the plaintiff were to import the yarn into these United States, the yarn would benefit from the lower duty rate resulting from the Revocation Ruling," he said.

"It is therefore plain that the importance to the plaintiff here is not the U.S. duty rate on the yarn, but the duty rate on garments made of it," he wrote. "But the duty rate charged to those importers is beyond any of the plaintiff's interests that the provisions of section 1581 are meant to protect," Musgrave continued. "Even if the plaintiff is protecting its own financial interests by extension, it has no authority or standing to assert the claims of those remote parties under 1581(i) in its action here, as that statute to be strictly construed," he ruled.

Commerce Failed to Follow its Own Regulations, Court Rules

The Court of Appeals for Federal Circuit (CAFC) Dec. 13 upheld the CIT's ruling that Commerce violated its own regulations when it ordered Customs to suspend retroactively liquidation of imports of laminated woven sacks from China. "Commerce erred in failing to conduct a formal scope inquiry in this case because the scope of the original antidumping order was unclear," wrote Circuit Judge Alan Lourie for three-judge panel in *AMS Associates v. U.S.* (see **WTTL**, July 1, page 5).

"Here, if Commerce and LWSC [Laminated Woven Sacks Committee] wanted to prevent Shapiro and Aifudi's alleged circumvention of the anti-dumping duty order, then they could have utilized and abided by the statutory and regulatory provisions that authorize Commerce to investigate such allegations. But Commerce did not engage in a scope

inquiry pursuant to its own procedures and formalities detailed in 19 C.F.R. Section 351.225," he wrote. Although Commerce normally would be given deference to interpret its regulations, the CAFC found the department "is neither entitled to deference nor given controlling weight if it is 'plainly erroneous or inconsistent with the regulation'."

> When Commerce "clarifies" the scope of an existing antidumping order that has an unclear scope, "the suspension of liquidation and imposition of anti-dumping cash deposits may not be *retroactive* but can only take effect 'on or after the date of the initiation of the scope inquiry'," it declared. "The unambiguous plain language of the regulation only authorizes Commerce to act on a *prospective* basis, and such express prospective authorization reasonably is interpreted to preclude retroactive authorization; *expressio unius est exclusio alterius*," the ruling stated (original emphasis).

Microsoft Meets "Domestic Industry" Criteria, CAFC Decides

Motorola failed to convince the Court of Appeals for the Federal Circuit (CAFC) that Microsoft doesn't qualify as a "domestic industry" under the unfair trade rules of Section 337. In a Dec. 16 ruling in *Motorola Mobility v. ITC,* the appellate court upheld an International Trade Commission (ITC) decision that Motorola had violated Microsoft's '566 patent on a mobile device component and also that Microsoft had met the "domestic industry" requirement.

> "With respect to the domestic industry requirement, both the administrative law judge and the Commission rejected the assertion that Microsoft was relying on separate products for the technical and economic prongs," wrote CAFC Chief Judge Randall Rader for the three-judge panel in *Motorola Mobility v. ITC.* "The Commission affirmed the finding that the operating systems were significant parts of the mobile devices running those operating systems," Rader wrote.

The '566 patent covers a personal information manager (PIM), which is typically an application that manages scheduling, communications and similar tasks. After Microsoft filed its 337 complaint in October 2010, claiming violation of nine of its patents, Motorola initially defended itself by claiming non-infringement. "However, Motorola later abandoned its non-infringement defense, conceding the issue. Motorola instead defended on the grounds that the asserted claims were invalid under 35 U.S.C. Sections 102 and 103, and that Microsoft did not satisfy the economic prong of the domestic industry requirement," Rader noted.

"Motorola had argued that Microsoft relied on mobile devices for the technical prong, while relying on the mobile device's operating systems, an allegedly different product, for the economic prong. According to Motorola, this reliance on different products for the two prongs was improper. The administrative law judge rejected this argument, concluding instead that the operating systems and mobile devices running the operating systems were a single product for purposes of the domestic industry requirement," Rader wrote. "In addition, the Commission provided a thorough summary of Microsoft's investments in facilities and equipment, employment of labor and capital, and investments in research and development," he added. At the CAFC, Motorola raised the defense of obviousness and prior art. "Motorola had the burden of proving that the asserted claims

would have been obvious at the time of invention, including identifying the scope and content of the prior art, and the differences between the prior art and the asserted claims," Rader explained. "But Motorola only proffered alleged admissions from Microsoft's expert, Dr. Smith, concerning the general state of prior art desktop-based PIMs and a general desire to implement these alleged prior art features on a mobile device. Dr. Smith's testimony was not even necessarily specific to Schedule+ or Outlook in each instance," he stated.

Trade Agencies Not Best Places to Work in Federal Government

USTR Michael Froman knew he had his work cut out for him in improving staff morale at his agency and he still does. For the third year in a row, the USTR's office ranked number 29 out of 29 among small agencies in the federal government in a survey of employee satisfaction and commitment. It scored 26.8 on a scale of 100, according to the Partnership for Public Service's (PPS) list of 2013 Best Places to Work in the Federal Government released Dec. 19 (see **WTTL**, Feb. 18, page 8). PPS collected its data April 23 through June 14, 2013, before Froman was sworn in on June 21.

> On that list of small agencies, the International Trade Commission (ITC) came in at number 9 but was recognized as the most improved small agency by the PPS. "The trade agency registered an 11.5-point gain, the largest among small agencies, in the area of strategic management, which measures employees' perceptions of whether staff have the knowledge and skills they need to accomplish the agency's goals," PPS noted.

The ITC "also increased its score on effective leadership, a primary driver of employee job satisfaction and commitment, with the score for senior leaders rising 9.6 points, the largest increase among small agencies on this issue," it said. Other small trade agency rankings included the Overseas Private Investment Corporation (OPIC) at number 6, but the Export-Import Bank was number 25 out of 29. Among 300 agency subcomponents, the Bureau of Industry and Security (BIS) ranked number 69 and the International Trade Administration came in at 222. On the list of 19 large agencies, Commerce was ranked second and State was fourth. Best among all agencies of any size was the small Surface Transportation Board with a score of 84.7.

Trade agencies are not alone in low rankings. Government-wide, the federal employee job satisfaction and commitment level dropped for the third year in a row, to the lowest overall score since the rankings were first launched in 2003, PPS noted. "The lower government-wide satisfaction score and the decreases in all 10 workplace issues came during a difficult time for federal employees, who have faced a three-year pay freeze, furloughs, hiring slow-downs and across-the-board budget reductions," it said.

U.S. Officials Trumpet Progress in Latest Talks with China

Just a month after China's Communist Party announced trade and investment reforms at its party plenum, U.S. and Chinese officials claimed progress on Sino-American economic relations at the conclusion of the 24th Joint Commission on Commerce and Trade (JCCT) in Beijing Dec. 19-20. Commerce Secretary Penny Pritzker, USTR Michael

Froman and Agriculture Secretary Tom Vilsack issued statements saying they remain positive on agreements made with China. Specifically, the U.S. delegation announced "key outcomes" in intellectual property rights (IPR), government procurement and regulatory obstacles. Among other initiatives, the U.S. Trade and Development Agency (USTDA) signed a Memorandum of Understanding (MOU) on IPR training with China's Ministry of Commerce. The goal of the MOU is to "increase the capacity and commitment of Chinese government agencies, courts and legislature to ensuring that IP is adequately protected and enforced," a USTR fact sheet noted.

> In addition, "China will accelerate its negotiation on accession to the WTO [World Trade Organization] Agreement on Government Procurement (GPA) and submit a revised offer in 2014 that is on the whole commensurate with the coverage of GPA parties," the USTR added.

On market access for U.S. beef, both sides said they "will strive for the resumption of U.S. beef access by July 2014 on the basis of mutually agreed conditions." They also will "strive for effective solutions to common concerns regarding U.S. beef trade and promote U.S. beef exports to China," the fact sheet said. With President Obama's intent to nominate Sen. Max Baucus (D-Mont.) to be the next ambassador to China, beef talks could garner even more attention (see related story page 1).

Among the important issues to the Chinese delegation were U.S. limits on China's high-tech imports. At the opening of the talks, Chinese Premier Li Keqiang Dec. 19 urged the U.S. to relax those limits. "We expect the U.S. to relax restrictions on high-tech exports to China and provide a good environment for Chinese businesses to invest in the United States," Li said according to a report by Xinhua, the official Chinese news agency.

"We have made progress during these meetings, though we still have more work to do on critical issues to further our economic relationship," Pritzker said in a joint statement with Froman Dec. 20. "The JCCT results build on the progress made during Vice President Biden's recent visit, as well as positive announcements resulting from China's Third Plenum on promoting the reform and opening of China's economy," said Froman (see **WTTL**, Nov. 25, page 4).

* * * Briefs * * *

EXPORT ENFORCEMENT: Mehdi Khorramshahgol, formerly of Centreville, Va., was sentenced in Alexandria, Va., U.S. District Court Dec. 13 to 36 months in prison and three years' supervised release for sending explosion-graded industrial parts to petrochemical company in Iran in 2008, violating U.S. economic sanctions. He was convicted after bench trial Aug. 20 (see **WTTL**, Sept. 2, page 8). Evidence at trial showed that he was part of international scheme to purchase industrial parts in U.S. for Iranian companies, including Arak Petrochemical Company, Justice sentencing memo noted.

MORE EXPORT ENFORCEMENT: Philip Chaohui He, aka Philip Hope, was sentenced to 36 months in prison and three years' supervised release in Denver U.S. District Court Dec. 18 for conspiracy to violate AECA and smuggling. He, who pleaded guilty Sept. 3, attempted to export to China radiation-hardened computer memory circuits used in satellite communications without State licenses (see **WTTL**, Sept. 16, page 8).

RUSSIA: USTR Dec. 20 issued first report on Russia's implementation of WTO accession agreement. "We believe that Russia has taken many important steps to implement all of its

WTO commitments in most areas, but at the same time, there are several areas where more progress is needed," it said. Report cited recent imposition of safeguard measure on combine harvesters, import and export regulatory regime, and combined tariffs introduced by Eurasian Economic Commission (EEC) as areas of concern.

NAFTA: ITC report Dec. 19 on probable economic effect of 212 proposed changes to NAFTA rules of origin (Pub. 4438) says none would have significant or substantial effect on total U.S. imports or industries producing those products. One change could lead to significant increase in exports of certain sauces, it finds. Only 20 proposed changes would have significant or substantial effect on increasing NAFTA trade, including for certain chemical products; diesel engines for marine propulsion; smoking pipes; sauces derived from fish and non-alcoholic preparations of yeast extract; certain electronic products; sunglasses; and various toys and games. USTR requested report March 14 after agreeing to changes in principle with Canada and Mexico (see **WTTL**, March 18, page 8).

HOT-ROLLED STEEL: In "sunset vote" Dec. 17, ITC determined that ending antidumping and countervailing duty orders on hot-rolled steel products from China, India, Indonesia, Taiwan, Thailand and Ukraine would cause renewed injury to U.S. industry. Vote was 5-0 for China, India, Taiwan, Thailand, and Ukraine and 3-2 in case of Indonesia. Commissioner Shara L. Aranoff did not participate.

CALCIUM HYPOCHLORITE: Arch Chemicals, Inc. filed antidumping and countervailing petitions at ITA and ITC Dec. 18 against imports of calcium hypochlorite from China.

ITC: Finance Committee Dec. 13 approved Rhonda Schnare Schmidtlein's nomination to be ITC commissioner by voice vote. Committee held hearing Nov. 20 (see **WTTL**, Nov. 25, page 9).

FAST TRACK: Administration is "anxious to see Congress start work on Trade Promotion Authority and Trans-Pacific Partnership," White House Deputy Chief of Staff Rob Nabors told Export-Import Bank Advisory Committee Dec. 18. "It's something that we think will boost the economy. It's something that is a key to the president's second term agenda and expanding the economy," he added. He also said he expects Obama to talk more about his National Export Initiative going into State of Union address.

TRADE PEOPLE: President Obama Dec. 17 said he will nominate Darci L. Vetter to be USTR Chief Agricultural Negotiator, replacing Islam Siddiqui who announced resignation earlier this month (see **WTTL**, Dec. 16, page 8). Vetter has been deputy under secretary for Farm and Foreign Agricultural Services at Agriculture since 2010. Prior, she was international trade advisor on Senate Finance Committee...Viji Rangaswami, who spent over 12 years working for House Ways and Means trade subcommittee, including as staff director from 2009-2012, will become vice president of federal affairs for Liberty Mutual Insurance at end of December. In January, she can be reached at Viji.Rangaswami@LibertyMutual.com and 202-289-7472.

OIL EXPORTS: Senate Foreign Relations Committee Chairman Robert Menendez (D-N.J.) expressed "deep concerns" over reported remarks by Energy Secretary Ernest Moniz, suggesting that administration could ease ban on exporting domestically produced crude oil. "Allowing for expanded crude exports would serve only to enhance the profits of Big Oil, and could force U.S. consumers to pay even more at the pump," letter to President Obama Dec. 16 said.

OFAC: HSBC Bank USA, N.A. (HBUS) Dec. 17 agreed to pay $32,400 to settle three OFAC charges of violating Global Terrorism Sanctions Regulations for authorizing payment to entities on SDN List in December 2010. "An HBUS Compliance Officer reviewing the information did not manually screen the names Hussein Tajideen and Tajco against the SDN List or recognize them as potential SDGTs [Specially Designated Global Terrorists]," OFAC alleged. Two additional funds transfers in January and April 2011 also appeared to have involved Tajco. "While

the subsequent payments did not reference a person appearing on the SDN List and each had a different originator from the originator of the December 10, 2010, payment, the payment instructions for the January 7, 2011, and April 7, 2011, funds transfers included the same order number and were destined for the same HBME [HSBC Bank Middle East Ltd.] account of the same food company as the December 10, 2010, transaction," it added. HBUS voluntarily self-disclosed apparent violations to OFAC.

UNVERIFIED LIST: In Federal Register Dec. 19 BIS issued final rule amending EAR requirements for exports to persons on Unverified List (UVL). These include: (1) requiring exporters to file AES record for all exports subject to EAR involving persons on UVL; (2) suspending availability of license exceptions for exports, reexports, and transfers (in-country) involving persons on UVL; (3) requiring exporters, reexporters and transferors (in-country) to obtain UVL statement from UVL-listed persons before proceeding with exports, reexports and transfers (in-country) that are not otherwise subject to license requirement under EAR involving such persons; (4) adding UVL to Supplement No. 6 to Part 744, and (5) adding to EAR procedures to request removal or modification of UVL entry (see **WTTL**, Sept. 16, page 2).

EXPORT-IMPORT BANK: Bank's authorization, which expires Sept. 30, 2014, "will be a tough fight this year," Ex-Im Senior Vice President for Congressional Affairs Scott Schloegel told bank's advisory committee Dec. 18. Among those in Congress who oppose reauthorization is Rep. Jeb Hensarling (R-Texas), chairman of House Financial Services Committee, which has jurisdiction over Ex-Im. Hensarling "has said it's time to exit Ex-Im Bank," Schloegel said; noting that 93 other Republicans also voted against last reauthorization. Ex-Im has drafted reauthorization bill that it will send to Office of Management and Budget next week so administration can submit proposed legislation to Congress early next year, he reported. Bank would like to have reauthorization fall in non-election year, so three- or five-year renewal may be sought. Last renewal was for three years.

WASHING MACHINES: U.S. blocked Korea's first try Dec. 18 to get WTO Dispute-Settlement Body to create of panel to hear Seoul's complaint against U.S. antidumping and countervailing duty orders against imports of residential washers from Korea (see **WTTL**, Sept. 2, page 9).

GSP: Sens. Mark Begich (D-Alaska) and Roy Blunt (R-Mo.) introduced bill (S. 1839) Dec. 17 to make certain luggage and travel articles eligible for duty-free treatment under Generalized System of Preferences (GSP).

LIBYA: U.S. and Libya signed Trade and Investment Framework Agreement (TIFA) Dec. 18. "This agreement provides a forum for the United States and the new Libya to tackle barriers to trade and investment and to deepen our commercial relationship. Our closer economic cooperation will benefit the citizens and economies of both our countries," USTR Michael Froman said in statement after signing.

IRAN: Despite fragile ongoing talks with Iran on nuclear weapons, 27 senators, including Foreign Relations Committee Chairman Robert Menendez (D-N.J.), introduced Nuclear Weapon Free Iran Act of 2013 (S. 1881) Dec. 19, under which sanctions on Iranian oil exports would be "triggered by violations by Iran of any interim or final agreement regarding its nuclear program, failure to reach a final agreement in a discernible time frame, or the breach of other conditions described in section 301." White House spokesman said President Obama would veto bill if passed. "With regards to this particular measure, we don't think it will be enacted. We certainly don't think it should be enacted," Jay Carney said in press briefing Dec. 19.

EDITOR'S NOTE: In keeping with our regular schedule of 50 issues a year, there will be no issue of ***Washington Tariff & Trade Letter*** Dec. 30 and no Midweek Update Dec. 25. Our next issue will be Jan. 6, 2014. In response to a reader survey, we will be discontinuing Midweek Updates in the new year. As always, we wish all our readers a **HAPPY HOLIDAY** and a **HEALTHY AND PROSPEROUS NEW YEAR**.