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## Final STA Rule Will Address Industry Concerns, Wolf Says

The Bureau of Industry and Security (BIS) will address many industry concerns about a proposal to create License Exception Strategic Trade Authorization (STA) in the final version, which could be published within the next few weeks, according to BIS Assistant Secretary for Export Administration Kevin Wolf. One change will be the proposal's treatment of deemed export rules. "We weren't as clear as we should have been as to whether it applied to deemed exports. It always was intended to apply to deemed exports in exactly the same way as regular exports," Wolf told an American Conference Institute export compliance forum May 24.

Wolf noted numerous complaints that the proposed requirement for exporters to obtain certifications from foreign customers who received items under the proposed STA was too burdensome. "So we'll streamline it in a way that will accomplish the government's goal, while still making it much more manageable and user friendly for exporters," Wolf promised.

"By the government's goals, what I mean is to put the foreign parties on notice that they have received this item under the authority of a license exception and that it is their obligation not to reexport it outside of that group of countries until and unless they come back to the U.S. government for permission," he explained. The rule will allow the unlicensed export of qualifying items "on the condition that the parties exchange certifications that are available to the government when we request that they not be exported outside the group of countries," he said.

Wolf also said progress is being made in determining which less significant items on the U.S. Munitions List (USML) will be moved to the Commerce Control List (CCL). Initially, items moved from the USML to the CCL will be placed in a new Export Control Classification Number (ECCN) designated as 0A606. The 0 stands for the zero category; the A for the end item; the six for the 600 series and the 06 to track the Wassenaar Munitions List.

## Vietnam Could be "Achilles Heel" of Trans-Pacific Partnership

The inclusion of Vietnam, a low-wage, communist dictatorship, in a potential Trans-Pacific Partnership (TPP) agreement could become a significant obstacle to congressional support for any final deal, a letter to U.S. Trade Representative (USTR) Ron Kirk suggests. The bipartisan letter to Kirk from 52 House members June 1 focused on the textile provisions of a potential accord, but it also highlighted Vietnam's nonmarket economy status and the need for special treatment of sensitive products, including extended duty phase-out periods. "Furthermore,



Vietnam should be required to meet certain transparency and market-based economy benchmarks before gaining benefits,” the lawmakers wrote.

The letter said textiles should be handled delicately and separately from other manufactured products in the negotiations. “Textiles and apparel account for over one-third of two-way trade between the United States and Vietnam and represent a complex area of U.S. trade policy with unique sensitivities compared to virtually all other industrial sectors. As a result, these products are not suitable for treatment under a generic formula for all manufacturing products,” they wrote.

Signers of the letter, who noted that they represent “districts with substantial textile and apparel industry interests,” argued for three main negotiating objectives: special market access rules due to Vietnam's nonmarket economy, adoption of the basic yarn-forward rule of origin for textiles and apparel with no loopholes and strengthened customs enforcement rules. “It is important to recognize that Vietnam’s textile and apparel production and export model is heavily influenced by its proximity to and its relationship with China. Like China, Vietnam has a large state-owned and subsidized textile sector. Vietnam also has an undervalued currency, weak environmental rules and lax intellectual property enforcement,” they wrote.

“Derogations from the yarn-forward rule, including tariff preference levels (TPLS) and single transformation, should not be allowed,” the letter stated. Citing fraudulent producers and weak customs rules in other trade agreements, they added, “Customs rules should be updated to include effective tracking of yarn and fabric inputs as well as other measures.” Because of Vietnam’s heavy reliance on China for yarns and fabrics, “strong customs rules are mandatory if fraudulent activity is to be contained,” they argued.

## Six Degrees of Separation from John Bryson

John Bryson, President Obama’s nominee to succeed Gary Locke as secretary of Commerce, will come to his post with lots of connections to key current and past industry and government leaders. The former CEO and chairman of Edison International, a utility holding company, is part of a high-level circle of executives and former officials with close ties to Washington plus traditional and advanced industries. Bryson serves on the board of directors of Boeing, The Walt Disney Company, the California Institute of Technology and the W. M. Keck Foundation.

One connection is Boeing Chairman James McNerney Jr., who also chairs the President’s Export Council (PEC) on which Disney CEO Robert Iger also serves. Current White House Chief of Staff William Daley was a member of the Boeing board before joining the administration.

Other Boeing board members include former U.S. Trade Representative (USTR) Susan Schwab and Ken Duberstein, who was chief of staff to President Ronald Reagan. Reagan’s Treasury Secretary James A. Baker III is a member of the board of the Keck Foundation. As a member of the Disney board, Bryson has also had contact on the board with technology and social media leaders, including Apple CEO Steve Jobs, Facebook Chief Operating Officer Sheryl Sandberg and Sybase CEO John Chen.

At a ceremony announcing Bryson’s nomination May 31, President Obama said he was confident Bryson would help the administration meet its goal of doubling exports. “In this new role, John will be able to draw on decades of business experience across a range of industries -- from his role on the boards of major companies like Disney and Boeing, to his leadership in the clean energy industry,” Obama said. But Bryson, who was a co-founder of the Natural Resources Defense Council (NRDC), an international environmental group, after law school in 1970, could play just as large a role as a link to the environmentalist community, which is unhappy with Obama administration policies. As Commerce chief, Bryson would oversee the National Oceanic and Atmospheric Administration (NOAA), which accounts for nearly 65% of the department’s budget and has responsibility for fisheries, coastal protection and endangered

species. Environmental groups have especially criticized NOAA's recent decision not to classify Atlantic bluefin tuna as an endangered species.

## Lamy Gets Cool Response to Doha "Early Harvest" Proposal

Trade diplomats and officials in Geneva are expressing skepticism about a proposal World Trade Organization (WTO) Director-General Pascal Lamy offered May 31 to produce an "early harvest" of agreements in the Doha Round for less-developed countries (LDCs). Lamy's plan, unveiled at an informal meeting of the Trade Negotiations Committee (TNC), suggests a "three-speed" approach to the deadlocked talks to have a package ready for trade ministers to endorse at their ministerial conference in December (see story below) (see **WTTL**, May 30, page 1).

U.S. reaction to the plan was particularly cool. "What we are talking about is a fundamental, radical shift in the way we think about this negotiation," Deputy U.S. Trade Representative (USTR) Michael Punke told the TNC. "While there is now much discussion about 'phasing' the single undertaking into an earlier and later set of deliverables, and while we are willing to engage constructively in that discussion, let us not fool ourselves," he said.

A European Union (EU) official said agriculture and non-agriculture market access (NAMA) talks remain "unbridgeable" with no compromise in sight. Nonetheless, there "is no reason why negotiations on the rest of the Doha single undertaking agenda should not continue," he said. "Failure to deliver a December package would be a shock of historic proportions for the entire WTO system, and we must plan our work mindful of the risks involved," the EU said. A developing country ambassador said nobody wants to drop Doha negotiations entirely and the work will continue, although there is concern about making promises that can't be kept.

Roberto Azevedo, Brazil's ambassador to the WTO, said "There are no low-hanging fruits or deliverables that we can all perceive as self-balancing." He said each attempt to add issues to an "LDC-Plus" package will be met with requests to include other elements to rebalance the package. "This domino effect will almost certainly lead to a stalemate and, at the end of the year, the WTO will have to explain yet another failure," he said. "If we absolutely need to include areas that go beyond those of immediate interest to LDCs," and into LDC-Plus, "agriculture must be a component," Azevedo said.

Lamy's proposal looks "very simple," said Nicolas Imboden, executive director of Ideas Center, a nonprofit consultancy for low-income countries, including cotton-producing African nations. Lamy wants "to save" what he thinks is on the table; however, people don't agree on what's on the table, said Imboden, a former Swiss ambassador. Lamy realized the U.S. would never agree to current NAMA and agriculture proposals, so he suggests taking them out and approving some of the rest, he explained. "I don't think it's going to fly," he said. A lot of countries appear not to want to be against Lamy's proposal because it would mean shutting down the round, Imboden said. The U.S. isn't taking any risk agreeing to proceed with the talks, because it isn't saying it will accept the compromises necessary at the end, he opined. WTO officials on the day of the TNC believed Lamy's plan had a chance, but the next day, people started to realize there "was not that much hope probably to get it going," Imboden said.

## Lamy Proposes "Three-Speed" Option to Save Doha Talks

After a month of consultations with WTO members and representatives of international organizations, WTO Director-General Pascal Lamy has concluded nobody wants to kill the Doha Round, but something has to be delivered at the Eighth WTO Ministerial Conference in December. "If not the full Round, then at least an early harvest of issues," he told an informal TNC meeting May 31. Lamy told the meeting some work toward this goal has already begun among members. "I believe we have to approach this process in a cooperative and constructive spirit," he said. "Presenting lengthy lists of demands and insisting on all of them will not help us to

move forward,” Lamy observed. “Even though the Ministerial is in December, we cannot afford a Christmas tree. We have to build ‘up’ rather than ‘down’,” he said. Lamy’s solution would place the talks on three tracks: fast, medium and slow. “The immediate challenge, then, is to generate momentum on realistic, credible and achievable targets for a positive result by the end of the year, so that we can get down to working on them without delay. His three tracks are:

“**Firstly**, priority should be given to LDC issues such as Duty-Free, Quota-Free, including Rules of Origin, the LDC Services Waiver and a step forward on Cotton. These LDC specific issues should be put on a Fast Track.

“**Secondly**, we will need an LDC-plus outcome with a significant development component by December and there are a number of issues which could be candidates for adding in to the LDCs specific issues. These issues, to come to the table through your on-going deliberative process, make up what I would call the Middle Lane.

“**Thirdly**, from my consultations there are issues like market access in NAMA, Agriculture and Services, trade remedies and TRIPS issues which you do not see as candidates for outcomes this year. If you allow me to continue with the analogy, these issues will move into a Slow Lane, it being clear that for these areas we will need to look beyond MC8 and plan accordingly latest by December 2011.”

## Ex-Im Bill Mandates Guidelines on Domestic Content

A bill (H.R. 2074) to recharter the Export-Import (Ex-Im) Bank for another four years and increase its financing limits includes provisions requiring the bank to publish “clear and comprehensive guidelines” explaining the domestic content requirements of its export financing programs. The House Financial Services Committee’s subcommittee on international monetary policy and trade reported the measure out June 1 on a bipartisan voice vote and the legislation now goes to the full committee where it is also expected to pass (see **WTTL**, May 30, page 2).

The “Securing American Jobs through Exports Act of 2011” includes specific conditions that Ex-Im must include in its guidelines. It says separate guidelines can be issued for goods and services. One provision would require Ex-Im in its financing reviews to take into account “the needs of different industry sectors to obtain financing from the Bank for exporting their products or services in order to create and maintain jobs in the United States.”

The bank would also have to explain how it will weigh the ability of companies to compete internationally when domestic content requirements are applied and the “key differences in, types of trade-offs among, and national trade promotion strategies of OECD member countries and of non-OECD member countries.” Ex-Im would be required to consider the recommendations of its private-sector advisory committee and the Government Accountability Office (GAO) on the bank’s competitiveness against the export credit agencies of other countries.

### \* \* \* Briefs \* \* \*

**EXPORT ENFORCEMENT:** Davoud Baniamერი of Woodland Hills, Calif., pleaded guilty May 31 in Chicago U.S. District Court to illegally exporting missile components and radio test sets to Iran via UAE. Baniamერი, an Iranian national, pled guilty to one count of conspiring to export dual-use goods and technology to Iran without license and one count of attempting to export defense articles without license. He admitted he and two co-defendants attempted to purchase 10 connector adaptors for TOW and TOW2 missile systems from Illinois company, which unbeknownst to them was law enforcement sting operation. Since his arrest in September 2009, he has been in federal custody. Sentencing is set for Aug. 4.

**COLOMBIA:** House Ways and Means Ranking Member Sander Levin (D-Mich.) says he will go to Colombia for five days during week of June 6 to review Bogota’s implementation of labor and human rights action plan. “This visit will provide me with the opportunity to view conditions related to worker rights, violence and impunity in relation to my fact-finding trip in January and to the provisions in the Action Plan in conjunction with the U.S.-Colombia Free Trade Agreement,” he said.