

Vol. 33, No. 29

July 22, 2013

China Benefits from Better U.S. Export System, Hirschhorn Says

China won't get any special benefits from the U.S. export control reform initiative, but "they get the benefit that everyone gets: just a system that runs better," Bureau of Industry and Security (BIS) Under Secretary Eric Hirschhorn told reporters July 16. But Hirschhorn declined to give specifics on what the U.S. meant when it promised China "fair treatment" from the reforms in a statement at the end of the Strategic and Economic Dialogue (S&ED) talks in Washington July 11 (see **WTTL**, July 15, page 1).

Hirschhorn said the main discussions with China on export controls are conducted under the bilateral High-Technology Working Group (HTWG), which is expected to meet again in the fall. Those meetings help explain U.S. export controls to the Chinese, he noted. "I think it is important that the Chinese understand that because something requires a license; that doesn't mean it's embargoed," he added. "Many things that need a license can get a license as long as it's for civilian end-use and we're satisfied that it's a civilian end-use," Hirschhorn said.

Also, when BIS revises the Commerce Control List (CCL) to decontrol items taken off the Wassenaar Arrangement list, as it did in June, the Chinese benefit from that, he said. "There was no discrimination against them in that," he added. "Certainly when things are decontrolled, the Chinese get the benefit along with everyone else," Hirschhorn said.

When items are moved from the U.S. Munitions List (USML) to the CCL, China can't get the benefit of that because the items remain defense items and subject to arms embargoes, Hirschhorn explained. Export control reforms are "mostly designed to help our allies, not other countries and certainly not embargoed countries," he stated. "There will be a lot more clarity, but learning that something is on the munitions list but you weren't sure is just learning that you can't have it," he added.

BIS Must Release Export Licensing Information, Court Rules

BIS can't rely on the now-lapsed Export Administration Act (EAA) to refuse to release information on export licenses in response to a request under the Freedom of Information Act (FOIA), a federal court has ruled. BIS "is disappointed" with the July 12 ruling

of San Francisco U.S. District Court Judge Thelton Henderson and is “examining all of our legal options for redressing this unfortunate decision,” an agency spokesman said. A Henderson ordered BIS to provide the Electronic Frontier Foundation (EFF) information it requested on export licenses for equipment used to intercept or block communications.

EAA Section 12(c), which bars the release of licensing information, cannot be invoked through the International Emergency Economic Powers Act (IEEPA) or by executive order, Henderson ruled. Of the nine exemptions the government can use to deny a FOIA request, Exemption 3 allows it to refuse to release information specially prohibited from release by statute.

“Mindful that FOIA exemptions are to be construed narrowly in favor of disclosure, the Court agrees with EFF. Commerce has not shown that there is a statute within the scope of Exemption 3,” Henderson ruled. “The IEEPA – the only statute currently in effect to which Commerce points – is not within Exemption 3’s scope,” he wrote. BIS had recognized that it cannot withhold information under Exemption 3 based on a statute that is no longer in effect and had asked the court to read Exemption 3 to permit withholding based on a “comprehensive legislative scheme” comprised of the expired EAA, the IEEPA, and the series of executive actions taken under the authority of the IEEPA.

Henderson drew a distinction between this case and two earlier cases in 2001 and 2003 where courts had ruled on the use of Section 12(c) to deny an FOIA request, *Times Publishing Co. v. Department of Commerce* and *Wisconsin Project v. Department of Commerce*. “There is one critical distinction between the present case and *Times Publishing* and *Wisconsin Project*: on November 13, 2000, while both cases were pending, Congress enacted the Export Administration Modification and Clarification Act (EAMCA), which extended the EAA’s expiration date to August 30, 2001,” he noted (see **WTTL**, July 7, 2003, page 1).

“Congress enacted the EAMCA in response to the district court order in the *Times Publishing* case, which held, as this Court holds today, that the expired EAA did not qualify as an Exemption 3 statute and ‘an “executive order” simply is not a “statute” and therefore, does not satisfy the requirements of Exemption 3’,” he explained. “The legislative history of the EAMCA demonstrates that Congress understood and intended that the bill would extend the validity of the EAA through August 30, 2001, and that after that date, Commerce would not be able to rely on Exemption 3 to withhold information protected from disclosure by Section 12(c),” Henderson wrote.

Froman Demurs on Need for Fast-Track Authority

U.S. Trade Representative (USTR) Michael Froman refuses to say President Obama needs fast-track negotiating authority, also known as trade promotion authority (TPA), to complete trans-Pacific and transatlantic trade deals and to bring them to Congress for approval. “Ultimately, to get through Congress, we think TPA would be very useful,” Froman conceded at a July 18 Ways and Means Committee hearing. In response to repeated questions from committee members about TPA, Froman repeatedly said the administration “stands ready to engage and work” with Congress in its current effort to draft a TPA bill. But he artfully avoided giving any new details on a host of issues raised by Ways and Means members at the hearing. Geographically, members pressed

Froman on trade policies related to Japan, Russia, China, Brazil, India, as well as the European Union (EU). They also questioned him on his positions on footwear, pharmaceuticals, textiles, wines, rice, dairy, the Generalized System of Preferences (GSP), currency manipulation, access to generic medicines, President Obama's goal of doubling exports, sanitary and phyto-sanitary protections (SPS), intellectual property rights (IPR), cross-border data flows, Customs enforcement, labor and environment standards, global supply chain, state-owned enterprises and small and medium-sized businesses. Froman said he shares the concerns of lawmakers about currency manipulation, but said "Treasury has the lead" on that subject.

Japan's participation in Trans-Pacific Partnership (TPP) talks was a concern of several members. Tokyo's agreement on autos, agriculture and insurance "will be essential to getting my support" for a TPP agreement, Chairman Dave Camp (R-Mich.) warned. Ranking Member Sander Levin (D-Mich.) also stressed the auto issue with Japan and the need to address currency manipulation in a TPP deal. He expressed skepticism about progress on autos with Japan. "Nothing to date has ever worked," Levin lamented.

On several issues, Froman was caught in the middle of disagreements over what stand the U.S. should take in the TPP on such subjects as patent protection for biopharmaceuticals, market access for medicines and footwear. Rep. Richard Neal (D-Mass.) called on Froman to protect New Balance, the last athletic footwear maker in New England, while Rep. Earl Blumenauer (D-Ore.) urged him to consider firms like Nike that design and market footwear in the U.S.

"On the footwear issue, we've got multiple interests at stake," Froman acknowledged. These include domestic producers, assemblers, importers, retailers and consumers. "One thing we have to do is weigh all those interests and find the best possible path and one in particular that supports the most jobs in the United States. So we are looking at all those issues. We recognize the sensitivities and we hope to be able to strike a balance the addresses the multiplicity of interests," Froman said.

On drug patents and access to medicine, Froman said he is "committed to finding the right balance between protecting innovation and also achieving access to medicine." He acknowledged the negative reaction to earlier proposals in TPP negotiations that would have tightened rules on the availability of generic drugs. "We took the feed back on our original proposal very seriously," he said. "We have not tabled new text on this issue," he told the committee. "We are in the process of engaging our TPP partners in the process of educating them about what's in U.S. law," he said.

Camp Hopes Transparency Will Reduce Opposition to MTB

House Ways and Means Committee Chairman Dave Camp (R-Mich.) contends he can overcome the opposition of fellow Republicans who consider measures in the Miscellaneous Tariff Bill (MTB) to be "earmarks" by stressing the transparent process used to draft the legislation (H.R. 2708) he introduced July 17. "It's clearly not an earmark because of the transparent and open process we have had," he told reporters July 18.

The bipartisan legislation, which was co-sponsored by Ways and Means Ranking Member Sander Levin (D-Mich.) and other committee members, includes some 2,000 separate

bills introduced in the House and Senate to reduce or suspend tariffs on goods not manufactured in the U.S. An effort to pass a similar measure in the last Congress failed because of opposition from some Republicans who claimed the bills were earmarks that they had pledged to oppose and from the White House, which objected to bills on footwear, apparel and several odd items, such as fishing reels.

The new MTB is similar to one (H.R. 6727) that Camp and Levin introduced in the last days of the 112th Congress (see **WTTL**, Jan. 7, page 8). “Everything has been vetted by the ITC, members signed a statement that they have no financial interest and it’s completely non-controversial,” Camp said. “If anyone has a problem, [they] can object,” he added, claiming the bills represent 90,000 jobs in the U.S.

The introduction of the new MTB marked the end of a year-long process that Ways and Means and the Senate Finance Committee began in March 2012. “Importantly, the Committee’s guidance required each bill to be non-controversial: if a domestic manufacturer or Member objected to a bill, it was eliminated. The bills were scored by CBO [Congressional Budget Office] and were required to be under \$500,000 per year. Nearly 170 House Members and Senators submitted nearly 2,000 MTBs to be considered through the bipartisan, bicameral MTB process,” a Ways and Means press release stated.

“In the 113th Congress, Members who introduced bills in the 112th Congress were required to submit 113th Congress Disclosure Forms to refresh their disclosure information by April 2, 2013, to have their provisions included in the MTB. No new bills were accepted into the process. Bills whose sponsors did not return in the 113th Congress were required to be adopted by another Member. The bill being reintroduced today reflects H.R. 6727 with a few modifications and technical corrections,” it added.

Chinese Blamed for Suspension of ITA Talks

China got blamed July 17 for the suspension of talks in Geneva on the expansion of the Information Technology Agreement (ITA). “Unfortunately, a diverse group of Members participating in the negotiations determined that China’s current position makes progress impossible at this stage,” U.S. Trade Representative (USTR) Michael Froman said in a statement after talks were suspended. “We are hopeful that China will carefully consider the concerns it heard this week from many of its negotiating partners, and revise its position in a way that will allow the prompt resumption of the negotiations,” he said.

China’s decision to join the ITA talks was originally hailed as a key boost to the negotiations because of the large volume of trade it does in technology goods. Beijing had been pressing for quick progress in the talks, and industry groups had expected significant progress to be made by the end of summer (see **WTTL**, June 23, page 4).

“China is asking for the removal of more than 100 products from the ITA negotiation, which cannot be viewed as a meaningful effort,” said Sage Chandler, vice president for international trade at the Consumer Electronics Association (CEA), in a statement. “The Chinese position should be responsible, with a serious but limited list of products it wishes to exclude from lower tariffs,” said Chandler, who was in Geneva with a U.S. industry delegation pressing for conclusion of the ITA negotiations. China’s list of

sensitive products covered roughly two-thirds of products for which participants were showing an interest, one source told WTTL. Sources close to the talks said there was no apparent motivation for China's decision to seek so many exclusions from ITA coverage. Beijing seems to have switched from an accommodating stand in the negotiations to a hardline approach after Chinese officials held an "intensive consultation" domestically on the ITA, one source suggested. He said many trade officials involved in the talks are puzzled by China's switch since it would benefit from lower tariffs on ITA goods for which it has a very large market share. They are generally doing "extremely well" even under the current ITA, he said.

There are suggestions that China is seeking exclusion of "very, very high-tech" products such as integrated circuits and medical devices, because it wants to move up into these sectors and away from mass-market electronics and assembly. Beijing's strategy may be aimed at maintaining its current market-share dominance on mass-market items, while protecting its domestic market from higher-value technologies so it can develop its own industries in these sectors for export, one source speculated.

China is thinking long-term, the source added. China wants to build protection in areas where they are not yet proficient, by either developing their own technologies or through technology transfer, until they become proficient, he said.

"China made almost no move to cut its staggering list of sensitive products it wants removed from the negotiating table. So no one was surprised when the e-mail notice went around to negotiating parties late this afternoon announcing a suspension of this round of negotiations, as heavy black clouds gathered over Geneva," said John Neuffer, senior vice president of the Information Technology Industry Council, in a blog. "No country at the negotiating table should be able to have its cake and eat it too," said Neuffer, who also was in Geneva with the industry delegation.

Despite the suspension of talks, Neuffer said there are reasons for optimism. "First, putting China aside for a moment, it was clear the other negotiating parties came to Geneva to close this trade deal. Significant moves and shows of flexibility over the past several weeks made this all too clear. That was big progress," he wrote.

"Second, an abundance of the negotiating parties were uncharacteristically firm with China this week in a town more accustomed to careful, nuanced diplomacy. Beijing got the message loud and clear from its trading partners that it should reflect on its approach to this negotiation and come back to the table promptly with a revised sensitivities list that is both reasonable and in line with the constructive spirit that has dominated this year-long negotiation," he added.

Punke Raises Concerns about EU Trade Policy

The week after the U.S. and European Union (EU) concluded the first round of Transatlantic Trade and Investment Partnership (TTIP) talks, Deputy U.S. Trade Representative (USTR) Michael Punke criticized EU trade policies at the WTO. His comments came during WTO discussion of the Trade Policy Review of the EU in Geneva July 16. Punke cited long-standing U.S. concerns about agricultural tariffs; sanitary and phytosanitary measures; non-tariff barriers; regulatory and legislative processes; maximum residue

limits for plant protection; investigation of U.S. bioethanol exports; subsidization of its fishing fleet; and inconsistent implementation of internal market rules. “The United States has broad concerns about the EU’s policies and procedures to develop and implement technical regulations, standards and conformity assessment, as well as concerns about specific measures that affect a wide range of U.S. exporters in many sectors, including chemicals and wine,” Punke said.

Despite EU’s claims of transparency on releasing initial TTIP position papers, Punke criticized its decision-making process (see related story page 9). “The EU’s regulatory and legislative processes also do not typically provide essential and meaningful opportunity for WTO Members and their stakeholders to comment on regulatory proposals. Further, we have concerns regarding the apparent lack of mechanisms to ensure that stakeholder comments will be taken into account in final regulations,” he said.

“We applaud the European Commission’s efforts to eliminate lingering internal barriers to the free flow of goods and look forward to hearing how the EU intends to address remaining barriers – including those that are not scientifically justified – to the free flow of goods at the EU and member state levels,” Punke added.

The WTO report noted that “there have not been any major changes to tariffs or market access generally in the EU.” While many imports come into the EU duty free or subject to an average most-favored-nation (MFN) tariff of only 6.5%, “some sectors, particularly agriculture, remain relatively well protected, sometimes by complex or seasonal tariffs,” it added. “However, relatively few countries trade with the EU on an MFN basis as the EU has a considerable number of trade agreements with other countries” and trade preference programs, the report said.

The EU’s WTO ambassador, Angelos Pangratis, told the session “the EU remains one of the most open economies in the world.” Despite its economic problems, the EU has not resorted to protectionism, he argued. On intellectual property rights protection, he noted the EU’s adoption of a unitary patent at the EU level, and on agriculture, he said the EU has reached a political agreement to reform its Common Agricultural Policy (CAP) next year to continue to increase the market orientation of EU agriculture.

WTO Crystal Ball Sees U.S. Share of GDP Remaining Stable

The U.S. share of world output will be almost unchanged by 2030 while the shares of the European Union (EU) and Japan will fall, the WTO predicted in its annual World Trade Report released July 18. “The share of the United States should remain relatively stable throughout the forecast period at around 25 percent, despite the falling share for developed countries overall,” the report predicted. “If this forecast is realized, the reduced share of developed economies will come mostly at the expense of the European Union and Japan, whose respective shares in world output will fall to 22 percent and 6 percent in 2030, from 28 percent and 9 percent in 2010,” it said.

“On the other hand, China’s share in world GDP is projected to increase from 8 percent to 15 percent between 2010 and 2030,” it noted. Besides China, Brazil, Russia, India and South Africa, known as the BRICS, “others, sometimes called the ‘Next-11’, are pushing from behind and have the potential to become leading players in the 21st

century. At the same time, a range of poor countries risk being further marginalized,” the report added. The report takes a broad, historic view of world trade starting in the 19th century and through the 20th century to describe trends shaping trade today.

“Dramatic decreases in transport and communication costs have been the driving forces behind today’s global trading system,” a summary of the report said, noting that trade has grown twice as fast as world production over the last 30 years. “Demographic change affects trade through its impact on countries’ comparative advantage and on import demand. An ageing population, migration, educational improvements and women’s participation in the labour force will all play a role in years to come, as will the continuing emergence of a global middle class,” the report said.

Other future trends include the emergence of international value chains, new forms of regionalism, the growth of trade in services, the greater incidence of non-tariff measures, higher and more volatile commodity prices, the rise of emerging economies, and the link of trade, jobs and the environment. “These trends will raise a number of challenges for the WTO,” it suggested. “Trade opening, especially in the context of non-tariff measures beyond WTO disciplines, is taking place outside of the WTO,” it said.

“A greater focus on regulatory convergence will therefore be required. Interdependence between trade in goods and trade in services is increasing. Frictions in natural resource markets expose some regulatory gaps. The emergence of new players affects global trade governance in ways that need to be better understood,” it suggested. “Addressing these challenges will involve reviewing and possibly expanding the WTO agenda,” it advised.

Court Sets Guidance for ITA Scope Rulings

The Court of Appeals for the Federal Circuit (CAFC) has set a two-prong test that Commerce’s International Trade Administration (ITA) must use to determine when items are covered by an antidumping (AD) order when they are included in a “mixed media” kit. In its July 18 ruling in *Mid-Continental Nail Corp. v. U.S.*, the court vacated and remanded to Commerce a Court of International Trade (CIT) decision that said an AD order on nails also applied to nails that are part of a tool kit.

“We think a remand is required to give Commerce one last opportunity to interpret its order. We also think it appropriate to provide the following guidance for the remand proceedings in this case, as well as for future cases,” wrote Circuit Judge Timothy Dyk for the three-judge panel.

First, Commerce must determine whether the potentially subject merchandise included within the mixed media item is within the literal terms of the antidumping order. If it is, then Commerce must determine whether the inclusion of that merchandise within a mixed media item should nonetheless result in its exclusion from the scope of the order.

Under the second step, if description of the merchandise under the “(k)(1) materials” provisions of Commerce’s scope regulation is not dispositive, Commerce then must consider the “(k)(2) criteria,” which include the product’s physical characteristics, expected ultimate purchasers, its ultimate use, channels of trade, advertising and display. “If the manner in which the otherwise-subject merchandise is incorporated into the mixed media

item alters these properties so comprehensively as to effect a ‘substantial transformation’ in the merchandise, such that it ‘can no longer be considered’ the same merchandise, then the included merchandise is not subject to the order,” the appellate court stated.

“Here, there is nothing in the history of the antidumping order (items 1 and 2 above) to suggest that the literal language of the order should not govern in mixed media cases. Neither does that history conclusively establish that it should not,” Dyk wrote.

“Once Commerce has determined that the included merchandise would be subject to the order if examined in its own right, and that neither the text of the order nor its history indicates that subject merchandise should be treated differently on the basis of its inclusion within a mixed media item, we believe that a presumption arises that the included merchandise is subject to the order.” he added.

“We finally note that Commerce’s problems are largely self-inflicted, because in the past Commerce has given low priority to an approach that should receive the highest priority from any administrative agency—providing coherent and consistent guidance to regulated parties,” Dyk opined. “We note also that in the future, many of the problems presented by this case could be avoided if Commerce were to identify in its antidumping orders or in prospective regulations the factors that it will consider in resolving mixed media and other cases,” he advised.

Progress on WTO Agriculture Talks Put Off until Autumn

WTO agriculture talks will need to be “extremely focused and intensive” after the summer break to deliver so-called “elements of agriculture” for approval at the Bali ministerial conference in December, John Adank, chairman of the talks, told members of the negotiating committee on July 18. Major differences remain on rules for domestic support and export subsidies, said Adank, who is New Zealand’s WTO ambassador. With the focus on food security, no progress has been made on tariff-rate quota (TRQ) administration, he reported. More creative thinking is needed in autumn, Adank said.

During the latest round of talks, no consensus was reached on a proposal by least developed countries, known as the G-33, on food security, although members agreed the issue needs to be addressed (see **WTTL**, April 15, page 1). Adank told the meeting the G-33 proposal, which would allow them to buy and store food, would not help those countries because they have no money to make the purchases.

At the meeting, Norway floated an idea on how to allow developing countries to purchase and stock produce for food security without breaching their committed limits on domestic support. Oslo’s proposed solution would adjust support calculations to take account of markets that do not function properly, enabling at least some developing countries to acquire and distribute food for the purpose without breaching limits on trade-distorting domestic support. Several delegations welcomed the proposal as an example of needed new ideas, one source noted.

Nobody talks anymore, however, about WTO Director-General Pascal Lamy’s warning that meetings the week of July 22 are the last petrol station before Bali. Everybody is

waiting for newly elected Director-General Roberto Azevedo to take his post in September “as if he’s a god who will lead the WTO out of Egypt and into the promised land,” one former ambassador said. Trade officials don’t seem to be taking talks very seriously and the atmosphere is “very strange,” he said.

Meanwhile, the only progress being made is in talks on a trade facilitation agreement, with many brackets in the draft text being removed, sources report. These negotiations, however, are more or less a “hostage” to the rest of the talks, one source said. People aren’t willing to agree to trade facilitation before they get something in other areas, he said. But he also predicted that a trade facilitation agreement will come at Bali because implementation of the deal will be voluntary.

EU Takes First Step Toward Transparency in TTIP Talks

While many non-governmental organizations are clamoring for U.S. officials to be more transparent about what they are seeking in trade negotiations, the European Union (EU) has sought to head off similar complaints in Europe by making publicly available several of its initial position papers on negotiations toward a Transatlantic Trade and Investment Partnership (TTIP). The position papers released July 16 explain EU goals on regulatory issues; technical barriers to trade (TBT); sanitary and phytosanitary measures (SPS); public procurement; raw materials and energy; and trade and sustainable development.

Release of the papers shouldn’t come as a surprise to U.S. negotiators. Prior to the start of TTIP talks, EU Chief Negotiator Ignacio Garcia-Bercero sent a letter to U.S. Chief Negotiator Dan Mullaney detailing the process for maintaining the confidentiality of the papers during the negotiations.

“The European Commission may decide to make public certain documents that will reflect exclusively the EU position on these negotiations, after consulting the U.S. side. To the extent that such documents have been shared with the U.S. side..., we would not expect the U.S. to hold them in confidence as of the date of their publication,” Bercero said in the letter.

On the surface, the papers express many common goals with the U.S. based on the results of the U.S.-EU High-Level Working Group that laid the groundwork for TTIP talks. In other cases, they repeat previous EU positions (see **WTTL**, July 15, page 6). In the SPS paper, for example, the EU said a deal should “seek to achieve full transparency and no discrimination as regards sanitary and phytosanitary measures applicable to trade, establish provisions for the recognition of equivalence, implement a ‘pre-listing’ approach for establishments, prevent implementation of pre-clearance, provide for the recognition of disease-free and pest-free health status for the Parties and recognise the principle of regionalisation for both animal diseases and plant pests.”

In the raw materials and energy paper, the EU took on the multilateral trading system. “The WTO rulebook contains tough rules to tackle import barriers, and weaker concomitant rules to address export barriers. This has affected energy and raw materials, insofar trade restrictions in this area are more pertinent on the export side,” it said. The EU said it wants TTIP parties to clarify that they will not impose a local content requirements on energy or raw material projects. In the exploration and production of raw

materials and energy, “once exploitation is permitted, however, non-discriminatory access for exploitation, including for corresponding trade and investment related opportunities, should be guaranteed by regulatory commitments.”

On TBTs, the EU noted its positive experience of the “New Approach” to regulating based on setting “essential requirements” for health and safety. This approach, “without prescribing specific technical solutions, which themselves are laid down in supporting voluntary standards, shows that this is, for large industrial product sectors, a very efficient, flexible and innovation-friendly regulatory technique.”

It also noted that the 1998 Mutual Recognition Agreement has been successful only in two areas: telecommunications and electromagnetic compatibility. “It is therefore not proposed to consider extending the 1998 MRA in its present form to new areas,” it said.

An agreement on public procurement should “ensure that rules on off-sets/set asides or domestic preferences such as, but not limited to, Buy America(n) and SME [small and medium size enterprises] policies, do not restrict procurement opportunities between the EU and the U.S.,” the EU said. In addition, it wants a deal to ensure that commitments covering federal-level procurement “extends to cover also federal funding spent at the State level” and also removes discriminatory elements in procurement by public authorities and public benefit corporations with multi-state mandates, interagency acquisitions, task and delivery orders and taxation.

* * * Briefs * * *

BIS: Budget cuts due to “sequestration” are having negative impact on BIS operations, BIS Under Secretary Eric Hirschhorn said July 16. “We are squeezed,” he told reporters. “We have vacancies we are not filling” and travel has been cut back, he said. One area where vacancies are still being filled is for enforcement positions, Hirschhorn stressed.

EX-IM: As part of deal to overcome “holds” on several of President Obama’s nominees for various posts, Senate July 17 agreed to a cloture motion to permit vote on nomination of Fred Hochberg to be president and chairman of Export-Import Bank. After cloture, Senate voted 82-17 to approve nomination (see **WTTL**, June 10, page 11).

ITC: President Obama nominated Rhonda Schnare Schmidlein to be ITC commissioner July 12. Schmidlein is currently consultant to World Bank on “projects seeking to strengthen accounting regulation and oversight,” White House said. Prior to that, she was director of international affairs office at Public Company Accounting Oversight Board from 2005 to 2011 and special counsel to chairman from 2003 to 2005. She served as USTR associate general counsel from 1999 to 2003 and assistant general counsel from 1998 to 1999.

MORE ITC: Confirmation fever continued July 18 as Senate Finance Committee held confirmation hearing for Scott Kieff to be member of ITC. Kieff first was nominated in September 2012 (see **WTTL**, Sept. 17, 2012, page 4). Committee Chairman Max Baucus (D-Mont.) and Ranking Member Orrin Hatch (R-Utah) expressed support for confirmation.

SAWBLADES: Husqvarna Construction July 11 asked ITC to conduct Section 751 “changed circumstances” review on diamond sawblades and parts from China.

MISSILE TECHNOLOGY: In July 16 Federal Register, BIS updated CCL to reflect changes agreed to by Missile Technology Control Regime (MTCR) countries at October 2012 Plenary in

Berlin. Rule affects heading, text and technical notes of eight ECCNs: 1C011, 1C111, 1C116, 9A101, 9B105, 9E101, 7E004 and 9D004, and definition of “payload,” specifically changing “satellite” to “spacecraft.”

EXPORT ENFORCEMENT: Muhaned Abbas Mohamed of Greensboro, N.C., was sentenced July 16 in Norfolk, Va., U.S. District Court to 24 months in prison, followed by three years of supervised release, for smuggling shotguns to Egypt without Commerce license. He pleaded guilty Feb. 25, 2013.

MORE EXPORT ENFORCEMENT: Aliaksandr Belski was sentenced in Philadelphia U.S. District Court July 18 to 57 months in prison and two years’ supervised release for conspiring to export military-grade night vision devices to Belarus without State or Commerce licenses. He pleaded guilty in January 2013. Co-defendant Vitali Tsishuk was deported July 17 to native Belarus after serving 24 months in prison (see **WTTL**, Feb. 25, page 6). Belski, Tsishuk and four others were indicted Aug. 10, 2011.

SECTION 337: ITC Administrative Law Judge Theodore Essex applied commission’s new pilot program for speeding up disposition of Section 337 unfair import cases July 5, issuing initial determination that complainant had failed to meet domestic industry requirement or “show that a domestic industry is in the process of being established” in case involving allegedly patent-infringing imports of laminated packaging and components (see **WTTL**, July 8, page 4). ITC has 30 days to decide whether to review ruling. Decision was first reported in *The Legal Pulse* published July 12 by the Washington Legal Foundation in article written by Alexander W. Koff, partner in law firm Whiteford, Taylor & Preston.

BURMA: EU July 19 made imports from Burma eligible for duty-free, quota-free treatment under its “Everything But Arms” trade preference program. Status will be applied retroactively to June 13, 2012, when International Labor Organization recognized Burma’s improved labor rights conditions. EU suspended benefits in 1997.

GSP: House Ways and Means Committee Chairman Dave Camp (R-Mich.) and Ranking Member Sander Levin (D-Mich.) introduced bill (H.R. 2709) July 17 to extend Generalized Systems of Preferences (GSP) program through Sept. 30, 2015. GSP is scheduled to expire July 31. Industry groups such as National Retail Federation and Coalition for GSP, which counts 294 companies and associations as supporters, applauded bill. Companion Senate bill (S. 1331) was introduced July 18 by Finance Committee Chairman Max Baucus (D-Mont.) and Ranking Member Orrin Hatch (R-Utah).

TPP: Negotiating groups met in Malaysia July 17-18 at 18th round of Trans-Pacific Partnership (TPP) talks. Groups discussed: market access, financial services, intellectual property rights, rules of origin, non-conforming measures and environment, as well as technical barriers to trade, USTR said.

BANGLADESH: USTR, Labor and State released action plan July 19 outlining next steps in “longstanding effort to address in a meaningful way worker safety problems in Bangladesh.” Action plan was first announced with decision to remove Bangladesh from GSP eligibility in June (see **WTTL**, July 1, page 8). Steps include: increase government inspections for labor, fire and building standards, implement labor law reforms and bring export processing zones (EPZs) “into conformity with international standards.”

SERVICES: In letter to USTR July 17, 26 House members, including Ways and Means Ranking Member Sander Levin (D-Mich.) and Foreign Affairs Committee Chairman Ed Royce (R-Calif.), “vigorously urge” U.S. to “continue its leadership and active participation” in negotiations toward Trade in Services Agreement. “A strong and robust new international services agreement would be one of the most important economic contributions of this century,” they said.