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## Kerry Signs Arms Trade Treaty, No Talk of Sending to Congress

In a mostly symbolic gesture, Secretary of State John Kerry signed the United Nations (UN) Arms Trade Treaty (ATT) Sept. 25 in New York. Although the Obama administration maintains this treaty will not affect any domestic gun controls, gun industry advocates have made it seemingly impossible that Congress will ever ratify the pact.

“This treaty will not diminish anyone’s freedom. In fact, the treaty recognizes the freedom of both individuals and states to obtain, possess, and use arms for legitimate purposes,” Kerry said after signing the treaty. “Make no mistake, we would never think about supporting a treaty that is inconsistent with the rights of Americans, the rights of American citizens, to be able to exercise their guaranteed rights under our constitution,” Kerry added.

The ATT “will require States Parties to establish export and import control systems closer to the high standard the United States already sets with its own national system. Joining the Arms Trade Treaty would not result in any additional U.S. export or import controls,” a State factsheet noted. The accord was opened for signature on June 3. As of Sept. 27, 112 countries have signed the accord and seven have ratified it. The pact will enter into force following ratification by 50 nations (see **WTTL**, Aug. 12, page 1).

## Solar Panel Proposal Draws Mixed Reaction

A proposal to resolve the U.S.-China dispute over solar panels, cells and polysilicon faces major opposition from a key player in the industry despite the Obama administration’s likely support and an endorsement from Senate Finance Committee Chairman Max Baucus (D-Mont.). Solar World, a major solar panel maker in the U.S. and Europe, which filed the current antidumping (AD) and countervailing duty (CVD) cases against Chinese cell imports, reportedly opposes the proposal because it believes the plan won’t stop China from subsidizing its industry and circumventing existing orders.

The five-point plan issued by the Solar Energy Industries Association (SEIA) Sept. 23 takes a page from the U.S.-Canada Softwood Lumber Agreement and calls for a U.S.-China bilateral deal to create a U.S. Solar Manufacturing Settlement Fund and a U.S. Solar Development Institute funded by Chinese firms to pay U.S. solar manufacturers

directly and help to grow the U.S. market. In exchange, U.S. industry would agree to terminate all current orders and withdraw pending suits at the Court of International Trade and both the U.S. and China would promise not to initiate new cases against imports of polysilicon, crystalline silicon solar wafers, cells, cell assemblies and/or modules.

“We applaud the efforts of the Solar Energy Industries Association to resolve the solar dispute between the U.S. and China,” said a joint statement by Baucus and Sen. Jon Tester (D-Mont.). “Without a doubt, this dispute has had a harmful effect on jobs in the U.S. and undercut our competitiveness in critical high-tech industries. The best outcome for workers, manufacturers and consumers in Montana and across the country is to negotiate a settlement and bring the dispute to a close. We are ready to work with all parties to resolve this important matter,” they added.

Solar World Industries America is still planning to file AD and CVD complaints against imports of solar panels from China. At the same time, its German parent, SolarWorld AG, has sued the European Commission (EC) in an attempt to block a European Union deal with Chinese solar panel exporters who agreed to cut their exports to Europe in exchange for the EC not imposing AD duties on Chinese panels (see **WTTL**, Aug. 5, page 2). Solar World opposes the SEIA proposal because it contends pressure has to be kept on China through trade complaints to force Beijing to change its policies.

Solar World is also considering joining an antitrust case that now-bankrupt Solyndra filed in October 2012 under California antitrust laws against Suntech Power and other Chinese solar panel makers, claiming the Chinese firms conspired to drive Solyndra out of business. Use of California’s antitrust law creates “a whole new world” of litigation possibilities, one source said.

## **Senate Adds Pressure to Include Currency in TPP Deal**

A Trans-Pacific Partnership (TPP) deal that doesn’t include rules to prevent currency manipulation – among many other elements -- could face trouble getting congressional approval as a majority of both the House and Senate have said currency must be included. In the latest demonstration of interest in this subject, 60 senators wrote to Treasury Secretary Jack Lew and U.S. Trade Representative (USTR) Michael Froman Sept. 24, asking them to include in a TPP “strong and enforceable foreign currency manipulation disciplines to ensure these agreements meet the ‘high standards’ our country, America’s companies, and America’s workers deserve.”

The bipartisan letter, mustered by Sens. Debbie Stabenow (D-Mich.) and Lindsey Graham (R-S.C.), warned that currency manipulation “can negate or greatly reduce the benefits of a free trade agreement” and hurt American companies and workers. “A free trade agreement purporting to increase trade, but failing to address foreign currency manipulation, could lead to a permanent unfair trade relationship that further harms the United States economy,” the letter declared.

The Senate letter follows one sent to the Obama administration from the House and signed by 230 members. The Senate by a 63-35 vote passed a bill in October 2011 that would have allowed currency manipulation to be considered a subsidy under U.S.

countervailing duty law and other provisions to attack the practice. The measure never saw action in the House because of opposition from House Ways and Means Committee Chairman Dave Camp (R-Mich.). A new version (S. 1114) was introduced in June, while a House version (H.R. 1276) was introduced in March.

At a breakfast with reporters sponsored by the Christian Science Monitor Sept. 26, Froman demurred to Treasury on currency issues but said he shares the concerns raised in the letter from the senators. “We have not yet discussed currency in the TPP,” he reported.

“We share a number of the concerns expressed about currency and its impact on trade, and we continue to be in consultations with Congress and stakeholders about their concerns,” Froman said. “Our focus has been on how to advance that agenda,” he noted, saying the U.S. has raised the issue in many multilateral and bilateral talks and with China directly. Froman pointed to the 16-17% raise in the value of the Chinese renminbi in the last three years as a sign of progress.

### **Froman Rejects Complaints about Rush to TPP Deal**

USTR Michael Froman dismissed concern of industry groups about too many sensitive issues being left for the last minute in Trans-Pacific Partnership (TPP) talks and the potential for a less ambitious deal in the rush to finish talks this year (see **WTTL**, Sept. 23, page 2). “It’s hard to judge from the outside whether or not there is too much work to be done,” he told reporters attending a Christian Science Monitor breakfast Sept. 26.

“I don’t think we are rushing into anything,” he said. “The outstanding issues are well known and well understood by all parties, so our focus, using the end of the year as our objective, is to concentrate attention on resolving those outstanding issues,” he added. Froman said he expects leaders of TPP countries who will be attending a meeting of the Asia-Pacific Economic Cooperation Forum (APEC) in Bali in October to give negotiators specific guidance to lead toward the conclusion of talks.

“Anybody who has been involved in trade negotiations knows that often times the bulk of the work gets done at the last minute,” Froman said. He also defended the Obama administration’s effort to provide transparency to the talks and U.S. goals. In addition to public meetings with stakeholders and closed briefings for over 600 cleared advisors, “every member of Congress has had access to the texts,” Froman asserted. Moreover, at the end of the day, the full agreement will be made public and Congress will have the chance to vote it up or down, he added.

### **UK Expects Assurances on Arms Transit under New Rules**

The United Kingdom’s (UK) Export Control Organisation (ECO) will not accept silence from transit countries instead of written approvals when approving export licenses for firearms, the agency said in guidance issued Sept. 27 on European Union (EU) rules that go into effect Sept. 30. The new rules, adopted in March 2012, implement a United Nations protocol against the illicit manufacturing of and trafficking in firearms. When issuing export licenses under the new requirements for covered firearms, EU countries

are supposed to obtain from the exporter a license from the importing country and a statement from countries through which the items are to transit that they have no objection to the transit. "Consultation with industry representatives in the course of negotiating the regulation made us aware that there are some potential difficulties with implementing the transit requirements in Article 7 and that industry needs some guidance to help it comply with these requirements," the ECO said. "We accept that it will be difficult to know in advance (and certainly at the time of applying for an export licence) the exact transit routes which some exports will take on their way to final destination," it noted.

"These are often determined after the goods have left the UK, so gaining clearance from all transit countries (where the exemptions do not apply) would be impracticable. The UK will therefore adopt a pragmatic approach to the requirements in Article 7 with regard to transit and only insist on transit clearances from countries where these are known at the time of applying for a licence," it advised.

"In such circumstances, exporters will be required to provide these transit clearances for all transit countries where these have been established at the time of the licence application. Where transit routes are not known, an explanation will be required," it added. "The UK will not operate the tacit consent system in Article 7(2) as we feel that this system provides no certainty to either the exporter that his firearms will not be stopped en route; or assurance to us that transits have actually been approved. We will require import licences or other authorisations for import clearance in support of licence applications," the ECO explained.

## **Financial Services "Essential" Part of TTIP, UK Leader Asserts**

It is "essential" that regulatory services be included in any Transatlantic Trade and Investment Partnership (TTIP) deal, Nick Clegg, the United Kingdom's deputy prime minister, told an Atlantic Council program Sept. 24. While acknowledging the UK's obvious self-interest in including this sector in an accord because of the importance of finance in its economy, Clegg said the area needs to be covered because divergent regulations could lead to weakness when the next crisis hits.

"I think one of the worrying developments since the crash of 2008 has been the different jurisdictions have applied slightly different Band-Aid solutions to some of the weaknesses in their financial services sector," Clegg said. "So we have regulatory divergence, a Balkanization, in an industry that is global in nature," he said. "When you have Balkanization of approach in supervisory and surveillance...it leaves the whole system fragile," he added. "This is not to suggest that the U.S. would have to dismantle Dodd-Frank, not at all," Clegg stated.

Clegg said a TTIP is needed to rebalance the U.S. and EU economies in the aftermath of the 2008 crisis and to counter political movements on the right and left that are fostering "political insularity." An agreement is also needed to show that "old powers" such as the U.S. and EU, which account for nearly half the world's gross domestic product, are capable of reaching trade agreements. The UK has been one of the strongest advocates for TTIP because it expects to add some £2 billion a year to its economy. While the EU has pushed for inclusion of financial services in TTIP negotiations, the U.S. has said it

is willing to discuss market access in the sector but not regulatory harmonization. Sen. Christopher Murphy (D-Conn.) told the program that Congress would not want to see Dodd-Frank included in the negotiations, given the fight over the legislation. There is “an understandable reluctance to relitigate that area of law in the context of the negotiations,” Murphy said (see story below).

The Atlantic Council used the program to release a report it commissioned on the state-by-state impact of a potential TTIP. The report claims a comprehensive deal would have benefits for all 50 states, adding 740,000 jobs, mostly in the services sector. Motor vehicle trade would be helped particularly, with job increases in Michigan, Alabama and South Carolina.

## **TTIP Deal Might Divide Congress by Regions, Not Parties**

The congressional fight over approving a Transatlantic Trade and Investment Partnership (TTIP) deal is more likely to see members divided by region than party, suggested Sen. Christopher Murphy (D-Conn.) in comments at an Atlantic Council program Sept. 24. Depending on how sectors such as agriculture and manufacturing might be treated in the deal, Congress “may see regional concerns playing a bigger role than party,” he said.

As chairman of the Senate Foreign Relations Committee’s Europe subcommittee, Murphy said he plans to hold hearings on the TTIP. He said one reason he supports negotiations is its potential impact on Eastern European countries such as Ukraine, Moldova and Georgia, which face pressure from Russia to join its Eurasian Customs Union and not the EU. A U.S.-EU deal would make EU membership more attractive for those countries, he argued.

After the program, Murphy told WTTL that he thinks a TTIP won’t elicit the same opposition as previous trade deals because it won’t involve the flight of jobs from the U.S. to a low-cost market. “Certainly, there are legitimate questions about product safety and financial regulatory reform but there should not really be the concern that there will be an immediate flow of jobs to a significantly lower-cost labor market,” said Murphy, who admitted that he hasn’t voted for any trade agreement while he has been in Congress.

On financial services, “the assurance that the administration has given us is that they are not going to weaken the financial security standards that we fought very hard to achieve through Dodd-Frank,” he said. TTIP could become a small deal, “if, for instance, the United States keeps financial services out of the deal, if the Europeans at the same point say we can’t give on GMOs,” Murphy noted. He noted concerns about lowering standards in the U.S. and EU. “One way to avoid the race to the bottom is to make it a very small deal. I hope that’s not the result,” he said. Murphy told WTTL he will “wait to see the details, but it is hard for me to see an agreement I wouldn’t support.”

## **Obama, Singh Stress U.S.-India Commercial Ties**

Amidst more urgent talk on regional tensions in Afghanistan and Pakistan, terrorism and domestic politics, President Obama and Indian Prime Minister Manmohan Singh touched only glancingly on trade and investment issues during their meeting in Washington Sept. 27. In Oval Office remarks after their meeting, the two leaders stressed progress in the

bilateral trade and investment relationship without noting any of the friction raised by U.S. industry and politicians ahead of the meeting. “We have enormous commercial ties between our two countries,” Obama said. “In fact, bilateral trade between our two countries has gone up by 50 percent just over the last several years, indicating the degree of progress that has been made,” he added.

Singh also cited U.S. and Indian cooperation “in expanding the frontiers of trade, investment and technology.” He noted that bilateral trade today is \$100 billion. “American investments in India are \$80 billion. And they are growing despite the slowdown in the global economy,” he said.

In contrast to this positive spin, industry groups and governors urged Obama to raise their concerns about India’s discriminatory and unfair trade practices, intellectual property (IP) violations and policies favoring domestic industries in his meeting with Singh. Since summer there has been an “acceleration of discriminatory practices,” including forced localization requirements in such sectors as medicine, medical devices, power generation and patents, said Linda Dempsey, vice president of international economic affairs, National Association of Manufacturers (NAM), in a call with reporters Sept. 26. Industry is “counting on the president to make these points,” she noted.

“India’s consistent failure to protect IP rights, uncertain and arbitrary tax policy and tax administration, forced local production of certain information technology and clean energy equipment, and compulsory licenses and patent revocations for innovative medicines continue to concern the broad coalition of U.S. industry,” wrote 17 trade groups including NAM, in a letter to Obama Sept. 26. These actions are “inconsistent with India’s international obligations and undermine India’s own creative community and the ability of American companies to invest,” the groups added.

At the same time, governors of 14 states, including Washington, Colorado, Pennsylvania and Maryland, wrote to the president Sept. 25. “Businesses in our respective states have shared strong concerns that India’s recent policy changes on intellectual property issues will severely impact U.S. businesses’ competitiveness and, in turn, inhibit economic growth and job growth in the U.S.,” they wrote. “More specifically, businesses have shared concerns about the implementation of industrial policies that benefit India’s local industries at the expense of U.S. companies,” their letter said.

## **Azevedo Trying to Defuse Bali Fight over Agriculture**

New World Trade Organization (WTO) Director-General Roberto Azevedo faces the first test of his diplomacy in his new post in his attempt to defuse a potential showdown over agriculture at the WTO ministerial in Bali in December. At a WTO Trade Negotiations Committee (TNC) meeting Sept. 23, Azevedo gave his support to proposals to adopt a “due restraint” or “restraint mechanism” agreement that would call on members not to initiate trade complaints against developing countries that take steps to support their farmers in the name of food security.

A proposal by developing countries known as the G-33 to allow them to provide subsidies to their farmers has drawn strong opposition from developed countries such as the U.S. A “due restraint” agreement would not satisfy either side completely but would prevent the dispute from blowing up the ministerial meeting as fights over agriculture capsized

the ministerial in Cancun in 2003. The U.S. would support a restraint mechanism under certain conditions, Mark Linscott, assistant USTR for WTO affairs, told reporters Sept. 26 after speaking at a program on Bali. “We want transparency; we want some kind of safeguard provision to ensure that there is no leakage of products that are part of public stock-holding programs; we want a relatively short, finite duration,” he said.

The G-33 proposal, which would have allowed subsidies to farmers and also the buying and stockpiling of food products, has been opposed by the U.S. “We are not alone,” Linscott said. “It’s widely accepted that the original G-33 proposal is not on the table. It hasn’t been for a long time,” he added.

Azevedo told negotiators that before he took office he was “extremely concerned with this issue because we did not even have a conceptual understanding of what kind of solution we were going to explore.” Since taking his post, the new WTO chief has been holding meetings with high-level officials in Geneva in what is being called the “Room E process,” referring to a conference room at WTO headquarters and a new name for what used to be called the “Green Room” process. “I am happy that in the Room E process, at least we agreed that what is doable between now and Bali is an interim solution, without prejudice to whatever we can do in the long-term,” Azevedo said.

The details of an agreement still need to be worked out, he noted. Questions remain on whether the deal would be politically or legally binding, whether it would be automatic or not, its coverage, how it would address transparency and reporting, what safeguard measures would be imposed to prevent distortion of world markets, the duration of the accord and what happens post-Bali. “Of course, all these elements are interlinked. We have been discussing them and there is no clear convergence so far on any of them. Common ground on some concepts is beginning to emerge, but very intense work is still needed in the coming weeks,” he said.

“Some Members made clear that they want to seek, not only an interim solution, but also a more permanent solution to the concerns that led to the G-33 proposal. Other Members are mindful of the potential market-distorting consequences of any solutions sought, whatever their nature and duration. As far as the interim solution is concerned, it is my view that the discussions on transparency and safeguards will probably frame the outcome in the other elements of the potential due restraint solution. There is no time to waste in moving to a solution in these critical areas,” Azevedo told the TNC. The restraint mechanism has been compared to the due restraint or “peace clause” in the Uruguay Round agreement on agriculture to preclude the institution of trade remedy cases against farm imports. That clause expired at the end of 2003.

## **WTO Trade Facilitation Still Lacking Commitments**

Least developed countries (LDCs) that ostensibly would benefit the most from a WTO trade facilitation agreement appear to be slowing progress toward a deal that would be ready for the WTO ministerial conference in Bali in December. Trade facilitation talks are being linked to talks on an agriculture agreement also on the Bali agenda, as well as LDC demands for more concessions from developed countries (see story above). LDCs will be given “really unprecedented flexibility” in implementing any facilitation agreement, Mark Linscott, assistant USTR for WTO affairs, told a Global Business Dialogue program in Washington Sept. 26. While the accord would also have an overall delayed

implementation deadline, negotiators are still waiting for LDCs and emerging economies to identify what they will be able to implement. Linscott said progress has been made in so-called “Room E” talks WTO Director-General Roberto Azevedo has been holding with senior representatives, referring to the small conference room at WTO headquarters.

Parallel meetings are also being held, including by a group of advocates for a facilitation deal known as the “friends of the chair,” he reported. Because many of the provisions of a trade facilitation deal reflect customs reforms the U.S. is already adopting administratively, “we’re not anticipating the need for new legislation” to implement it, Linscott said.

At a Sept. 23 meeting of the WTO Trade Negotiations Committee (TNC), Azevedo also said progress was being made on trade facilitation, including in Room E sessions, but cited areas where more work needs to be accomplished to have an agreement by December. “I am glad to report that these discussions have been focused, precise and business-like. Members were actually negotiating and interacting in a constructive manner,” he said. Azevedo wants to accelerate talks in October to have texts ready in November.

“Delegations are in a solution finding mode and I am encouraged by the new tenor to the discussion. If we keep this mood and attitude in the upcoming weeks, I believe Bali will be within reach. This is a great and inspiring start but more, of course, will be required,” he added. A trade facilitation deal would establish new disciplines on import and export procedures, provide LDCs with “special and differential treatment,” and foster customs cooperation. Financial aid also would be offered to LDCs to implement any measures.

Despite progress, Azevedo said “positions are not yet converging” on customs cooperation, flexibilities for developing and LDCs, particularly on implementation, customs brokers, pre-shipment inspections, consularization and certain transit issues.

“To break up the blockages in those areas, several things have to happen,” Azevedo said. “We need the proponents to come up with really improved proposals, manageable proposals, and opponents to equally move towards the middle ground. Some issues also need to be addressed in bilateral or smaller group settings to help the efforts in the larger format, which will remain as our primary negotiating approach,” he told the TNC.

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

**TRADE PEOPLE:** President Obama Sept. 25 nominated Catherine (Cathy) Novelli to be under secretary of State for economic growth, energy and the environment, replacing Robert Hormats, who resigned. Novelli has been VP of worldwide government affairs at Apple since 2007. From 1997 to 2005, she was assistant USTR for Europe and Mediterranean. Novelli received B.A. from Tufts, J.D. from University of Michigan, and LL.M. from University of London.

**EXPORT ENFORCEMENT:** Turkish company Finans Kiyetli Madenler Turizm Otomotiv Gida Tekstil San.Ve Tic (Finans) agreed Sept. 26 to pay OFAC \$750,000 to settle charges that it violated Iran sanctions by originating at least three electronic funds transfers, totaling \$257,808, processed through U.S. financial institutions “for the benefit of the Government of Iran and/or persons in Iran.” Two transactions were blocked by U.S. financial institution, OFAC noted. Finans did not voluntarily self-disclose violations.

**MORE EXPORT ENFORCEMENT:** KMT GmbH of Bad Nauheim, Germany, agreed to pay \$125,000 fine to settle one BIS charge of evasion. Firm allegedly attempted unauthorized

export to Iran, via transshipment through Germany, of nine high-pressure water pumps worth approximately \$800,000 for use in South Pars Industrial Complex, energy field involved in Iran's oil and petrochemical industry, in October 2008. KMT GmbH and sister company KMT Aqua-Dyne in Houston are indirectly owned subsidiaries of KMT Group AB in Stockholm, Sweden. KMT Group AB is in process of settlement with OFAC, according to BIS agreement. It neither admitted nor denied BIS charge.

**MORE EXPORT ENFORCEMENT:** Two men who were extradited from Singapore to face charges of exporting 55 military antennas to Singapore and Hong Kong without licenses were sentenced Sept. 20 in D.C. U.S. District Court. Hia Soo Gan Benson, aka Benson Hia, will serve 37 months in prison with credit for time served followed by three years' supervised release. Time served includes time after his arrest in Singapore in October 2011 before extradition to U.S. Lim Kow Seng, aka Eric Lim, was sentenced to 34 months with credit for time served – also since October 2011 – followed by three years' supervised release. Pair pleaded guilty June 26 to single charge of conspiracy to defraud U.S. (see **WTTL**, July 8, page 2). They are reputed principals of Corezing International, Pte, Ltd.

**ANTIBOYCOTT:** Digi-Key Corporation in Thief River Falls, Minn., agreed to pay BIS \$56,600 civil penalty Sept. 13 to settle five charges of furnishing information about business relationships with boycotted countries or blacklisted persons and 58 charges of failing to report receipt of request to engage in restrictive trade practice or foreign boycott against country friendly to U.S. From 2008 through 2011, Digi-Key included language in e-mail sales orders to UAE and received requests in transactions from UAE and Malaysia.

**SPECIAL 301:** Budget sequestration and impending closure of government has limited ability of USTR's office to travel to do on-site investigations of intellectual property protections in many of 41 countries cited in last Special 301 report, according to USTR Michael Froman. "We will not be able to send people to follow up on those concerns for the vast majority of those countries," he told reporters Sept. 26. In addition, budget restraints have limited office's ability to bring enforcement case "or to send people to Geneva to argue it," he said.

**EX-IM FRAUD:** James Bender of Sharon, Mass., former senior VP of trade finance for Sovereign Bank, was sentenced Sept. 23 in Concord, N.H., U.S. District Court to 24 months in prison for conspiracy to commit wire fraud. He was found guilty May 17 after four-day jury trial of conspiring to defraud Brazilian and Mexican customers of more than \$200,000. Co-conspirator Paul Wilson, former manager for Goss International, pleaded guilty in January 2012 to three counts of wire fraud in connection with this scheme and was sentenced in August 2012 to one year and one day in prison. Wilson appeared as witness in Bender's jury trial.

**CAFC:** Senate Sept. 24 confirmed Todd M. Hughes to Court of Appeals for Federal Circuit by vote of 98-0 (see **WTTL**, Feb. 11, 2013, page 9). Hughes is deputy director of commercial litigation branch at Justice. He received A.B. from Harvard and joint J.D./M.A. at Duke. Raymond T. Chen was sworn in Aug. 5 to CAFC after Senate vote of 97-0. Chen was deputy general counsel for intellectual property law and solicitor for U.S. Patent and Trademark Office. He received B.S. in electrical engineering from UCLA and J.D. from NYU School of Law.

**COOL:** WTO Dispute-Settlement Body agreed Sept. 25 to establish panel to hear Canadian and Mexican complaints against revisions U.S. Agriculture Department made to its country of origin labeling (COOL) regulations. Two NAFTA partners claim changes fail to bring U.S. into compliance with previous WTO rulings against original regulations (see **WTTL**, Sept. 2, page 9).

**MONGOLIA:** U.S. and Mongolia signed Agreement on Transparency in Matters Related to Trade and Investment Sept. 24. Accord includes joint commitments "to provide opportunities for public comment on proposed laws and regulations and to publish final laws and regulations," USTR release said. It also obligates Mongolia to publish final laws and regulations in English. "Today's agreement with Mongolia represents the first time that the United States has concluded

a stand-alone agreement addressing transparency in matters related to international trade and investment. Previously, the United States had only negotiated transparency commitments as part of broader agreements,” release noted.

**CHINA:** U.S. raised complaints Sept. 25 at WTO Dispute-Settlement Body (DSB) against China alleged failure to come into compliance with previous WTO ruling that found Beijing’s rules on electronic payments (EPS) via credit cards discriminated against U.S. suppliers (see **WTTL**, July 23, 2012, page 2). U.S. says no foreign EPS firm has been allowed to do business in China two months after “reasonable period of time” given to China to comply with ruling has expired and China has not given new timetable to come into compliance. Chinese contend they are in compliance and urged U.S. to read final report carefully.

**GSP:** Rep. Lee Terry (R-Neb.), chairman of House Energy and Commerce Committee’s commerce subcommittee introduced legislation (H.R. 3167) Sept. 20, “Playing Fair on Trade and Innovation Act,” which would block eligibility to GSP to countries that require products to be manufactured domestically or fail to protect intellectual property rights. “Today, some countries are taking advantage of American generosity. They enjoy open access to our markets while products made in America face intellectual theft in their markets,” Terry said in a statement.

**YEMEN:** Members of WTO Working Party on Yemen’s accession agreed Sept. 26 on terms of its membership. Accession package will be presented to 159 WTO members and then to the 9th Ministerial Conference in Bali, Dec. 3-6 for formal approval (see **WTTL**, Sept. 23, page 12).

**ORGANIC FOOD:** Starting Jan. 1, 2014, organic products certified in Japan or in U.S. may be sold as organic in either country, according to equivalency agreement USTR and USDA signed with Japan Sept. 26. Previously, “organic farmers and businesses wanting to sell products in either country had to obtain separate certifications to meet each country’s organic standards. This typically has meant two sets of fees, inspections, and paperwork,” USTR noted.

**ZEROING:** Commerce continues to win court rulings upholding its use of zeroing in administrative reviews but not in new investigations when it provides adequate justification for different policies based on appellate court order in *Union Steel*. In *SeAH Steel v. U.S.*, CIT Judge Delissa A. Ridgway Sept. 25 sustained Commerce’s use of zeroing and revised cost recovery analysis in redetermination of review of antidumping order on circular welded non-alloy steel pipe from Korea (slip op. 13-124). “Commerce’s Remand Results on this issue are responsive to the order granting a voluntary remand, and fully consistent with the holding of *SeAH I*,” she wrote. Change in cost analysis led to dumping margin being reduced to 3.87% from 4.99%. On Sept. 27, CIT Judge Timothy C. Stanceu upheld Commerce’s use of zeroing in nineteenth administrative reviews of antidumping orders on imports of ball bearings and parts thereof from France, Germany, Italy, Japan and United Kingdom. “The court considers *Union Steel* dispositive of the zeroing issue presented by this action and sustains the Department’s use of zeroing in the *Final Results*,” he ruled in *SKF USA Inc. v. U.S.* (slip op. 13-125).

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