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BIS Blocks Exports to Crimea, Bars License Exceptions

Crimea joined Cuba, Iran, North Korea and Syria on the list of countries or regions to which U.S. exporters cannot ship without a license. In the Federal Register Jan. 29, the Bureau of Industry and Security (BIS) imposed a license requirement for all items subject to the Export Administration Regulations (EAR) with a presumption of denial for all exports to Crimea, except those authorized in previous general licenses that the Office of Foreign Assets (OFAC) has issued. The Treasury agency has issued two general licenses allowing exports to Crimea of food and medicine designated as EAR99, as well as activities needed to wind down operations in the region (see **WTTL**, Jan. 5, page 7).

The BIS action implements Executive Order 13685, which President Obama signed Dec. 19. The order blocked the property and interests of persons involved in Russia's annexation of Crimea and "prohibits specified transactions, including exports, reexports, sales or supply, directly or indirectly, from the United States, or by a United States person, of any goods, services or technology to the Crimea." It directed agencies "to take all appropriate measures within their authority to carry out the provisions of the Order."

In December, the European Union (EU) also expanded sanctions against doing business in Crimea and Sevastopol. Those measures blocked companies from buying real estate or entities in the two areas, financing Crimean companies or supplying related services.

The BIS notice includes a limited savings clause. "Shipments of items removed from eligibility for a License Exception or export, or reexport without a license (NLR) as a result of this regulatory action that were on dock for loading, on lighter, laden aboard an exporting or reexporting carrier, or en route aboard a carrier to a port of export or reexport, on January 29, 2015, pursuant to actual orders for export or reexport to a foreign destination, may proceed to that destination under the previous eligibility" for a License Exception or NLR as long as export occurs before Feb.1, 2015, BIS noted.

EU Delays New Sanctions Against Russia

In the face of opposition from the new Greek government to additional sanctions against Russia, the EU's Foreign Affairs Council put off proposing new sanctions against Moscow Jan. 29 but agreed to offer the names of more individuals and entities to add to its

sanctions list at its next meeting Feb. 9. The council, made up of EU foreign ministers, agreed, however, to extend the package of sanctions first introduced against Russia in March 2014 for another six months until September 2015.

“In view of the worsening situation, the Council agrees to extend, in full compliance with the requirements of EU law, the restrictive measures targeting persons and entities for threatening or undermining Ukraine's sovereignty and territorial integrity, adopted in March 2014 and subsequently updated, until September 2015,” a council statement said. The council said it will also begin preparatory work on further sanctions aimed at ensuring implementation of the Minsk Agreement on Ukraine sovereignty.

The council was expected to take more forceful action after a heads of government meeting Jan. 26 called on it “to assess the situation and to consider any appropriate action, in particular on further restrictive measures, aiming at a swift and comprehensive implementation of the Minsk agreements.” The EU leaders’ call came after Russian-backed separatists and perhaps Russian troops launched new attacks, including the shelling of the eastern Ukrainian city of Mariupol where Kiev claimed 30 civilians were killed.

“We hope that this will help put pressure on particularly Russia to make positive steps and prevent negative steps that we have seen in recent days,” EU High Representative and Vice President Frederica Mogherini told a press conference after the council meeting. “One thing I can be happy about tonight is that we kept our unity, which is as we always said our strength, and we have shown that the European Union is ready to take further measures and prepare to take further measures not only if the situation doesn’t improve but gets worse as it has in the last days,” she said.

In response to questions about Greece’s opposition to sanctions, Mogherini said she spoke with new Greek Prime Minister Alexis Tsipras, who was elected Jan. 25. The new Greek foreign minister attended the council meeting. The Greek officials were “sticking to their positions but their attitude was extremely constructive and especially dedicated to finding and keeping our unity of the European Union,” she said.

Vice President Biden spoke on the phone Jan. 28 with Ukrainian President Petro Poroshenko. “The two leaders discussed the continued attacks in eastern Ukraine by Russian-backed separatists and the heavy toll that the Russian-backed offensive in the east was having on Ukraine's civilian population. The vice president noted that as long as Russia continues its blatant disregard of its obligations under the Minsk agreements, the costs for Russia will continue to rise,” a White House readout reported.

Hearings Underscore Outstanding TPP Issues

“We’re making good progress but we’re not there yet,” was the mantra U.S. Trade Representative (USTR) Michael Froman repeated over and over again in one form or other in responses to questions from lawmakers about specific outstanding issues in Trans-Pacific Partnership (TPP) negotiations Jan. 27. When members at Senate Finance Committee and the House Ways and Means Committee hearings that day asked when TPP would be finished, Froman said “in the next small number of months.” He also said “we’re in the end game but the issues that remain are significant.” During nearly six hours of testimony before the two committees, which held their hearings sequentially, Froman

diplomatically revealed few details about the status of the talks and said he shared the concerns of members on the numerous issues they raised. With no hint that any of these issues are close to being resolved, Froman's testimony suggests a TPP deal is not close.

Members of both committees raised similar questions about specific issues of importance to their constituents, ranging from agriculture and auto talks with Japan to human and labor rights with Brunei, Vietnam and Malaysia. The persecution of gays and lesbians in Brunei was a concern of Sen. Ben Cardin (D-Md.). Canadian barriers to U.S. cheese, poultry and eggs were a bipartisan concern. "Canada has to put an offer on the table or it could blow this whole thing up," warned Rep. Devin Nunes (R-Calif.).

Access to Japan's agriculture market continues to be a big issue for members, but Froman offered no details on where the talks stand. Sen. Charles Grassley (R-Iowa) told him agriculture "tends to be the locomotive" that brings along the rest of the deal. In regard to Japan's auto market, Froman said a deal will seek "meaningful access" and might include "an accelerated dispute-settlement process" if the market doesn't open.

Froman conceded that negotiations on patent protection of biological research data was one of the hardest outstanding issues in the talks. "Right now there is no consensus among the countries on where this will end up," he said. U.S. law currently provides 12 years of protection for such data and that is the U.S. negotiating position, he indicated. But the Obama administration has proposed reducing that to seven years.

He also noted the wide differences in how TPP countries treat the biological data, with five countries offering zero years protection, four having five years and two having eight years. The issues also divides members of Congress, including within parties, with some lawmakers demanding strong protections and others complaining the U.S. position hurts access to medicines for poor countries.

Several members also complained about the restrictions the USTR's office places on members who want to see negotiating texts, allowing only members to view portions of the documents and not being able to take notes. They called on Froman to allow cleared staff members to see the documents also, to allow notes to be taken, and to provide the proposals of other countries. Froman ducked the issue, saying he was working with committee chairmen to address the issue.

Froman also ducked questions about the inclusion of currency manipulation in the talks, conceding the subject is not part of the negotiations "at this point." He repeatedly said the issue comes under Treasury's jurisdiction and Treasury Secretary Lew is working on it. Among the many other unresolved issues in the talks that Froman addressed are apparel and footwear, shrimp, catfish, sugar, rice, pork, labor and environment, state-owned enterprises and data localization requirements.

TPP First or TPA First Debate Likely to Grow in Congress

A strategic debate is developing in Congress over whether it is more important to enact a fast-track trade promotion authority (TPA) bill first or to complete negotiations on the Trans-Pacific Partnership (TPP). The chairmen of the House Ways and Means Committee and Senate Finance Committee have signaled their clear preference for a TPA-first

approach, but Ways and Means Ranking Member Sander Levin (D-Mich.) continues to be the odd-man-out, pressing for TPP first (see WTTL, Jan. 26, page 4). The call for a TPP-first approach also has been seen in comments from some lawmakers who suggest that TPP negotiations have gone on for five years and gone so far that TPA is likely to have little impact on the outcome of a final deal. Moreover, the negotiations already address most of the goals that would be included in TPA, which is written so broadly that almost any deal could meet its objectives.

Although TPA has gotten strong endorsement from trade associations and the usual hired hands in Washington, it is not likely to bring in the top corporate executives to lobby for it. TPP, on the other hand, if it delivers significant market opening for key industries, will bring in home office CEOs to support the deal, including local companies that could lobby their Democratic representatives.

At back-to-back hearings Jan. 27, Ways and Means Chairman Paul Ryan (R-Wis.) and Senate Finance Committee Chairman Orrin Hatch (R-Utah) insisted that TPA must be enacted before the U.S. completes negotiations on TPP, but Levin argued that the substance of a TPP deal that meets congressional expectations is more important than the process of having TPA in place. Hatch and Ryan are expected to introduce TPA bills in February and both say they will move quickly to get the legislation enacted.

After a Ways and Means hearing where USTR Michael Froman testified on the administration's trade agenda, Ryan told reporters that the TPA bill that he will introduce will be a bicameral measure that will be the same as one Hatch is expected to introduce with Finance Ranking Member Ron Wyden (D-Ore.). Ryan also said he doesn't believe Congress has to act on TPA by this summer to avoid getting bogged down in other congressional issues. "I don't think there is a deadline like that," he said.

In his opening statement at the hearing, Ryan said TPA is needed so Congress gets involved before a deal is done and not after it's finished. "We simply can't get the best deals without TPA, and that's why we've got to pass it as soon as possible. So TPA is front and center," he said.

Earlier in the day at the Finance hearing, Hatch said renewal of TPA "is key to the success of this agreement. Without TPA, the administration will not be able bring back the high-standard agreement Congress needs to ensure its enactment." He also warned that "it would be a grave mistake for the administration to close TPP before Congress enacts TPA." He said he was working on a TPA bill with Wyden "to see if there is a way to address some additional issues he has raised."

In a speech Jan. 30, Hatch expanded on TPA. "I believe the bill we introduced in the last Congress should be the starting point for our efforts to pass TPA this year," he said. "I am very hopeful that we will be able to accommodate some of the issues raised by Ranking Member Wyden and get a new TPA bill introduced in short order. Once that is achieved, I plan to move very quickly to get the bill out of the Finance Committee and onto the Senate floor," he said.

At the Finance hearing, Wyden noted some of the issues that he wants addressed as part of TPA, including renewal of Trade Adjustment Assistance (TAA), a demand raised by other Democrats as a price for supporting TPA. "It's easy to understand why many

American workers are frustrated when they haven't gotten a meaningful raise in decades – or worse, they've lost jobs and fallen out of the middle class," he said. "When discouraged Americans argue that they've been hurt by trade, their voices should not be ignored," he added. "I hope to discuss what safeguards will be in place to ensure that any workers impacted by trade have access to retraining, health coverage, and other sources of support that connect them with new opportunities," Wyden stated.

In identical testimony to both committees, Froman said trade can be an area of cooperation between the administration and Congress. "To further strengthen that cooperation, as the President made clear last week, we look to Congress to pass a bipartisan Trade Promotion Authority," he said. "The Administration looks forward to working with this committee and the new Congress as a whole to secure TPA that has bipartisan support," he said.

After the Ways and Means hearing, Levin reiterated his support for a TPP agreement before Congress tackles TPA, citing the past history of deals such as with Peru and Korea where congressional involvement eased bipartisan passage of implementing legislation. "This hearing really showed that we have to make that the first order of business," he said. "We ought to focus on TPP and not give up our leverage at this point," he said. "I am determined to make sure that we focus on the substance of it and not the vehicle, not on the process but on policy issues," he said.

Azevedo Claims Early Progress on Doha Round Program

World Trade Organization (WTO) Director-General Roberto Azevedo told a members' meeting Jan. 29 that negotiators have made more progress in the last few weeks toward conclusion of the Doha Round than in the first six months of 2014. His assessment followed his call earlier in January for the intensification of talks on the post-Bali agenda with the aim of setting up a plan by July and completing the round at the next ministerial conference in December in Kenya (see **WTTL**, Jan. 26, page 5).

"There are some significant positives which we can take from our work so far. Members have started to go into more detail and to engage on the substance. While substantive positions haven't changed a great deal since last time these issues were discussed, it is clear to me that the tone of the discussion has changed. Despite the gaps between positions, I sensed a desire to overcome them," Azevedo said.

After Azevedo set out a process for getting the talks back in gear, meetings have been held by committees negotiating on agriculture, non-agricultural market access (NAMA) and services. Trade ministers also discussed the Doha goals at a meeting sponsored by the Swiss government during the World Economic Forum in Davos.

As an example of the new push for an agreement, a Jan. 28 meeting of the agriculture committee discussed a paper drafted by 12 countries, analyzing the potential impact of an agreement to cut domestic subsidies. The paper, described as a "number-crunching exercise" by one source, examined how cuts proposed in 2008 would affect six countries. It estimates that five members, the EU, China, India, Brazil and Japan would not have to do anything to comply. Only the U.S. would have to trim its support from its latest

notified amounts. The paper was produced by Australia, Canada, Chile, Colombia, Costa Rica, Guatemala, Malaysia, Pakistan, Paraguay, Thailand, Uruguay and Viet Nam. It looked at potential reductions in domestic support under the so-called Amber Box (the most trade-distorting support, known technically as AMS), Blue Box (similar but with constraints to reduce the distortion) and *de minimis* (a conceptually small amount of Amber Box support currently limited to 5% of production for developed countries and 10% for developing countries).

Based on support levels reported most recently to the WTO, all the countries studied except the U.S. would be within the new limits. Washington's latest *de minimis* for specific products would exceed the new limit by \$4.38 billion, the paper estimated. This would force the U.S. to re-categorize that support as Amber Box aid and raise its Amber Box support to a level that would overshoot its current limit by \$3.6 billion, the paper calculated.

The chairman of the agriculture negotiating committee, New Zealand Ambassador John Adank, welcomed the paper as an example of the detailed level of discussions that will be needed to break the logjam in the talks. "It does remind us that we have to get very, very concrete about both what our individual situations are in terms of our policy settings, and what that actually means to what we can contribute to the discussion," he said. "My really strong advice to you all as we leave this meeting is please get more concrete with each other, because if we stay in this sea of generalities we're probably not going to get that far," Adank advised members.

Cuba Continues to Challenge U.S. Trademark Violations

The rapprochement that President Obama launched with Cuba in December hasn't stopped Havana from continuing to complain at the WTO about Washington's failure to heed a 2002 WTO ruling against U.S. denial of trademark rights for Cuba's Havana Club rum. Cuba reiterated its complaint at the Jan. 26 meeting of the WTO Dispute-Settlement Body (DSB), citing U.S. refusal to honor the trademark for the rum produced jointly in Cuba by the Cuban government and France's Pernod Ricard.

The lingering dispute over Havana Club underscores a major legal hurdle that will have to be overcome to allow normal U.S.-Cuban relations to restart. In addition to the battle over Havana Club, there are other Cuban trademarks the U.S. doesn't recognize, as well as millions of dollars of claims against the Cuban government for property and companies it confiscated over the years, including the Havana Club name.

Section 211 of the 1998 appropriations act barred registration of the Cuban trademark in the U.S. and allowed Bacardi to register a competing trademark for its Havana Club rum produced in Puerto Rico. The European Union (EU) had brought the WTO complaint to defend Pernod Ricard's rights. The U.S. and EU reached an agreement in 2005 to delay indefinitely Washington's obligation to comply with the WTO ruling.

"Cuba once again requests before this Body immediate repeal of Section 211 and the cessation of all negative consequences for our country involving the implementation of the policy of economic, commercial and financial blockade. We hope that the United States recognizes the serious implications and negative precedent that is created by

converting a dead letter DSB decisions,” said Cuban permanent representative Anayansi Rodríguez Camejo, according to a translation of her remarks. Her statement came after the U.S. presented its 145th report on the status of its implementation of the WTO ruling. Cuba has raised these objections almost annually since the WTO ruling in 2002, including at the WTO Ministerial Conference in Bali where it almost sunk a final ministerial agreement. “Section 211 violates the rights of holders of Cuban brands, Bacardi facilitates the fraudulent sale of products that are not produced in Cuba, using the Havana Club trademark that identifies a Cuban origin,” Rodríguez Camejo said.

A U.S. representative said the DSB was not the appropriate forum to discuss U.S.-Cuba relations and the Havana Club dispute was between the U.S. and EU, not Cuba. In a status report on U.S. compliance with the WTO ruling, the representative told the DSB that several bills introduced in the current Congress would repeal Section 211 and other previously introduced legislation would modify it. “The U.S. administration will continue to work on solutions to implement the DSB’s recommendations and rulings and to resolve this matter with the European Union,” the representative said.

Showdown Looms over Iran Sanctions Legislation

President Obama’s threat to veto new Iran sanctions legislation while multilateral talks continue with Iran to curb its nuclear program failed to stop the Senate Banking Committee Jan. 29 from reporting out a bill (S. 269) to impose new measures against Tehran if the negotiations fail to reach a deal. Despite the committee’s action, a Senate vote on the bill won’t come before March 24 based on a pledge from 10 Democratic senators to oppose the legislation unless the president is given until then to complete the talks.

The Nuclear Weapon Free Iran Act of 2015 sponsored by Sens. Mark Kirk (R-Ill.) and Robert Menendez (D-N.J.), would impose new sanctions on Iran in six stages from July 6 to Dec. 7, if the president doesn’t notify congressional committees by July 6 that the P5+1 talks the U.S. and other countries are holding with Iran have reached a “long-term comprehensive solution.” The bill would require the president to send Congress the text of any agreement and give lawmakers 30 in-session days to review the accord.

If no deal is reached, the legislation would reimpose sanctions the president has waived during the negotiations and then begin to add new restrictions on Iran’s petroleum exports, on individuals that enable Iran to evade sanctions, block the assets of more Iranian officials and their families, and bar foreign banks that knowingly facilitate Iranian transactions from establishing correspondent accounts in the U.S.

President Obama forcefully threatened to veto any new Iranian sanctions during a Jan. 16 press conference with United Kingdom Prime Minister David Cameron. “The question I had for members of Congress, including those folks in my own party is: Why is it that we would have to take actions that might jeopardize the possibility of getting a deal over the next 60 to 90 days?” Obama said. “I will veto a bill that comes to my desk, and I will make this argument to the American people as to why I’m doing so. And I respectfully request them to hold off for a few months to see if we have the possibility of solving a big problem without resorting potentially to war,” he added. Obama’s plea was heard by 10 Democratic senators, including Menendez, who wrote to the president

Jan. 27 to say they will withhold support for the legislation until after March 24 to give him the time he has asked for to continue the negotiations. “We remain deeply skeptical that Iran is committed to making the concessions required to demonstrate to the world that its nuclear program is exclusively peaceful by March 24,” wrote the lawmakers who said they support S. 269.

“In acknowledgment of your concern regarding congressional action on legislation at this moment, we will not vote for this legislation on the Senate floor before March 24. After March 24, we will only vote for this legislation on the Senate floor if Iran fails to reach agreement on a political framework that addresses all parameters of a comprehensive agreement,” they added.

Meanwhile, House Speaker John Boehner (R-Ohio) sparked a controversy with the White House by inviting Israeli Prime Minister Benjamin Netanyahu to address a joint session of Congress March 3. Boehner has been reluctant to act on Iranian legislation because he has been afraid Congress would be blamed if a bill led to the collapse of negotiations, according to congressional sources. Killing the talks is seen by some as the main goal of the legislation.

Boehner’s invitation to Netanyahu may be his way to show support for the idea of sanctions without having to vote on them. Israel has strongly opposed the P5+1 talks with Iran and a deal that is expected to allow Tehran to maintain its uranium enrichment program supposedly for civilian uses and under international inspection. Lobbying for the legislation is the American-Israel Public Affairs Committee (AIPAC), which will also host a speech by Netanyahu when he is in Washington.

U.S., India Claim Progress on Defense, Nuclear Trade, Investment

President Obama and Indian Prime Minister Modi claimed they reached agreement on a host of trade, defense and nuclear issues during Obama’s visit to India Jan. 25-26 but released few details on how these accords would actually be implemented. The two leaders said their agreements would renew cooperation on defense, nuclear energy, healthcare and high technology, including on export controls for dual-use products.

In a joint statement, Obama and Modi said the two countries would “seek timely resolution of the challenges to trade in high technology goods, including the U.S. licensing requirements for trade in certain dual-use items.” They noted the work of the bilateral High Technology Cooperation Group, “including export control-related trade in homeland security technologies, high technology manufacturing equipment including machine tools, defense trade, and fostering collaboration in biotechnology, pharmaceuticals, medical devices, and health-related information technology.”

On defense cooperation they cited the finalization of a 10-year Framework for the U.S.-India Defense Relationship and the Jan. 22 signing of the India-U.S. Research, Development, Testing and Evaluation (RDT&E) Agreement to facilitate cooperation in defense research and development. The two leaders “welcomed the efforts made by both sides to expand bilateral defense cooperation in areas of mutual interest and reaffirmed their commitment to continue to work towards deepening the bilateral defense relationship,”

their statement said. The defense relationship could include technology cooperation and collaboration, co-production and co-development such as work under the Defense Technology and Trade Initiative. Obama welcomed Modi's "initiatives to liberalize the Foreign Direct Investment Policy regime in the defense sector and the leaders agreed to cooperate on India's efforts to establish a defense industrial base in India, including through initiatives like 'Make in India,'" their joint statement said.

A key trade measure announced during Obama's visit was a decision to "assess the prospects for moving forward with high-standard bilateral investment treaty discussions given their respective approaches." This pledge falls far short of actually starting BIT talks.

"The President and the Prime Minister affirmed their shared commitment to facilitating increased bilateral investment flows and fostering an open and predictable climate for investment," the statement said. The pair also promised "engagement on Intellectual Property Rights (IPR) in 2015 under the High Level Working Group on Intellectual Property, to the mutual benefit of both the countries."

In other areas, Obama and Modi agreed to promote cooperative and commercial relations in the field of space, including on a dual-frequency radar imaging satellite for earth sciences and possible cooperation in studying Mars. They said they would work toward creating a market for clean energy and solar energy. The statement said the U.S. and India will expand the India-U.S. Health Initiative into a Healthcare Dialogue to strengthen bilateral collaboration in the health sector.

*** * * Briefs * * ***

EXPORT ENFORCEMENT: Pedro Leonanardo Mascheroni, naturalized U.S. citizen and former scientist at Los Alamos National Laboratory (LANL), was sentenced Jan. 28 in Albuquerque U.S. District Court to 60 months in prison followed by three years' supervised release for conspiring to violate Atomic Energy Act by giving classified nuclear weapons data to person believed to be Venezuelan government official between October 2007 and October 2009. His wife, Marjorie Roxby Mascheroni, former contract employee at LANL, was sentenced to year and day in prison in August 2014 (see **WTTL**, Sept. 1, 2014, page 8). Both pleaded guilty in July 2013, three years after indictment in September 2010.

UNVERIFIED LIST: In Jan. 29 Federal Register BIS added 14 entities in Hong Kong, Pakistan and UAE to its Unverified List (UVL). In addition, rule added new addresses for two current UVL entities in Hong Kong -- Narpel Technologies, Ltd. and Powersun Electronics. BIS also removed one Hong Kong company, Dynasense Photonics Co., Ltd., "based on BIS's ability to confirm its bona fides through the successful completion of an end-use check," notice said.

GREEN GOODS: USTR requested comments in Federal Register Jan. 27 on Iceland's participation in WTO Environmental Goods Agreement talks. It especially invited comments on "environmental goods of which Iceland is a significant producer and consumer, as well as current market conditions for environmental technologies in Iceland." Comments due by March 6.

KAZKHSTAN: After another round of talks in Geneva week of Jan. 26 aimed at resolving outstanding issues in its WTO accession, Kazakhstan's accession is "close to conclusion," WTO officials say. "As soon as the remaining issues are resolved and the inputs are submitted by Astana to the Secretariat, the Secretariat would be requested to incorporate them into the Draft Accession Package," WTO report said. Goal is to circulate package – consisting of (1) Draft

Working Party Report; (2) Draft Goods Schedule; and (3) Draft Services Schedule -- first week of February. Goods schedule would first be subject to verification. After that, Working Party would be convened in mid-March.

COUNTRY OF ORIGIN: CIT Judge Nicholas Tsoucalas Jan. 28 upheld Customs mark or retrieve order to JBLU, Inc. based on finding that its claimed trademark was not registered and made-in-China label not in correct position (slip op. 15-8). Company claimed its “C’est Toi Jeans USA,” “CT Jeans USA,” and “C’est Toi Jeans” logos were registered. “Thus, the country of origin is not displayed in close proximity to each ‘USA’ or ‘Los Angeles’ logo on the backs of the jeans, pocket linings, back waistbands, and hang-tags. Finally, the ‘Made in China’ label is in smaller print-size than the ‘C’est Toi Jeans USA,’ ‘CT Jeans USA,’ and ‘C’est Toi Jeans Los Angeles’ logos embroidered into the back waistbands of the jeans and displayed on the jean hang-tags,” Tsoucalas found.

GREEN TUBES: Court of Appeals for Federal Circuit Jan. 29 affirmed CIT decision upholding Commerce remand determination on scope of antidumping investigation into drill pipe from China. “Commerce’s inclusion of green tube in the scope of the investigation and in the calculation of industry support was supported by substantial evidence and was not contrary to law,” wrote CAFC Judge Evan Wallach for three-judge panel in *Downhole Pipe & Equipment v. U.S.* He also upheld department’s use of surrogate data and available information.

HONEY: CIT did not err in upholding Commerce’s tenth administrative review of antidumping order on honey from China, CAFC ruled Jan. 30 in *Dongtai Peak Honey Industry v. U.S.* Because department “properly exercised its discretion in denying Dongtai Peak’s untimely filings, and because Commerce’s decisions to treat Dongtai Peak as part of the China-wide entity and to impose a dumping margin based on adverse facts available were supported by substantial evidence and were in accordance with law, this court affirms” CIT, Appellate Judge Evan Wallach wrote for three-judge panel.

CUBA: ITC Jan. 30 launched investigation to “examine the economic effects on exports of U.S. goods and services, including digitally traded goods and services, of statutory and administrative restrictions related to trade with and travel to Cuba by U.S. citizens.” Senate Finance Ranking Member Ron Wyden (D-Ore.) requested investigation in December after President Obama’s opening of relations with island country (see **WTTL**, Dec. 22, page 2). Commission will hold hearing March 24, and public comments are due April 15.

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