

Vol. 35, No. 40

October 12, 2015

## Corker Presses Administration to Complete Export Reforms

Senate Foreign Relations Committee Chairman Bob Corker (R-Tenn.), whose committee oversees the Arms Export Control Act, is urging the Obama administration to complete export control reform, including controversial changes to U.S. Munitions List categories I, II and III. “We’ve actually worked through a number of issues and there are still a couple of issues that have not yet been addressed,” Corker told WTTL Oct. 6. “I’m just asking them to please let’s figure a way to resolve this and move on,” he said.

“In the small arms area, much of that should be handled in a different way and they agree,” Corker told WTTL, referring to the expected proposal to move some non-military shotguns and certain other items to the Commerce Control List from the USML (see **WTTL**, May 25, page 1). The transfer should apply to items that are not strategic, he added.

Corker’s comments came after he wrote Oct. 5 to Secretary of State John Kerry expressing support for the reforms and urging completion of the initiative. “In particular, I understand the interagency review of Categories I-III was completed some time ago and that the proposed rules have been drafted and vetted through the interagency task force, but have yet to be published for public comment,” he wrote. “Given the advanced stage in the process, I ask that you inform me as to when the proposed rules for these categories will be published in the Federal Register for public comment,” he wrote.

“Completing the reform and modernization of the United States export control regime is important to ensuring U.S. national security interests and helping U.S. companies remain competitive in the current global economy,” Corker stated. Sen. John Thune (R-S.D.), who chairs the Senate Republican Conference, also wrote to Kerry Oct. 9 echoing Corker and calling on State and Commerce to rationalize the USML and CCL. “Moving eligible dual-use items currently on the USML to the CCL would provide more appropriate oversight of U.S. exports,” he wrote.

## Congress Could Force U.S. Back to TPP Table

The surprisingly negative reaction of some normally free-trade Republicans in Congress to the Trans-Pacific Partnership (TPP) deal reached Oct. 5 could force the Obama administration back to the negotiating table with its 11 other TPP partners to fix the

provisions that concern lawmakers. Some sources compare the dilemma facing the White House to the reaction of Congress to the Bush administration's U.S.-Korea free trade agreement (FTA), which the Obama administration had to renegotiate. With TPP the problem could be worse, since any changes to appease Republicans are likely to further antagonize Democrats (see related story page 3).

While opposition from Democrats has been expected, several Republicans, including Senate Finance Committee Chairman Orrin Hatch (R-Utah), are raising the idea of sending U.S. Trade Representative (USTR) Michael Froman back to correct areas they find objectionable. Their strongest complaint is against provisions requiring TPP countries to protect biologics research data for only five years instead of the 12 years provided in U.S. law.

While fast-track trade promotion authority (TPA) bars Congress from amending a trade deal once the president sends it up for approval, the law requires the president to notify Congress 90 days before he signs it. During those 90 days, pressure could mount on the administration to make additional changes to ensure it has the votes to pass the pact.

"There are all kind of ways to correct this if it needs correction," Hatch told reporters Oct. 6. "Right now, from the limited information I have, it needs correction. It isn't really what we expected," he added. "I think the president wanted to get this done. He figures people are going to support it. But, heck, look at how tough it was to get TPA through. Imagine what it's going to be like getting the agreement through," Hatch said.

Hatch's ire was particularly directed at the agreement on biologics data protection, but he has other concerns as well. "I think it's a mistake not to have the 12 years [of data protection]," he told reporters. "If that becomes enshrined in this agreement and passes, that is going to cause havoc with our biologics and pharmaceutical companies," he said. Hatch seemed sanguine about potential rejection of the TPP. "We could wait until the next administration," he said. "Let's face it, we've got six years on TPA," he added.

Objections to a tobacco carve-out in provisions on investor-state dispute settlement (ISDS), which negotiators claim is an "opt out" provision that gives parties the discretion to exclude certain products from ISDS coverage but doesn't mandate the exclusion, also has drawn objections from Republicans, including Majority Leader Mitch McConnell (R-Ky.), whose state produces tobacco. Also objecting are the senators from North Carolina.

"There are two glaring problems: the agriculture carve-out for tobacco is an awful precedent to set for trade negotiations in the future, and biologics protection of five years falls woefully short of the 12 years in the United States," Sen. Richard Burr (R-N.C.) told reporters Oct. 6. "That sends a suggestion to innovators that there's no benefit to innovating in the United States," he said. When asked if he would vote against the TPP if the tobacco language stayed in it, he replied, "in a heartbeat."

Burr suggested the administration "may need to go back to the table to renegotiate it, if in fact, they haven't got the votes to pass it." The administration "probably should have counted votes before they did this," he added. "They are going to come up woefully short based on the ag community. There are dairy issues that are in it" that members are unhappy with, he said. Sen. Ron Wyden (D-Ore.) contends the new transparency provisions in the law will calm the rhetoric over the deal once people have a chance to see the details. "The important aspect about TPP now is that fairly shortly this is going to be

made public and you are going to see a dramatic change in the way that trade policy is made,” he told reporters Oct. 6. “You have this very detailed process, in my view, that probably makes it hard to really vote on this before next spring,” he said.

Democratic opposition to the pact got a boost Oct. 7 when presidential candidate Hillary Clinton said she would not support it. “What I know about it as of today, I am not in favor of what I have learned about,” she said in a PBS interview. Clinton cited currency manipulation, drug patents and “a lot of unanswered questions” as the reason for her concerns.

She also knocked the results of the U.S.-Korea FTA, which she helped renegotiate. There are some things “we have learned about trade agreements in the past. Sometimes they look good on paper,” she said. “Now looking back on it, it doesn’t have the results we thought it would have in terms of access to the market and more exports,” Clinton stated. Clinton’s stand disappointed many but was not a surprise given the strong opposition to the deal from labor, environmentalists, progressives and Sen. Bernie Sanders (D-Vt.).

## **To USTR, Everything Is Rosy Under TPP**

Based on fact sheets issued by the USTR’s office and statements by USTR Michael Froman, the U.S. got all it wanted in the TPP but made no concessions. The office’s selective release of details from the accord show other countries opening their markets to U.S.-made goods but apparently no opening of the U.S. market. Its explanation of many parts of the accord is either vague or incomplete. For example, a USTR fact sheet boasts about the elimination of tariffs in several TPP countries but doesn’t reveal how long it will take for those tariffs to get to zero.

The selling of TPP included the release Oct. 8 of a glossy 71-page pamphlet titled, “18,000 Tax Cuts on Made-in-America Exports.” The text, which gives state-by-state data on TPP’s benefits along with examples of how it will help specific companies, was clearly prepared before the deal was reached on Oct. 5 (see related story page 1).

Washington-based trade lobbyists are expected to join the pro-TPP parade when it gets to Congress, but it is uncertain yet whether their bosses in the home office will put their weight behind the accord as they did for NAFTA and giving China permanent normal trade relations status. With the U.S. already having free trade deals with six of the 11 TPP partners and trade with all 11 growing without a deal, the incremental benefits may dampen industry support. Moreover, the accord is expected to increase the U.S. trade deficit with Asia, not decrease it (see **WTTL**, May 18, page 5).

Business support also may be weak because the Obama administration has tried to avoid upsetting anyone while the deal was being negotiated and in the process failed to build a base of support for it. “They didn’t do enough work to bring people along in industry and the Hill,” one industry representative told **WTTL**.

A USTR fact sheet includes several concessions the U.S. won from Japan in the talks without mentioning what Tokyo has gained. Some news reports, however, say U.S. officials have confirmed privately that the U.S. will eliminate the 2.5% tariff on cars over a 25-year period and the 25% over 30 years, with snapback safeguards. In addition, it

agreed to reduce the rule of origin for autos to 45%. “As part of TPP, we’ve reached agreement with Japan to remove the non-tariff barriers that have kept U.S.-made autos, trucks and parts out of that important market,” the office asserted without giving details on how that will be done. The regulatory barriers to foreign autos is only part of the problem for U.S. car companies in Japan. Difficulty in opening dealerships and selling practices of Japanese car dealers are often cited as more daunting hurdles.

Japan, however, has agreed to reduce its 38.5% to 9% on beef, although the USTR doesn’t say over what period. It also will drop its 40% tariff on cheese, again without a time period given. Japan’s 58% tariff on wine will be reduced to zero.

“Under the TPP agreement, Japan will eliminate duties on 74 percent of its beef and beef product tariff lines within 15 years. Tariffs will be cut on the remaining tariff lines,” the fact sheet states. “Japan will eliminate 80 percent of its pork tariffs in 11 years, and make steep cuts in those that remain,” it adds. In addition, Tokyo will eliminate the 20% tariff on ground seasoned pork and the 21% tariff on American soybean oil, but with no phase-out times given.

In other areas, Vietnam will eliminate its 20% tariff on poultry; Canada will allow imports of 4,000 more tons of butter, nearly 14,500 more tons of cheese, and more than 50,000 more tons of liquid milk; TPP countries will end import taxes as high as 35% on information and communication technology exports; parties will also open markets to U.S. services providers, including electronic payment services or engineering; machinery tariffs will be eliminated, as well as tariffs on car engines, dump trucks and bourbon.

The American Peanut Product Manufacturers, Inc. issued a statement saying Japan has agreed to eliminate tariffs on U.S. peanuts in eight years and on peanut oil in 11 years. It also said Vietnam’s tariffs of up to 34% will be eliminated in eight years, while Malaysia’s 5% tariffs will be eliminated immediately.

To learn what the U.S. gave in TPP, you have to go to press statements and fact sheets issued by the other parties, which also focused mostly on their own positive wins and downplayed their concessions. “Australia has secured guaranteed new access to the U.S. sugar market under the TPP,” said a statement from its trade and investment minister, Andrew Robb. A Sweetener Users Association press release said Australia will get an additional 65,000 metric tons in new sugar allocation from the U.S.

“Japan will eliminate tariffs and significantly reduce the levy on high polarity sugar, putting our exporters at a distinct competitive advantage. Tariffs on seafood will also be eliminated along with the vast majority on horticulture products. New preferential quota access will be created for grains and cereals and Australian rice,” Robb added.

“For Australian manufacturers, the TPP creates new market access opportunities for exporters by eliminating or significantly reducing tariffs on iron and steel products, ships, pharmaceuticals, machinery, paper and auto parts. All remaining tariffs in TPP countries on Australian minerals, petroleum and LNG exports will be eliminated,” he also said.

“Importantly, the TPP will not require any changes to Australia’s intellectual property laws or policies, whether in copyright, pharmaceutical patents or enforcement. Aus-

tralia's five years of data protection for biological medicines will remain unchanged. The TPP will not increase the price of medicines in Australia," Robb declared.

A Canadian fact sheet boasts about additional access Canadian firms will have to U.S. government programs under the government procurement provisions of TPP. "Canadian industry will be provided, for the first time, with access to the procurement activities of major U.S. regional power authorities, such as the Tennessee Valley Authority. This outcome will level the playing field against competitors from countries which already enjoy access to these entities under other agreements, including the WTO GPA," it said.

Ottawa said the accord will give Canadians access to six major U.S. regional power authorities: Tennessee Valley Authority, Bonneville Power Authority, Western Area Power Administration, Southeastern Power Administration, Southwestern Power Administration and St. Lawrence Seaway Development Corporation.

"Canadian suppliers will now have the right to participate in procurements by major U.S. federal power authorities which operate hydroelectric power, fossil fuel plants, nuclear power plants, wind turbines, solar panels and transmission systems, as well as provide flood control and navigation for the Tennessee and Columbia River Basins," it stated.

## **TPP Textiles Deal Will Shift More Trade to Asia**

Despite the TPP's adoption of a "yarn-forward" rule of origin, which has been anathema to the U.S. brand-name apparel industry and retailers for more than a score of years, the textiles and apparel provisions of the deal are likely to accelerate the shift of production to Asia. The accord also will increase footwear imports, which already account for over 98% of the U.S. market.

One key to the expansion of apparel imports is a provision in the deal that will allow components from more than one member to count toward the rule of origin for apparel. "The TPP provides for 'accumulation,' so that in general, inputs from one TPP Party are treated the same as materials from any other TPP Party, if used to produce a product in any TPP Party," a USTR explanation of the accord stated.

Among countries seeking this provision was Peru, which produces and spins high-quality pima cotton. Industry sources expect Peru to increase exports of this product to Vietnam and Malaysia, which would then be able to meet the yarn-forward rules and have their apparel exports eligible for duty-free treatment in the U.S. This is likely to encourage more clothes makers to move product from China to Vietnam, which is already the second largest supplier of apparel to the U.S. Vietnam exported \$4.4 billion in cotton apparel to the U.S. in 2014, while China exported \$14.4 billion, according to Census data.

"The TPP Parties agree to eliminate tariffs on textiles and apparel, industries which are important contributors to economic growth in several TPP Parties' markets. Most tariffs will be eliminated immediately, although tariffs on some sensitive products will be eliminated over longer time frames as agreed by the TPP Parties," the USTR explained. "The chapter also includes specific rules of origin that require use of yarns and fabrics from the TPP region, which will promote regional supply chains and investment in this

sector, with a “short supply list” mechanism that allows use of certain yarns and fabrics not widely available in the region,” it added. Industry sources are still worried that tougher customs rules and procedures, which have been added to other trade pacts, might lessen the value of the agreement.

TPP “includes commitments on customs cooperation and enforcement to prevent duty evasion, smuggling and fraud, as well as a textile-specific special safeguard to respond to serious damage or the threat of serious damage to domestic industry in the event of a sudden surge in imports,” the USTR said.

U.S. negotiators tried to walk a fine line on easing import tariffs on footwear and especially sports footwear, facing opposing demands from Nike and New Balance. While the deal reportedly will lower these tariffs, certain production requirements could limit that benefit, one source said.

Nonetheless, Footwear Distributors and Retailers of America (FDRA) President Matt Priest issued a statement saying his group is “extremely pleased and excited by today’s announcement” of an agreement. “FDRA has worked for years to highlight the need for an agreement that provides significant duty reduction for footwear companies and American consumers,” he said.

## **EU Court Ruling Adds Pressure to Update Safe Harbor Accord**

Talks that have dragged on for two years to update the 2000 U.S.-European Union (EU) “Safe Harbor” agreement got a kick in the pants Oct. 6 from a European court that declared the accord invalid. Whether proposed changes to the deal would overcome the Court of Justice of the European Union’s (CJEU) objections is uncertain, but without any changes, U.S. companies that have relied on Safe Harbor rules to allow them to acquire personal data on private EU citizens could be barred from obtaining and using such data.

The CJEU decision in *Schrems v. Data Protection Comm’r* (Case C-362/14) said National Security Agency (NSA) surveillance programs that were exposed by Edward Snowden undermined the accord’s protections. It claimed the programs didn’t comply with the pact’s national security provisions.

“We are prepared to work with the European Commission to address uncertainty created by the court decision so that the thousands of U.S. and EU businesses that have complied in good faith with the Safe Harbor and provided robust protection of EU citizens’ privacy in accordance with the Framework’s principles can continue to grow the world’s digital economy,” Commerce Secretary Penny Pritzker reacted in a statement.

“For the last two years, we have worked closely with the European Commission to strengthen the U.S.-EU Safe Harbor Framework, with robust and transparent protection, including clear oversight by the Department of Commerce and strong enforcement by the U.S. Federal Trade Commission. The court’s decision necessitates release of the updated Safe Harbor Framework as soon as possible,” Pritzker said.

In May, EU Trade Commissioner Cecilia Malmstrom said differences between the U.S. and EU over changes to the Safe Harbor agreement “are about to be solved very soon.” She said U.S. and EU justice officials also are working on a new “umbrella” agreement

on the prosecution of violators of safe-harbor rules (see **WTTL**, May 11, page 1). Even before the court ruling, the EU had raised complaints about the operation and enforcement of the Safe Harbor rules, which require U.S. companies to meet certain conditions to assure that they protect any personal data they receive on EU citizen.

In November 2013, the EU Commission made 13 recommendations to change the accord to increase transparency and enforcement. As the talks on the Safe Harbor accord have gone on, they have become linked to broader negotiations over trans-border data flows, supply of services and localization of servers in talks on a Transatlantic Trade and Investment Partnership (TTIP).

## **Bristol-Myers Squibb Settles FCPA Charges of Bribery in China**

Another global health care company has settled charges of bribing Chinese health care providers (HCPs) to increase sales. Pharmaceutical company Bristol-Myers Squibb (BMS) agreed Oct. 5 to pay more than \$14 million to settle Securities and Exchange Commission (SEC) charges of violating the Foreign Corrupt Practices Act (FCPA). Infant formula supplier Mead Johnson Nutrition Company agreed to pay SEC \$12 million to settle similar charges just three months ago (see **WTTL**, Aug. 3, page 2). The cases reflect the widespread corruption throughout the Chinese health system.

Between 2009 and 2014, BMS failed to effectively control interactions with HCPs at state-owned and state-controlled hospitals in China, the SEC charged. “Through various mechanisms during this period, certain sales representatives of the joint venture improperly generated funds that were used to provide corrupt inducements to HCPs in the form of cash payments, gifts, meals, travel, entertainment, and sponsorships for conferences and meetings in order to secure new sales and increase existing sales,” it added.

During that time, Chinese subsidiary BMS China “identified numerous irregularities in travel and entertainment and event documentation, including fake and altered purchase orders, invoices, agendas, and attendance sheets for meetings with HCPs that likely had not occurred. BMS China inaccurately recorded the reimbursement of these false claims as legitimate business expenses in its books and records, which were then consolidated into the books and records of BMS,” the SEC said.

Under the settlement, BMS agreed to pay disgorgement of \$11.4 million, prejudgment interest of \$500,000 and a civil penalty of \$2.75 million, SEC noted. The company also agreed to report to the SEC the status of its remediation and implementation of FCPA and anti-corruption compliance measures for two years.

“We have resolved this matter with the United States Securities and Exchange Commission, and are committed to the highest standards of business integrity, vigilance and ethics across our organization,” a company spokesperson wrote in an email to **WTTL**.

The company first received a subpoena from the SEC investigators in March 2012. “The Company is cooperating with the SEC, along with the Department of Justice, in its investigation of these matters. In particular, the Company is investigating certain sales and marketing practices in China. It is not possible at this time to assess the outcome of

these matters or their potential impact on the Company,” the company reported in the 10-K filing in February 2015.

## **New Antidumping Rules Can't Apply Retroactively, Court Rules**

Provisions in the trade preferences extension legislation (H.R. 1295) enacted in July that gave Commerce greater leeway to use adverse facts available (AFA) in antidumping cases cannot be applied retroactively, the Court of Appeals for the Federal Circuit (CAFC) ruled Oct. 8. The decision upheld a Court of International Trade (CIT) ruling that confirmed Commerce's remand determinations on challenges of three administrative reviews of antidumping order on frozen warmwater shrimp from China.

Section 502 of the statute, which also extended trade adjustment assistance, alters some of the standards that Commerce applies in selecting and corroborating AFA rates for uncooperative respondents. While Commerce used AFA information in deciding to apply a country-wide rate to Chinese exporter Hilltop International in two of the reviews, it granted the firm a separate rate in the third.

“As previously noted, section 502 of the Act does not state explicitly that it is retroactive or that it applies to final administrative determinations that remain subject to judicial review. The legislative history surrounding section 502 of the Act similarly fails to answer the precise question,” wrote Appellate Judge Evan Wallach for the three-judge panel in *Ad Hoc Shrimp Trade Action Committee v. U.S.*

“However, applying normal rules of statutory construction, it is evident that Congress intended section 502 of the Act to apply only to Commerce determinations made on or after the date of enactment. Unlike with section 502 of the Act, Congress explicitly stated that other provisions in the Act have retroactive effect,” he added. The trade preference provisions provided for retroactive refunds of duties collected during the lapse of the Generalized System of Preferences (see **WTTL**, July 27, page 2).

“The juxtaposition of section 502 of the Act with the legislation's other provisions implies that, had Congress wanted section 502 of the Act to have retroactive effect or to apply to pending appeals, it would have said so,” Wallach wrote. “The legislative history also supports the inference, given that six weeks before the Act's passage Congress was cognizant that it would have to decide when trade remedy amendments under consideration would take effect,” he added.

## **ITA Deal on Track Despite Last-Minute Maneuvering**

The deal to update the Information Technology Agreement (ITA) appears to be overcoming concerns that several participants would try to exclude more products from its tariff-cutting provisions or extend the phase-out period for eliminating tariffs beyond the seven years allowed in the accord. Talks in Geneva the week of Sept. 28 found some countries still trying to add to their “sensitive” list of excluded products or seeking longer phase-out periods but not as much as some participants had feared, one source reported (see **WTTL**, July 27, page 3). Before the talks, several members were concerned that

China would try to add to its sensitive list and seek longer phase-out time. At the meeting, China didn't ask for much more than it already had accepted. Of the 201 items covered by the ITA, Beijing wants 88 to have extended periods of protection. It has asked for 19 to have a phase-out period of seven years; 69 for five years and the rest to have tariffs lifted immediately or in three years, the standard time sought by the accord.

The Chinese weren't alone in seeking longer phase-out periods, and much of the meeting was taken up with efforts to curb those requests. Negotiators are trying to get countries seeking a period of seven years to agree to only a five-year period and those seeking five years to accept a three-year period, according to sources. For now, only a handful of products would be allowed to keep tariffs in place beyond seven years, sources report.

Countries have until Oct. 30 to submit their proposed revised tariffs schedules for covered ITA items. Negotiators will meet again Nov. 9. The goal is to have the final accord adopted at the World Trade Organization's (WTO) ministerial conference in Nairobi, Kenya, Dec. 15-18. With few achievements expected at the ministerial, WTO Director-General Roberto Azevedo has pushed for completion of the ITA as one of the major "deliverables" that could take place at the conference. As a result, he reportedly has been closely involved in the ITA talks and trying to get enough countries to accept the deal to produce the "critical mass" needed to give all members access to its tariff-free benefits.

## House Votes to Repeal Restrictions on Crude Oil Exports

Despite White House opposition, the House Oct. 9 passed a bill (H.R. 702) to end the president's authority to impose a ban on crude oil exports. The final vote of 261-259 fell mostly along party lines, with six Republicans voting no, and 26 Democrats voting aye.

The two main provisions of H.R. 702 would repeal section 103 of the Energy Policy and Conservation Act of 1975, which gives the president authority to restrict the export of coal, petroleum products, natural gas, or petrochemical feedstocks and bar any government official from imposing or enforcing any restriction on crude oil exports.

House members also rushed to pass several amendments to the bill by voice vote, including one requiring a report within 180 days on how lifting the ban on crude oil exports will help create opportunities for veterans and women in the U.S., while promoting energy and national security; another requiring the lifted ban to be assessed after 10 years and directing the secretaries of Energy and Commerce to work together to review the impact of lifting the ban as it relates to promoting U.S. energy and national security and report their findings to Congress.

One amendment would direct the Energy secretary to complete a study on the net greenhouse gas emissions that will result from the repeal. Another would find that the U.S. has reduced its oil consumption over the past decade, and increasing investment in clean energy technology and energy efficiency will lower energy prices, reduce greenhouse gas emissions and increase national security.

The White House has already expressed its strong opposition to the bill. "Legislation to remove crude export restrictions is not needed at this time. Rather, Congress should be

focusing its efforts on supporting our transition to a low-carbon economy,” the White House said in a Statement of Administration Policy two days before the vote. “If the President were presented with H.R. 702, his senior advisors would recommend that he veto the bill,” it added (see **WTTL**, Sept. 21, page 3).

“Lifting the crude oil export ban is a win for our economy. It would lower prices at the pump, create jobs, generate hundreds of millions of dollars in economic benefits, and strengthen our geopolitical influence across the globe. It would also boost royalty payments from federal oil and gas leases, reducing the budget deficit by over a billion dollars,” House Energy and Commerce Committee Chairman Fred Upton (R-Mich.) said in a statement. His committee reported out the measure in September on a similar party-line vote of 31-19, with only three Democrats crossing over to support the bill.

On the other side of the Capitol, the Senate is divided. “House approval of legislation to lift the ban on crude oil exports is great news. It sends a strong signal that Congress will lead where the administration has failed. It is unfortunate that the White House wants to ignore broad bipartisan support for increasing exports of American energy to our friends and allies,” said Senate Energy Committee Chair Lisa Murkowski (R-Alaska). In contrast, Democrats including Massachusetts Sens. Elizabeth Warren and Ed Markey have not held back their opposition to the measure. “The most obvious effect of lifting the crude oil export ban would be to produce enormous profits for a number of big oil companies,” Warren said at a Senate Banking Committee hearing Oct. 1.

**\* \* \* Briefs \* \* \***

**CHINA:** WTO arbitration panel ruled Oct. 9 that U.S. will have 15 months from December 2015 to implement earlier rulings that it violated WTO rules in application of countervailing duties to 17 Chinese products. Commerce will have to revise orders on thermal paper; pressure pipe; line pipe; citric acid; lawn groomers; kitchen shelving; oil country tubular goods; wire strand; magnesia bricks; seamless pipe; print graphics; drill pipe; aluminum extrusions; steel cylinders; solar panels; wind towers; and steel sinks (see **WTTL**, Dec. 22, page 6).

**USTR:** Asia Society announced Oct. 9 that Acting Deputy USTR Wendy Cutler will become head of its Washington office and vice president starting Nov. 2. Cutler traveled back and forth to Japan almost monthly for year negotiating to bring Tokyo into TPP (see story page 3). Highly regarded in trade community, Cutler served as assistant USTR for Japan, Korea and Asia before taking acting deputy post, was chief U.S. negotiator for U.S.- Korea Free Trade Agreement and led USTR team in APEC talks. She joined USTR in 1988 after working at Commerce.

**TRADE FIGURES:** Merchandise exports in August fell 9.9% from year ago to \$124.5 billion, lowest since June 2011, Commerce reported Oct. 6. Services exports gained 2.5% to record-high \$60.6 billion from August 2014. Imports dipped 3.3% from August 2014 to \$192.4 billion, as services imports gained 3.7% to \$41.1 billion. Biggest factors behind numbers are drop in oil prices, rise in dollar value. Year to date, goods exports are down 6.1% from 2014 to \$1.02 trillion. Services exports gained 1.6% to \$479.7 billion. Goods imports for eight months dipped 3.2% from 2014 to \$1.53 trillion, as services imports gained 2.8% to \$324.4 billion. Exports to China year-to-date fell 3.6% from 2014, while imports from China in first eight months gained 6.2% from 2014. Decline in oil prices are reflected in year-to-date drop of 8.3% in exports to Canada from year ago, while imports from NAFTA partner dropped 13.4% to \$200 billion.

**EXPORT-IMPORT BANK:** Rep. Stephen Fincher (R-Tenn.) succeeded Oct. 9 in garnering 218 signatures on his discharge petition, which is enough to force House vote on his bill (S. 3611)

to renew charter of Export-Import Bank (see **WTTL**, Oct. 5, page 7). Petition got 42 GOP signers. “When, thanks to this discharge petition, the House is able to work its will, I am confident that it will join the Senate in expressing its overwhelming bipartisan support to reopen the Export-Import Bank and restore a level playing field for American businesses and their workers,” said Minority Whip Steny Hoyer (D-Md.) in statement. Later, Hoyer told press conference that he expects House vote on bank to come on Oct. 26.

**UNVERIFIED LIST:** In Oct. 7 Federal Register BIS added 12 entities in Canada, Czech Republic, Georgia, Hong Kong and UAE to its Unverified List (UVL). In addition, rule added new addresses for four current UVL entities in Hong Kong -- AST Technology Group (HK) Ltd., E-Chips Technology; Ling Ao Electronic Technology Co. Ltd., a.k.a. Voyage Technology (HK) Co. Ltd.; and Narapel Technology Co., Limited. BIS removed Ditis Hong Kong Ltd in Hong Kong and Fauji Fertilizer Company Ltd. in Pakistan “based on BIS's ability to confirm their *bona fides* through the successful completion of end-use checks,” notice said.

**EXPORT ENFORCEMENT:** Philippine national Kirby Santos pleaded guilty Oct. 7 in Camden, N.J., U.S. District Court to conspiracy to violate Arms Export Control Act by directing export of \$200,000 worth of firearms parts, including rifle barrels, to Philippines without State licenses. He was charged April 22 and remains in custody. Sentencing is set for Jan. 20, 2016. Abelardo Delmundo of Toms River, N.J., pleaded guilty April 30 to same violation for his role in scheme and is awaiting sentencing (see **WTTL**, May 11, page 9).

**MORE EXPORT ENFORCEMENT:** Kunlin Hsieh, Taiwanese national and sales manager for Junbon Enterprises Co., Ltd., was sentenced Oct. 2 in San Antonio U.S. District Court to 14 months in prison for conspiracy to violate IEEPA and Iranian sanctions by exporting communications technology, including circuit boards with American-made laminates, to Iran without license. He pleaded guilty in June (see **WTTL**, June 29, page 6). Co-defendant Agris Indricevs, Latvian citizen, is awaiting trial. Both have been in custody since their arrest in August 2014. Hsieh is in custody of immigration authorities and undergoing deportation proceedings after court found “defendant has already served more time than the sentence imposed.”

**TARIFF SCHEDULE:** ITC Oct. 7 began process to implement category changes to Harmonized Tariff Schedule (HTS) for certain fish, wood and wood products, and bed nets of warp knit fabrics that were agreed by World Customs Organization (WCO) officials in June 2015. Commission expects to propose recommendations for changes in February 2016.

**LIBERIA:** WTO accession committee Oct. 6 agreed to terms of Liberia’s membership. Accession package will be presented at Nairobi ministerial in December for formal approval. Country first applied for membership in June 2007. In package, Liberia has agreed to bind its average tariff rate at approximately 26% for all products, 23.8% for agricultural products and 27.2% for non-agricultural products, with 1,005 tariff lines covered. For services, it will liberalize markets in telecommunications, insurance, banking, transport, tourism and distribution.

**CUBA:** Commerce Secretary Penny Pritzker was in Cuba Oct. 7, along with BIS Deputy Assistant Secretary Matthew Borman, to launch Regulatory Dialogue. “We need to understand how the Cuban economy works in order for U.S. and Cuban companies to capitalize on the opportunities created by our regulatory changes,” she said in prepared remarks. Pritzker cited easing of export licensing requirements. “Companies and individuals need to understand how exports are handled once they arrive in Cuba to determine whether a potential recipient of an export is an eligible recipient for that product. Specifically, we want to know: how the import, export, and distribution of goods works in Cuba, what types of cooperatives and other businesses exist; and, how self-employed persons obtain goods to run their businesses,” she said.