

Vol. 33, No. 30

July 29, 2013

Froman to Keep Lead White House Role in Export Controls

U.S. Trade Representative (USTR) Michael Froman will continue to oversee the Obama administration's export control reform initiative just as he did when he was White House deputy national security advisor for international economics. President Obama reportedly asked Froman to keep his role on export controls – in addition to his new trade job -- even after the president named Caroline Atkinson in June to succeed Froman. Froman was the chief White House advocate for export control reforms and has overseen the process from the beginning of the initiative. While Atkinson will have line responsibility for the effort, Froman reportedly will be its substantive honcho.

Froman demonstrated his interest in export controls by being the first USTR to ever speak at the Bureau of Industry and Security's (BIS) annual Update conference in Washington July 24. "I generally speak about trade policy, but today I'm here to talk mostly about national security, the competitiveness of our national security industries and how export control reform is enhancing both," he told the BIS audience of nearly 1000.

After reform of the U.S. Munitions List (USML), Froman said the effort will turn next to reform of dual-use controls. "While the revision of the U.S. Munitions List is our current focus, ultimately we'll need to do the same sort of top-to-bottom scrub of the dual-use items currently on the Commerce Control List [CCL]," Froman said. "That will involve a full review of the Export Administration Regulations and require one or more multi-lateral regimes to agree to the changes before they can be implemented in U.S. law. That will require substantial additional time and resources," he said.

Froman also noted that the eight USML categories for which final orders and transitions to the CCL have been published represent 35% of all licenses handled by the Directorate of Defense Trade Controls (DDTC) and 80% of the value of licensed defense exports. That accounts for \$75 billion of the \$90 billion shipped under DDTC licenses.

Solar Firm Considers New Complaints Against Chinese Imports

SolarWorld Industries America, which has already won antidumping (AD) and countervailing duty (CVD) orders on solar cells from China, is considering filing new petitions against imports of solar panels from China. According to sources, the case is being

weighed because SolarWorld contends the Chinese are circumventing the cell order and also because new cases might put pressure on Beijing to reach trade deals with the U.S. and European Union (EU) on restricting Chinese solar product exports.

USTR Michael Froman revealed the U.S. involvement in talks with China during his Senate confirmation hearing (see **WTTL**, June 10, page 2). The EU is aiming to complete its talks with China by an Aug. 8 deadline to forestall the imposing of antidumping duties on Chinese solar panels.

While the U.S. and EU talks with the Chinese are on separate tracks, there is a possibility that a global agreement could ultimately emerge, sources suggest. Both the U.S. and EU want restrictions on the prices and volume of Chinese solar panel and cell exports.

SolarWorld has complained that Commerce's scope ruling on photovoltaic cells was too narrow, and it's challenging the ruling in a suit at the Court of International Trade (CIT). It claims Chinese firms have been able to circumvent the order by shipping cell wafers to countries such as Taiwan and Malaysia for substantial transformation into cells that they reimport and put into solar panels for export to the U.S. and EU. Because the cells are considered Taiwanese or Malaysian, they are not covered by the AD and CVD orders.

The Chinese reportedly are resisting an agreement on price and volume restraints. The Chinese solar industry expanded rapidly to take advantage of the growing solar market, which was stimulated by U.S. and EU subsidies. That led to overproduction and the failure of many Chinese solar firms. New restrictions would further hurt the remaining producers, sources say. Chinese exports to the U.S. face an administrative review early in 2014, which may also put pressure on Beijing to reach a deal.

Firms File First Reports to State on Burma Investments

Three emerging-market mutual funds were among the first five U.S. firms to file reports with State in early July to comply with investment reporting requirements the U.S. imposed as part of a shift in policy in 2012 that permitted investment in Burma (see **WTTL**, July 16, 2012, page 1). The funds, all operated by Capital Bank and Trust Company (Capital), said they made passive investments in Yoma Strategic Holdings Ltd., a firm based in Singapore that derives a "relatively significant portion of its revenues from activities in Burma."

The investment reporting requirements were part of General License No. 17 that Treasury issued in July 2012. Reports are required when a U.S. person makes any investment in Myanmar Oil and Gas Enterprise (MOGE) or when an investment in Burma exceeds \$500,000.

The three Capital funds making the investment were: Capital Guardian Emerging Markets Equity DC Master Fund, Emerging Markets Growth Fund and Capital Guardian Emerging Markets Restricted Equity Fund for Tax-Exempt Trusts. "The submitter is a passive investor in the Company and the only interests acquired were security interests," all three funds told State.

Crowley Marine Services, Inc., also filed a report, saying it chartered an unmanned ocean going deck-cargo barge to Posh Semco PTE, LTD. of Singapore for use by Posh Semco's

customer, Larsen & Toubro, for use in an offshore oil and gas exploration project. Hercules Offshore, Inc., was the fifth filer. Hercules said its Cliffs Drilling Company provided a jackup drilling rig to PTTEP International Limited, which has an agreement with MOGE for a drilling operation offshore from Burma.

Hercules said it has engaged a Burmese company to provide rig crews and other support services. “Like Hercules Offshore, all of the supplier’s employees are required to abide by the policies and principles contained in its Code of Ethics,” it told State. The code covers anti-corruption, health and safety, human rights, record keeping conflicts of interest and anti-money laundering, it reported.

Levin Proposes Conditions for Japan’s Part in Pacific Pact

Rep. Sander Levin (D-Mich.), the ranking member of the House Ways and Means Committee, wants the U.S. to impose market-opening conditions on Japan before Tokyo can benefit from any final agreement on a Trans-Pacific Partnership (TPP). In a July 23 speech to the Peterson Institute for International Economics, Levin said any reduction in U.S. tariffs for Japan should be tied to the opening of Japan’s auto market, a dispute-settlement provision on currency manipulation and the inclusion of rules that prevent the adoption of new non-tariff barriers to replace those removed.

Since the Reagan era, all administrations “entered into some form of understanding with Japan to open their automotive structures, but all these partial agreements failed,” Levin said in his prepared remarks. “Unfortunately, I don’t believe the package the administration announced in April will likely lead to significant two-way automotive trade. Under that package, the fate of U.S. auto tariffs is not tied to reciprocal opening of Japan’s market. Instead it depends on what negotiators negotiate on other product lines,” he said.

To assure that TPP opens the Japanese market, Levin said “the elimination of the U.S. tariff should be tied to the opening of the Japanese auto market, not to whatever the tariff phase-out schedule may be for rice in Japan or shrimp in Brunei. We should eliminate the tariff sooner if Japan opens; we should eliminate the tariff later if Japan remains closed.”

In addition, an agreement must address Tokyo’s currency manipulation, he said. “We need to take the disciplines that have been developed at the IMF, build upon them, and subject those disciplines to binding dispute settlement – more or less the same dispute settlement mechanism that applies to the other obligations in the agreement,” Levin proposed. The deal should also address new future non-tariff barriers. “A tariff ‘snap-back’ doesn’t address the problem; it only requires a country to move from one barrier to the next to avoid the snap back,” he said.

Levin said he supports the enactment of new fast-track negotiating authority, also known as Trade Promotion Authority (TPA), but with provisions that would give Congress a greater role in the development of agreements. “That means improving access to negotiating information and putting in place mechanisms to ensure meaningful consultations,” he said. New authority also should be paired with passage of currency

manipulation legislation, Levin urged. “But many other ideas should be discussed and acted upon,” he suggested. This list could include renewal of the Trade Adjustment Assistance program, providing Customs and Border Protection new powers to enforce antidumping and countervailing duty orders, strengthening of the USTR’s Interagency Trade Enforcement Center and reauthorization of the Export-Import Bank.

While Levin was making his speech, U.S. trade officials were getting conflicting advice on the TPP from business associations and environmental groups. Forty-eight trade associations wrote to USTR Michael Froman July 23 urging the U.S. to agree in a TPP deal to liberalize trade in textiles and apparel, sugar and footwear. “From the beginning, we have advocated as an overarching priority for no exclusion of specific sectors or commodities from commitments in these negotiations and for the phasing out of all tariffs and other market-access barriers,” they wrote.

At the same time, the Sierra Club, an environmental group, renewed its complaint July 23 against Japan’s entry into TPP negotiations. “Japan is the world’s largest importer of liquefied natural gas, a dirty fossil fuel that is extracted from Americans’ backyards through the dangerous practice of fracking,” it said in a statement. “The trade pact could strip the U.S. government’s power to manage its own gas exports, and put that power in the hands of foreign companies, opening the floodgates for dangerous fracking in our country and sacrificing our air and water quality,” it warned.

Budget “Sequester” Hurting Export Reforms, Licensing Times

Federal budget cuts under “sequestration” are starting to have a negative impact on the processing of export license applications and the Obama administration’s export control reform initiative, according to officials speaking at the BIS Update conference in Washington July 23-25. The furlough of Defense Department employees under sequestration is particularly hurting the Defense Technology Security Administration’s (DTSA) role in license reviews and reforms.

“Because it’s so difficult to get these people in the same room in this furlough situation, we are now hopscotching or leapfrogging between categories,” DTSA Deputy Director Tim Hoffman told Update July 24. Under the sequester, technology experts are taking off one day per week, but not always the same days. U.S. Munitions List (USML) category rewrites can occupy two days of a four-day workweek, he noted.

“There is a cascading effect, we’re still trying to come to grips with an understanding of how that is going to impact us in the short term,” Hoffman said. “To be frank, we’re already seeing a slippage in our times. We are going to look at this on a week-by-week basis to understand the impact of this on our licensing times. We’ve also taken some measures with our Commerce and our State counterparts to give us some slippage on our response times.” Even when the sequester is over in October, there might still be ripples from the shortened workweek. “There will probably be some level of backlog we’re going to have to work through,” Hoffman admitted.

Other sources told WTTL that the backlog of USML licenses that DTSA reviews has already climbed to 300 cases from about 60 in the past. DTSA officials have always

boasted about the quick turnaround they give to State licenses. Furloughs also might be contributing to delays in sending notifications to Congress for proposed transfers of USML items to the Commerce Control List (CCL). At Update, officials said they plan to send Congress notifications “in the fall” for transfers involving USML categories IV, V, IX, X and XVI. Previously, they had intended to send those notices in July.

WTO Trade Facilitation Deal Remains Elusive Despite Progress

World Trade Organization (WTO) talks on a trade facilitation agreement are falling short, despite the convergence of positions and a quickening pace of negotiations to reach a deal before the WTO ministerial conference in Bali, Indonesia, in December. Officials at a July 22 meeting of the WTO Trade Negotiations Committee (TNC) reported that a meeting July 19 had failed to eliminate more than 600 brackets that indicate continued disagreement over the wording of a draft text.

The chairman of the trade facilitation talks has proposed holding a “signaling conference” in the fall when diplomats return from their August vacations for definitive proposals to be included in the final text of the agreement. At the TNC meeting, Deputy USTR Michael Punke questioned whether something meaningful can be salvaged from the Doha Round.

“We are far beyond the time for tactical maneuvering,” Punke said. “The value that the WTO adds to global trade is binding rules. If we don’t create binding rules, our WTO negotiations add no value, and frankly, that type of outcome is of no interest to the United States. We already have a non-binding customs codes in the World Customs Organization,” he declared. That is one reason the U.S. has pushed back against proposals to let members avoid the establishment of definitive end dates for implementation. “Such proposals effectively make the trade facilitation agreement nonbinding. We must address this issue for a multilateral agreement to succeed,” Punke told the TNC.

“We also need a meeting of the minds on key issues” that balance commitments and flexibility for developing countries, he asserted. The flexibilities offered in the draft text for developing countries “exist for one purpose – to support full implementation of meaningful, trade facilitating commitments that bring benefits to traders and developing countries alike. For there to be real benefits for all, obligations must be clear and binding,” he said.

Punke’s emphasis on the developing countries that don’t want commitments is “basically a red line,” a former WTO ambassador said. Some thought the “best efforts” language was posturing, but Punke’s comments show it’s more than posturing, he said. At the same time, the U.S. has problems with commitments when it involves security measures, he added. It’s an indication that the agreement isn’t just about developed countries imposing customs standards on developing countries. Some standards aren’t that easy for developed countries either, he said.

It’s the chicken-and-egg conundrum between the promise of technical assistance and commitments, one trade official told WTTL. Some advanced developed countries say weak commitments won’t spur technical assistance, while developing countries say they can’t make commitments unless they obtain technical assistance. Instead of commitments, some developing countries want to promise only to make “their best efforts” to

improve. The chairman of the trade facilitation talks, Eduardo Sperisen-Yurt, Guatemala's WTO ambassador, told the TNC that talks are not on track for a successful Bali outcome because difficult issues and tough decisions are being avoided. He said a more political, senior-level negotiating process is needed to resolve differences that go beyond technical issues. Nonetheless, one former WTO ambassador said the talks now appear more positive. Negotiators are really trying to find compromises. "That's new," he said.

Reproposed Electronics Rules Seek Advice on Controls

BIS wants industry advice on whether export controls on electronics products on the Commerce Control List (CCL) should continue to be located in five different categories or combined into one "mega electronics category." The request for advice is part of the reproposed transfer of items in U.S. Munitions List (USML) Category XI (electronics) that BIS and DDTC published in the July 25 Federal Register. The agencies, as expected, reproposed their two parallel rules in response to extensive industry comments on their initial proposals in November 2012.

Electronics are scattered in CCL categories 3, 4, 5, 6 and 7, depending on their use in computers, telecommunications or other products, while they are all in one USML category. Whether the items are combined in one category or spread out as now, "We in government don't care," BIS Assistant Secretary for Export Administration Kevin Wolf told reporters July 23.

Wolf said the agencies want industry to tell them which is preferred. "It's whichever is more efficient for you; whichever is easier to comply with. It's the same level of control. You let us know," he said.

Wolf said the rules were also being reproposed because industry comments on the original proposal claimed that some proposed changes would lead to imposing controls on items not now subject to controls. The original proposal "put in a lot of very specific descriptions of items and companies came back and said this would actually catch our radar or marine applications for a yacht," he said. As a result, the reproposal includes many technical changes in response to these concerns, Wolf indicated.

One area of industry concern was how the proposal treated products whose development was funded by the Defense Department (DoD). The new proposal "is a little bit more nuanced on the topic of unlisted items that are developmental items that are paid for by DoD or developed with DoD funding and for which the underlying contract doesn't say that it was originally developed for both civil and military applications," Wolf said. "Some people said this would lead to inadvertent controls," he added.

To resolve this problem, the reproposal includes "escape clause concepts" that allow firms to use a commodity jurisdiction mechanism to determine their status or resolve the issue during the negotiation phase of the contract, he noted.

Another change deals with microwave integrated circuits, which would be moved to Export Control Classification Number (ECCN) 3A611 with a "whole page of tech specs," Wolf explained. Other changes address items in Munitions List Category 20 of the Wassenaar Arrangement Munitions List (WAML) and involving certain cryogenic and superconductive equipment. "These items are currently controlled by "catch all" pro-

visions of the ITAR's USML Categories VI, VII, VIII, and XV. Finally, this proposed rule would correct two ECCNs in CCL Category 7 to apply the 'missile technology' reason for control only to items that are on the MTCR [Missile Technology Control Regime] Annex," BIS said in the preamble to the proposal.

The proposed rule would alter the scope of ECCNs 3B611, 3E611, 9B620 and 9E620 from what was proposed in the November 28 (military electronics) rule. "Upon review, BIS determined that standard elements for test, inspection, and production equipment ECCNs and for technology ECCNs would reduce the possibility of confusion. Accordingly, BIS adopted the elements 'development, production, repair, overhaul, or refurbishing' for test, inspection, and production equipment ECCNs in the 600 series and adopted 'development, production, operation, installation, maintenance, repair, overhaul, or refurbishing' for technology ECCNs in the 600 series," BIS said.

Category XII Proposal May Include Different Control Parameters

Export control agencies are considering moving away from traditional parameters, such as pixel clarity, in determining controls on night-vision camera cores and toward other parameters, such as camera stability. Those cores and other technology in USML Category XII (fire control, range finder, optical and guidance and control equipment) have long been sticking points in efforts to harmonize export controls, as the U.S. military has said they provide great advantage to U.S. troops in night fighting.

Speaking at Bureau of Industry and Security's (BIS) annual Update conference July 24 Tim Hoffman, DTSA deputy director, explained how the confluence of military and civilian applications is affecting the ongoing category rewrites and product transfers from the USML to the CCL, specifically in Category XII. In his remarks, he described the "grey box" of where military and civilian uses come close to converging.

"We're looking at camera cores, and traditionally we've cut the bright line around the pixel clarity. Increasingly what we're finding is right where the 'grey box' is right now, we have great civilian need and we also have great military need. We on Defense tried to argue the pixel strength, and what we found was that we had great pushback from not only Commerce, but also industry," he said.

"That caused us to go back and think about, Is that really the right dividing line? What we found was actually, we could agree to cameras with a 640 by 320 pixel capability. They could be moved to the CCL. What really is important at that level, at that threshold, was the stability of the camera itself. What we did was look at another control, in addition to the pixel strength. And that became the dividing line, the bright line, between what is controlled on the CCL and the USML," Hoffman added.

OFAC Clarifies Use of Iranian Funds for Licensed Exports

U.S. exporters of food, medicine and medical devices to Iran under approved or general licences can get paid with Iranian funds under certain circumstances without fear of prosecution, Treasury's Office of Foreign Assets Control (OFAC) says in new guidance issued July 25. OFAC also significantly expanded the list of medical devices that can be

shipped to Iran under a general license it issued in October 2012. While the U.S. has allowed these exports under the terms of the Iran Trade Sanctions Reform Act (TSRA) for several years, U.S. firms complain that financial restrictions and the designation of many Iranian banks make it difficult to get paid for approved exports. OFAC officials have said they recognize this problem and want to help U.S. firms get paid.

“To further assist non-U.S. persons, including banks and medical suppliers, in fully understanding these allowances, this Guidance underscores that these sales to Iran do not trigger sanctions under U.S. law. The financing or facilitation of such sales by non-U.S. persons likewise does not trigger sanctions, so long as the transaction does not involve certain U.S.-designated persons (such as Iran’s Islamic Revolutionary Guard Corps (IRGC) or a designated Iranian bank) or proscribed conduct,” the new guidance states.

“The conduct or facilitation of payments for such sales by foreign banks are not subject to U.S. sanctions when the payments originate from accounts of the Central Bank of Iran (CBI) or from accounts of Iranian commercial banks that have not been designated by the U.S.,” it adds. As an example, it notes that Iranian oil revenues held in CBI or non-designated Iranian bank accounts at foreign banks “may be used to finance exports of food, agricultural commodities, medicine, or medical devices to Iran – from the country in which the account is held or from any other foreign country – without triggering sanctions for the foreign bank, as set forth in the Iranian Financial Sanctions Regulations.”

The advice comes as OFAC has started accepting TSRA licenses electronically. To safeguard the confidentiality of license information, the submissions are being encrypted and the original filing deleted from the application site, Andrea Gacki, OFAC assistant director for licensing, told the BIS Update conference July 23. TSRA Program Manager Aydin Akgun told the conference that OFAC’s backlog of TSRA licenses has dropped to 180 cases as of July 22 compared to 650 in 2012. The average processing time for all cases has declined to 60 days, he noted. It was 85 days at the end of December 2012.

Separately, State issued a 27-page fact sheet July 22: Overview of U.S. Sanctions on Iran Pertaining to Activities and Transactions by Non-U.S. Individuals and Entities. “This document is a summary of noteworthy U.S. sanctions regarding Iran for non-U.S. individuals and entities,” it says. “This document is not exhaustive and cannot be relied upon to assess the potential sanctionability under U.S. law of specific activities,” it cautions.

BIS to Align Penalty Policies with OFAC, DDTC

BIS intends to amend its penalty guidelines and approach to voluntary self-disclosures to bring them closer to the enforcement policies of DDTC and OFAC, BIS Assistant Secretary for Export Enforcement David Mills told the agency’s Update conference July 24. “We are evaluating our methodology for imposing administrative penalties in the context of export control reform with the aim of more closely aligning this process among the three licensing agencies: Treasury, State and Commerce,” he said. Exporters have raised concern that BIS is more likely than DDTC to impose administrative civil penalties on firms that file voluntary self-disclosures (VSD). Firms file more than 1000 disclosures with State annually with the expectation that they won’t face a penalty. With thousands of USML items being transferred to the CCL, they say they are now afraid they will get hit with BIS fines they didn’t encounter from DDTC. “Industries historically regulated

under the ITAR have expressed concern regarding different approaches taken by BIS and the Directorate of Defense Trade Controls at State, particularly with regard to the disposition of voluntary self disclosures,” Mills acknowledged. “During the past few years at BIS, only a very small percentage of VSDs have resulted in administrative penalties, generally varying from 3 to 6%. Only one VSD resulted in the imposition of criminal sanctions,” he asserted.

“Our objective is not to exercise our authority to hold parties strictly liable for every inadvertent and insignificant violation of the EAR that might take place,” Mills said. “Absent evidence of systemic problems recurring over a period of time, inadvertent and insignificant violations will generally be resolved through warning letters. As the munitions items shift from State to Commerce, we will consult with DDTC about the past histories of its registrants and related compliance issues, and take that information into account as we move forward,” he added.

In addition, Mills said BIS is “considering updating our Enforcement Penalty Guidelines for our Administrative cases to better align them with the the Guidelines published by OFAC in 2009.” OFAC’s guidelines provide more detailed examples of aggravating and mitigating factors that are considered in deciding whether to impose an administrative fine and the amount of the fine.

BIS also is drafting a proposal to change its use of the Unverified List (UVL). “As part of the ‘higher fences’ initiative, we are also preparing to publish a significant regulatory change to reinvigorate the Unverified List, which currently imposes a red flag on transaction parties where we have been unable to conduct an end-use check,” Mills reported. “We are aware of industry’s interest in being warned of suspicious foreign actors but also of its concern about the open-ended nature of the UVL and the need for BIS to provide guidance on how to overcome a U.S. Government-imposed red flag,” he said.

The planned revisions would identify those foreign parties whose bona fides cannot be verified during an end-use check and establish enhanced safeguards for exports involving such parties. “Proposed changes include elimination of license exception eligibility and a requirement similar to that under License Exception STA that the exporter obtain a consignee statement prior to shipment whereby the UVL entity certifies compliance with the EAR and agrees to an end-use check. The export of items not subject to a license requirement [such No License Required (NLR) or EAR99] would need to comply with this new procedure,” Mills said.

TPP Negotiators Still Aim to Finish Talks This Year

Countries negotiating the Trans-Pacific Partnership (TPP) achieved “further strong progress,” while “keeping their eyes fixed” on the goal of concluding the talks this year, claimed the USTR’s office at the conclusion of the latest round of talks July 25 in Malaysia. Each negotiating group “developed a detailed plan for closing remaining issues and completing their work,” it said. Negotiating groups “reached agreement on a wide range of technical issues in the legal texts” of chapters on market access, rules of origin, technical barriers to trade, investment, financial services, e-commerce and transparency, the office noted. Other groups “found common ground” on intellectual property, competition and environment, it said. The 19th round of TPP negotiations will be held in Brunei from August 22-30. The 18th round of talks was the first in which

Japan formally participated with the other 11 TPP participants. The Japanese “received detailed updates on the status of the negotiations and participated actively in the work of the negotiating groups that were meeting on those dates, expressing its commitment to integrate quickly and smoothly into the process,” the USTR statement reported (see related story, page 3).

Meanwhile, USTR Michael Froman met with Japanese Minister for Economy, Trade and Industry Toshimitsu Motegi in Washington July 24. “Ambassador Froman welcomed Japan’s entry into the TPP talks and noted that our teams are working intensively to integrate Japan into the ongoing negotiations,” a USTR statement said. During the meeting, he “emphasized the necessity of achieving a robust outcome with Japan in parallel bilateral negotiations on autos, insurance, and other non-tariff measures,” it added.

Froman also met with Vietnamese President Truong Tan Sang and Minister of Industry and Trade Vu Huy Hoang in Washington July 24. The two countries directed their negotiators to “intensify engagement on a range of market access and rules issues with a view to resolving outstanding matters as quickly as possible,” a USTR statement said. “Vietnam has come a long way in addressing its own challenges to meet the high standards of the TPP, but we still have work to do together,” Froman said in the statement.

*** * * Briefs * * ***

EX-IM BANK BOARD: President Obama has named Ex-Im’s current chief operating officer, John McAdams, to serve as bank’s acting first vice president and interim vice chairman until Senate confirms Wanda Felton, who has been nominated for another term on Ex-Im board. Her term expired July 20 along with board member Larry Walther. McAdams, who was first appointed to Ex-Im job by President George W. Bush, will be voting member of board during this time. “As has occurred under previous bank administrations, John will continue in his role as chief operating officer during this period,” said statement by Daniel Reilly, Ex-Im senior vice president for communications.

BIS: Richard Majauskas was named deputy assistant secretary for export enforcement, effective July 29. Previously, he served as Senate assistant sergeant at arms responsible for continuity and emergency preparedness operations, was U.S. Army Military Police Officer and served with U.S. Capitol Police as the director of plans and operations and chief of staff...In another BIS change, Bernie Kritzer, director of office of exporter services, has announced plans to retire in September after nearly 30 years at Commerce. Among his many previous posts at agency, he was director of office of national security and technology transfer controls.

DDTC: Current Deputy Assistant Secretary of State for Defense Trade Controls Beth McCormick reportedly will return to Defense Department in October.

ITC: Senate Finance Committee July 25 unanimously approved nomination of Scott Kieff to be member of International Trade Commission (see **WTTL**, July 22, page 10).

PASCAL LAMY: In his final address to WTO General Council July 24 before end of his eight-year term as director-general Aug. 31, Pascal Lamy cautioned that negotiating “mega” regional trade deals outside WTO isn’t always successful. “We also know that behind the headlines of the launching of mega regionals, as some refer to them, lie tremendous difficulties and sometimes even no final deal at all, as was the case of the Free Trade Area of the Americas,” he said. Lamy reflected on changes in trade and economics since he took post in 2005 and lessons learned from Doha Round. “Domestic trade policies require a permanent engagement with civil society and with the public at large. They also require properly placing trade in its right context: as one instrument in the toolbox to generate growth and create jobs. Trade policy

is ONE instrument; an important one; but not THE instrument. And it is an instrument for, not a weapon against, the well-being of all,” he said, ending his speech with thanks to WTO colleagues and staff. “My journey at the WTO is coming to an end. It is time for a bit of public emotion, which is not exactly my style! It is time for me to embark towards another life cycle,” he concluded.

EX-IM FRAUD: Octavio Maese-Cordero, naturalized U.S. citizen and owner of two El Paso, Texas, trucking and shipping companies, was sentenced July 17 in El Paso U.S. District Court to 18 months in prison and three years’ supervised release for his role in scheme to defraud Ex-Im Bank of approximately \$2,371,860. Maese was also ordered to pay \$1,742,891.25 in restitution and \$2,371,859 in forfeiture. He pleaded guilty in September 2011 to one count of conspiracy to defraud U.S. and one count of wire fraud.

EXPORT ENFORCEMENT: Joseph Debose of North Carolina, ex-staff sergeant in U.S. Special Forces National Guard Unit, was sentenced July 19 in Brooklyn U.S. District Court to 24 months in jail and three years’ supervised release for violating Arms Export Control Act. Debose pleaded guilty Sept. 6, 2012 to illegally exporting firearms to China without required licenses after being arrested and charged in May 2012 (see **WTTL**, June 4, 2012, page 4).

CUBA: American Express Travel Related Services Company, Inc. (TRS) agreed July 22 to pay \$5,226,120 to settle OFAC charges of violating Cuba sanctions. TRS foreign branch offices and subsidiaries allegedly issued 14,487 tickets for travel between Cuba and countries other than U.S. from 2005 to 2011 without OFAC authorization. “We voluntarily self-disclosed these bookings to OFAC, and put in place robust controls to ensure it would not recur,” American Express spokesperson said in email to **WTTL**. TRS previously paid fine for arranging group travel packages to Cuba in 2002 and 2003 (see **WTTL**, Aug. 20, 2007, page 4).

IRAN: Stanley Drilling Equipment & Supply, Inc. of Houston agreed to pay \$84,240 July 19 to settle OFAC charges of violating Iran sanctions between June and October 2008 by exporting goods to UAE “with reason to know that the shipments were intended specifically for supply, transshipment, or reexportation to an oil drilling rig located in Iranian waters,” OFAC said. Stanley Drilling did not voluntarily disclose matter to OFAC, agency noted.

FERROSILICON: Globe Specialty Metals, Inc. and CC Metals and Alloys, LLC, filed antidumping petitions with ITC and ITA July 19 against ferrosilicon from Russia and Venezuela.

TAA: Senate Finance Committee Chairman Max Baucus (D-Mont.) and Sen. Susan Collins (R-Maine) introduced bill (S. 1357) to extend Trade Adjustment Assistance (TAA) until 2020. Legislation extends current law, which was result of bipartisan, bicameral agreement in 2011. It would maintain training and assistance for workers in all sectors, including manufacturing, services and agriculture, and protect TAA-eligible workers called up for active duty military.

WEATHER CLOCKS: Court of Appeals for Federal Circuit (CAFC) disagreed with Customs, Court of International Trade (CIT) and La Crosse Technology, Ltd., on proper tariff classification of certain meteorological/clock combination instruments in July 25 ruling in *La Crosse Technology, Ltd., v. U.S.* CAFC reversed CIT attempt to split devices into three tariff lines. La Crosse devices, which measure atmospheric conditions, outdoor temperature, indoor temperature and humidity as well as time and date, should be classified under HTSUS subheading 9015.80.80, court ruled. Circuit Judge William Bryson dissented on classification but concurred on application of General Rule of Interpretation.

SHRIMP: CIT Chief Judge Donald Pogue ruled July 23 that Commerce’s conclusion that Hilltop International’s “representations regarding its corporate structure, affiliations, and government control are not reliably accurate and complete is reasonable” (slip op. 13-93). He remanded case, however, to redetermine PRC-wide entity rate in fifth administrative review of antidumping duty order on frozen warmwater shrimp from the People’s Republic of China.