

Vol. 33, No. 46

November 25, 2013

## DDTC Names New Licensing, Compliance Directors

State's Directorate of Defense Trade Controls (DDTC) filled two key positions Nov. 18 with the appointment of Sue Gainor as director of defense trade controls compliance and Anthony (Tony) M. Dearth as director of licensing. Gainor replaces former director Lisa Aguirre, and Dearth takes the post held by Kevin Maloney until he retired in October.

Gainor, a former Air Force officer, has worked at the Defense Security Cooperation Agency, the Joint Staff, the Defense Technology Security Administration and for the Air Force under secretary for international affairs. She also has held positions at private defense companies. The new compliance chief has an M.S. in defense resource strategy, and an M.A. and a B.A. in international affairs (see **WTTL**, Sept. 16, page 1).

Dearth has been with DDTC since November 2003, most recently as chief of special projects, coordinating DDTC implementation of USXports as the "single IT system" under export control reform. Prior to that, he was chief of the space and missile technology division. As a licensing officer, Dearth also testified for the government as an expert witness in the high-profile trials of Professor J. Reece Roth and Doli Syarief Pulungan on charges of violating U.S. export controls (see related story page 3).

## Pre-Bali Negotiations Go Down to Wire

With negotiators at the World Trade Organization (WTO) likely to work right up to the last minute before the Dec. 3-6 ministerial meeting in Bali, talks on an agriculture deal made strong advances in Geneva the week of Nov. 18, while work on a trade facilitation agreement was expected to continue over the weekend and into next week.

Trade officials are generally "a little bit more optimistic now" than several months ago that a so-called Bali package will be agreed on, one trade official said following intensive talks the week of Nov. 18. During the week the mood changed almost every hour and negotiations will likely continue until trade officials board their planes to Bali, he said. Progress was reported in negotiations on food security, tariff-rate quota (TRQ) administration and export subsidies, including a "peace clause" or due restraint agreement that would allow developing countries to provide subsidies to their farmers by

buying their products at higher prices for short periods of time without facing dispute-settlement complaints under WTO rules. Agriculture negotiations appear to be “nearly done,” one official reported. While the consensus reached Nov. 20 “stabilized” the agriculture text, some final elements still need to be hammered out, a second official said (see story below).

Talks on a trade facilitation text have been “difficult sailing,” another trade official told WTTL Nov. 22. A revised text was floated at noon on Friday and negotiators were discussing commitments late Friday. Negotiations on development issues for least developed countries (LDCs) are “almost there,” a second official said. Those talks deal with rules of origin and how to implement a previously agreed waiver for LDCs to WTO services liberalization commitments (see WTTL, Nov. 18, page 7).

## **Agriculture Agreement Near in Time for Bali**

A small group of countries representing other WTO members are “approaching a possible agreement” on farm trade, including on a so-called “peace clause” and tariff-rate quota (TRQ) administration, in time for the WTO ministerial conference in Bali Dec. 3-6. If they can reach a deal, other countries reportedly appear ready to go along with it even though some have reservations. Some reservations are minor and can be addressed, while others may need more discussion, one source said.

Agreement reportedly has been reached to limit any derogation from WTO rules under the due restraint or “peace clause” provisions to four years to address food security concerns, as well as on safeguards to give other countries the chance to protest application of the subsidies. Some people had thought a deal on duration would have to wait until the Bali meeting, but it’s now been worked out, one source reported.

The due restraint provision was pushed by developing countries known as the G-33 and India, which some countries claim is already violating current WTO rules on farm aid. Nonetheless, several countries, including Pakistan, Paraguay, Thailand, Uruguay, Ecuador and Mexico, continued to raise concerns about the deal during the week. They said they are concerned about the impact of any farm subsidies on the production of staple crops and their farmers. The U.S. also had concerns but appeared convinced that the draft text addresses those concerns, one official said.

The TRQs would attempt to address complaints from food exporters about the lack of transparency in how quotas are administered and allocated and not always filled. Under the draft text, countries with these complaints would be able to ask for more information on the TRQ’s status from the countries that impose them. If a TRQ is under filled persistently below 65% for three consecutive years and consultations fail to resolve the issue, then the exporting county could ask to change the TRQ mechanism to first-come-first-served or unconditional license on demand, sources report. The change would have to be maintained for two years.

The draft text would exempt developing countries from needing to make these adjustments to fix persistent under filling for up to six years unless there is agreement to extend it in some form. However, countries will continue to apply the provisions even

though they've expired, unless they opt out, the source said. The U.S. is the only country that has reserved the right to opt out, he reported.

The agreement to place a time limit on the due-restraint agreement is aimed at giving India motivation to accept other concessions as part of broader Doha Round negotiations down the road, one diplomat suggested. That also would give others incentive to make the peace clause permanent, he added.

India's problem has exposed their need in the Doha negotiations, he said. Previously, many developing countries were more or less expecting a free ride. Other countries want India to take certain commitments mostly in other areas. The question now is how the issue is dealt with within the broader context of market access in agriculture and other issues, he said.

### **Claims Court Rejects Justice Motion to Dismiss Pulungan Suit**

The effort of Doli Syarief Pulungan to win \$25 million in compensation from the government for its unsuccessful prosecution of him for unlicensed defense exports will get to live a little longer while he continues to seek a certificate of innocence. U.S. Court of Federal Claims Judge Thomas Wheeler dismissed Nov. 21 a Justice motion to have Pulungan's suit for compensation thrown out and stayed the case to give Pulungan another chance to get the certificate from the Madison, Wis., U.S. District Court.

Attorneys for Pulungan, Quarles & Brady in Madison, asked Wheeler to issue the stay Nov. 19 after Pulungan decided to restart his defense in the district court based on the Seventh Circuit Court's remand of his case to the lower court for an evidentiary hearing. The appellate court had reversed the district court's decision to grant Pulungan a certificate of innocence. District Court Judge Barbara Crabb has set March 31 and April 1 for the new evidentiary hearing, the attorneys reported (see **WTTL**, Oct. 7, page 5).

"The basis for the Government's argument is that this Court must dismiss a plaintiff's claim of unjust imprisonment under 28 U.S.C. Section 1495 when the plaintiff lacks a valid certificate of innocence," Wheeler wrote in his order, noting the circuit court's reversal of the certificate issued by the district court. "However, the Seventh Circuit also remanded the case for further proceedings and left open the possibility that a certificate of innocence might still be issued," he continued.

At issue in the new evidentiary hearing is whether the Leupold Mark 4 CQ/T riflescope Pulungan attempted to export is a defense article. "Whether Mr. Pulungan is entitled to a certificate of innocence – and therefore whether this court has jurisdiction to hear his claim – cannot be determined until after that hearing," Wheeler explained.

Pulungan's suit for compensation was on the verge of dismissal before he relaunched his case in the district court. After Justice had asked for dismissal of his suit, Wheeler gave Pulungan until Oct. 24 to respond. When Pulungan failed to answer the court, Wheeler on Nov. 4 issued a "show cause" order asking Pulungan why the case should not be dismissed based on his failure to respond. Pulungan finally filed a self-written response dated Nov. 8 but filed in court Nov. 19, apologizing for not answering the judge's order and explaining that he did not receive the first order in Indonesia until Oct. 7. "Please

be understand that I am not American, I do not know U.S. Constitution, I do not have USA lawyers, I do not know how to reply to letter from the USA Court and I do not know how file and how to write a motion of Objection to USCFC, my Legal English is very poor, as requested by USCFC, and about Order to show cause” I am completely blind about order to show cause, I do not know what does it mean, I do not reply because I don’t know what to do (sic),” Pulungan wrote.

## Chinese Leaders Promise Trade and Investment Reforms

Among the many promised reforms that the Chinese Communist Party adopted during its highly anticipated and closely scrutinized Nov. 9-12 plenum were changes aimed at liberalizing its trade and investment rules and making state-owned enterprises (SOEs) more commercially accountable. “Efforts are to be made to facilitate overseas companies’ entry to China and Chinese companies’ expansion abroad,” said a paper released Nov. 15 providing more details about the plenum’s results. These efforts include widening investment access, accelerating the construction of free trade zones (FTZs) and opening inland and border areas.

The numerous reforms promised by the plenum were greeted by some with skepticism as well as disappointment. Despite the large number of stated goals, some China observers said they were expecting greater reforms from the leadership of new Chinese President Xi Jinping.

Sectors that the party said it is considering for opening include finance, education, culture and medical products. These sectors “will enjoy an orderly opening-up to market access, while nursery, pension, architecture design, accounting and auditing, trade and logistics, and e-commerce investment restrictions will be eased. Further liberalization will be achieved in general manufacturing, and the streamlining of special customs supervisory areas will be accelerated,” the paper said.

The Chinese said they will use the experience they are gaining from the recently established Shanghai Pilot Free Trade Zone to open a number of additional zones in qualified areas. “Enterprises and individuals will be encouraged to invest overseas and undertake contract and labor cooperation projects at their own risk, through greenfield investment, mergers and acquisitions, equities and joint investment. Investment treaty negotiations with other countries and regions will be expedited,” the paper continued.

“Construction of free-trade zones will be sped up, with adherence to the rules of world trade system and insistence on bilateral, multilateral and regional cooperation,” it stated. “Reforms will be carried out in market access, customs supervision and inspection and quarantine management. Negotiations in emerging issues such as environmental protection, investment protection, government procurement and e-commerce will be accelerated to form a global, high-standard network of free trade zones,” it added.

The initial communique issued after the plenum Nov. 12 was “disappointingly vague,” said Bill Reinsch, president of the National Foreign Trade Council and chairman of the U.S.-China Economic and Security Review Commission. The Nov. 15 paper offered more details but did not answer questions about how the Chinese would simultaneously increase the role of market forces while also calling for a greater role for SOEs, he noted. “They have proposed, I would say, largely baby steps in many respects,” Reinsch

said. “A number of the things they do plan to do, if they are actually implemented, which is always a question with China, would be constructive and would help move the economy in the direction everybody’s economists, including their own, have recommended,” he said. Commission member Larry Wortzel said many people had expected more to come out of the meeting. “What came out of that was much weaker than people predicted would come out going in,” he said.

Although top leaders of the Politburo supported Xi’s reform plans, the broader membership, with representatives from many different sectors, regions and the military, did not share that consensus and refused to rubber stamp Xi’s proposals, Wortzel noted. “I don’t think Xi is quite the strongman that the press gave him credit for,” he said.

## **China Risks WTO Standing with Collapse of ITA Talks**

Anger at China for causing the collapse of Information Technology Agreement (ITA) talks Nov. 21 is being expressed among developing as well as developed countries and is raising questions about its future role at the WTO. Chinese behavior in the ITA negotiations has also renewed concerns about how it will act when it joins talks on an International Trade in Services Agreement (TISA), which it says it wants to join (see **WTTL**, Nov. 18, page 4). There is a slight glimmer of hope that more progress could be made at the WTO’s Bali ministerial where minister-level officials may have more authority to make concessions.

China, as the world’s largest exporter of high-tech products, has to realize that the patience, willingness and goodwill of developing countries is going to start to wear thin because of its unwillingness to cut tariffs, one trade official said. It will have to assess the relative position it will want in the WTO and in other international fora, he added.

The Chinese drew complaints from other ITA negotiating countries Nov. 18 after it submitted a new list of sensitive products that it wanted either excluded entirely from a deal or subject to long tariff phase-out periods. After a week of talks and pressure to revise the list, the Chinese representative to the talks, Vice Minister Yu Jianhua, told negotiators Nov. 21 that China had shown “maximum flexibility” and could not make any further offers. He complained that there was “a gap in perceptions” between China and other countries over what could be achieved but he had still hoped that an agreement could be reached.

Other countries had given the Chinese a list of products they wanted dropped from Beijing’s sensitivities’ list, but Yu said the list “was too long to manage,” one source reported. He said that it was pointless to play “a blame game” and now there is a need for reflection to accommodate each other’s positions. “We could not reach a deal this time but this is not the end of the road,” Yu said, according to sources.

Angelos Pangratis, the European Union’s WTO ambassador, who chaired the ITA talks and announced their collapse Nov. 21, said members will need to hear from China before talks could resume. Proponents had hoped to conclude the expanded list of covered products in time for the Dec. 3-6 WTO ministerial meeting in Bali, Indonesia. The collapse of the talks came as the EU and China were holding their 16th annual summit in

Beijing. In China for those talks, EU Trade Commissioner Karel De Gucht said he regretted that China was unable to contribute to an ITA deal. “I call on China to urgently withdraw its excessive requests for exclusions of IT products from the negotiations, so that the talks can resume. We cannot afford to lose the momentum for a deal which would liberalise over €1 trillion of trade, corresponding to 7% of total world trade in goods,” he said in a statement.

In meetings before the ITA talks ended, the U.S., Japan, Korea, Canada, Norway, Taiwan, Switzerland, New Zealand, Australia and Costa Rica said they were strongly disappointed and frustrated by China’s position. They put the blame squarely on China for lacking constructive engagement, flexibility and ambition, he said. A Japanese representative reportedly said China didn’t come to Geneva for the 10 days of talks with a mandate to make concessions to conclude the agreement.

China’s role in the ITA talks raises questions about what it will do if it joins the TISA negotiations, John Neuffer, a vice president of technology and trade policy at the Information Technology Industry Council, said in a blog post. “As the biggest tech exporter in the world, China naturally wants to see tariffs on those products in other markets eliminated. But it also wants to use tariffs to protect its industries from imported products. This have-your-cake-and-eat-it-too approach to trade is at the heart of this collapse in ITA expansion talks,” he wrote.

The fear now is that momentum will be lost if no expanded ITA is agreed before next month’s WTO ministerial meeting, DigitalEurope, the European trade association said. “We might see other countries walk away from the negotiating table. It could take two years to get this close to an ITA deal again,” said John Higgins, the association’s director general.

DigitalEurope said China disputed the inclusion of 141 of the 250 products proposed for inclusion in an expanded ITA deal and demanded that 57 of them be excluded from the ITA altogether. The value of the items amount to 48% of the roughly \$1 trillion in trade proposed for tariff-free treatment, it said; noting that China enjoys a trade surplus of \$49 billion in the product categories it wants to exclude from the expanded ITA.

## **Industry Group Defends Enforcement after Export Reforms**

The small arms industry has issued a paper rebutting critics of export control reforms who have claimed the new rules would allow uncontrolled exports of defense articles to terrorists, rogue states and human rights abusers and make it harder to prosecute violations of U.S. export controls. In particular, the 10-page paper issued by the National Shooting Sports Foundation (NSSF) attempts to counter claims that moving small arms from U.S. Munitions List (USML) Category I to the Commerce Control List (CCL) would end State’s ability to inject foreign policy and human rights concerns into license reviews under the provisions of the Foreign Assistance Act (see **WTTL**, Oct. 21, page 4).

The NSSF paper argues that with creation of the 600 series on the CCL, the Bureau of Industry and Security (BIS) has clearly revised the Export Administration Regulations (EAR) “to provide the level of control necessary for items with inherent military or intelligence characteristics.” The harmonization of the EAR with the International

Traffic in Arms Regulations (ITAR) means 600-series items “will be reviewed consistent with the U.S. arms embargos,” it said. The NSSF also emphasizes that the Arms Export Control Act (AECA) does not regulate the manufacture of small arms. Those restrictions are imposed by the Gun Control Act (GCA).

“The GCA regulates the manufacture of firearms in the U.S. and has a more comprehensive licensing structure for the manufacture and sale of firearms in excess of the requirements under the AECA,” said the NSSF paper written by NSSF Senior Vice President and General Counsel Lawrence Keane, Elizabeth Karasmeighan, its director of legislative and policy research, and Kim Pritula of KMP Consulting. “Consequently, through the GCA, not the AECA, the government maintains more visibility into the operations of domestic firearms manufacturers,” the paper noted.

It also challenged citations to a Government Accountability Office (GAO) report that claimed export enforcement had not been adequately assessed before export control reforms were proposed. That report assessed “both” Commerce’s and State’s compliance activities and questioned whether adequate resources were being applied to compliance activities, the paper said.

“In fact, another GAO report found that only Commerce’s Office of Export Enforcement allocates its resources exclusively to export control enforcement as that is its primary mission. Other agencies, such as State and Treasury, have relatively few export control enforcement staff,” it said. “BIS’ Office of Export Enforcement (OEE) is staffed with more than 100 enforcement agents, while the Office of Defense Trade Compliance at State has no enforcement agents assigned. Clearly, enforcement of exports controlled under the CCL will have the benefit of significantly more resources,” the NSSF argued.

The paper also highlights the anomaly of current rules on small arms designated as weapons of “significant military equipment” (SME). “This designation is applied to ALL firearms under .50 caliber in USML Category I, including firearms for which there is no military use or significance, such as lever action or single shot hunting rifles, or single action revolvers. Compare this to another defense article controlled in USML Category II – ‘flame throwers specifically designed or modified for a military application’ which are not deemed SME,” the paper noted.

“So a review of these two controlled items concludes that military flame throwers are not as militarily significant as a lever action hunting rifle or a 22 caliber bolt action single shot rifle,” it added. Another example “is a single action revolver (the type seen in cowboy Western films), which was the height of technology in 1850 and has not been used by any military force in a century, is still designated as SME thus warranting the same level of control as rockets, torpedoes, tanks, and guided missiles, due to its ‘military significance’. This is an example of the reason why a comprehensive review of the USML was so necessary,” NSSF said.

## **Panel Urges Tougher Review of Chinese Investments**

Congress should consider expanding the authority of the Committee on Foreign Investment in the U.S. (CFIUS) to review “greenfield” investments in the U.S. by foreign firms and not just mergers and acquisitions, the U.S.-China Economic and Security Review

Commission recommended in its annual report released Nov. 20. While the change in CFIUS rules would apply to all investments and not just Chinese companies, commission members said they have concerns about the ability of the Chinese to build factories or other operations near U.S. defense and intelligence facilities. There are “a lot of implications for espionage,” said commission member Larry Wortzel at a press conference releasing the report.

The commission also urged Commerce to develop a comprehensive inventory of Chinese investment in the U.S. and to identify the ownership of these entities. “The department should also identify, on an ongoing basis, the lines of commerce that each of these investments are engaged in,” the commission recommended.

The annual report included 41 recommendations dealing with a wide range of issues involving China from spending on navy warships and gambling in Macau to food inspections in China and Securities and Exchange Commission oversight of Chinese firms listed on U.S. stock exchanges. It called for the Food and Drug Administration (FDA) to increase the physical inspection of food imports from China and for Agriculture to assign personnel permanently in China to inspect plants that export food to the U.S.

The report urged the U.S. Trade Representative (USTR) to “conduct a comprehensive review of China’s agriculture subsidies, discriminatory taxes, state trading and procurement practices; take account of the damage incurred by U.S. farmers and downstream industries; and suggest appropriate remedies.” It said Congress should direct Agriculture to “exercise extreme caution in negotiating equivalency status for Chinese imports of process poultry.” Congress should also direct the Interagency Trade Enforcement Center to conduct an investigation into China’s selective use of value-added tax (VAT) rebates and to determine whether those measures violate WTO rules, it recommended.

## Senate Could Tackle Iran Sanctions in December

The Senate will give President Obama a bit of time, but not much, to make a deal with Iran over its nuclear program before passing legislation to strengthen sanctions. On the Senate floor Nov. 21, Majority Leader Harry Reid (D-Nev.) said he could take up sanctions legislation (S. 1001) after the Senate returns from a two-week Thanksgiving break. “While I support the administration's diplomatic efforts, I believe we need to leave our legislative options open to act on a new bipartisan sanctions bill in December, shortly after we return,” he said. Administration officials had asked for more time to let diplomacy take its course (see **WTTL**, Oct. 7, page 11).

More specifically, Reid said he would “support a bill that would broaden the scope of our current petroleum sanctions, place limitations on trade with strategic sectors of the Iranian economy that support its nuclear ambitions, as well as pursue those that divert goods to Iran.”

“The Obama administration is in the midst of negotiations with the Iranians that are designed to end their nuclear weapons program. We all strongly support those negotiations and hope they will succeed, and we want them to produce the strongest possible agreement,” he said. At the same time, 14 senators from both parties signed a statement supporting potential legislation. “A nuclear weapons capable Iran presents a grave threat

to the national security interest of the United States and its allies and we are committed to preventing Iran from acquiring this capability. We will work together to reconcile Democratic and Republican proposals over the coming weeks and to pass bipartisan Iran sanctions legislation as soon as possible,” they wrote. Signing the statement were Sens. Robert Menendez (D-N.J.), Mark Kirk (R-Ill.), Charles Schumer (D-N.Y.), Lindsey Graham (R-S.C.), Ben Cardin (D-Md.), Marco Rubio (R-Fla.), Bob Casey (D-Pa.), John Cornyn (R-Texas), Chris Coons (D-Del.), Susan Collins (R-Maine), Richard Blumenthal (D-Conn.), Kelly Ayotte (R-N.H.), Bob Corker (R-Tenn.) and John McCain (R-Ariz.).

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

SATELLITES: Final rule transferring satellites from USML Category XV to CCL probably won't be published this year because of delay in getting notification to Congress due to government shutdown, sources report (see **WTTL**, Sept. 23, page 5).

EXPORT ENFORCEMENT: Ma Labs, Inc. and IT Express in San Jose, Calif., agreed to pay BIS Nov. 18 total civil penalty of \$55,000 to settle one charge of acting contrary to denial order. In February 2009, Ma Labs and IT Express allegedly shipped approximately 2,300 computer motherboards designated as EAR99 and valued at approximately \$130,000 to Mahan Airways in UAE. Mahan was named as Denied Person in Temporary Denial Order (TDO) in March 2008. Companies neither admitted nor denied charge. Aeronet Inc., freight forwarder in Irvine, Calif., Oct. 9 agreed to pay BIS \$27,000 civil penalty to settle charge in same transaction (see **WTTL**, Oct. 14, page 10).

ITC: At Senate Finance Committee confirmation hearing Nov. 20, senators asked ITC nominee Rhonda Schnare Schmidlein few softball questions about currency manipulation and intellectual property rights. Schmidlein demurred on specific positions, but assured members that she would be responsive to committee requests. “As a lawyer who has represented the United States in challenges to the application of U.S. trade remedy laws both in the U.S. courts and at the WTO, I understand first hand the importance of maintaining objectivity in the administration of these laws,” she said. Schmidlein was nominated July 12 (see **WTTL**, July 22, page 10).

VEU: In Federal Register Nov. 20, BIS updated listings for these validated end-users (VEUs) in China: Samsung China Semiconductor Co. Ltd. (Samsung China), Semiconductor Manufacturing International Corporation (SMIC), SK hynix Semiconductor (China) Ltd. (SK hynix China) and SK hynix Semiconductor (Wuxi) Ltd. (SK hynix Wuxi). Specifically, BIS added two items and remove one item from list of eligible items for Samsung China, added facility to list of eligible destinations and two items to list of eligible items for SMIC, and updated addresses of facilities used by SK hynix China and SK hynix Wuxi.

GRAIN-ORIENTED ELECTRICAL STEEL: ITC in 6-0 preliminary vote Nov. 19 determined U.S. industry may be materially injured by dumped imports of grain-oriented electrical steel (GOES) from China, Czech Republic, Germany, Japan, Korea, Poland and Russia and subsidized imports from China.

JAPAN: To counter objections that U.S. car companies have to Japan's inclusion in Trans-Pacific Partnership (TPP), Japan Automobile Manufacturers Association (JAMA), which represents Japanese-nameplate firms in U.S., released report Nov. 18 reciting extent of Japanese car production in North America. Japanese firms produced 3.3 million cars in U.S. (70% of cars they sold in U.S., Canada and Mexico); directly employed more than 81,000 workers in plants, distribution and R&D plus 327,000 in dealer network, JAMA reported.

APPLE: In latest twist in never-ending patent fights between Apple and Samsung over smart-phone technology, parallel universes of patent litigation – at ITC and U.S. district courts – converged at Court of Appeals for Federal Circuit (CAFC) Nov. 18 (see **WTTL**, Oct. 14, page

1). Appellate court upheld San Francisco U.S. District Court decision to reject Apple's motion for permanent injunction against Samsung's infringement of Apple's design patents and trade dress, but vacated denial of injunctive relief with respect to Apple's utility patents and remanded for further proceedings. "Here, the undisputed evidence shows that Samsung has stopped selling the products found to dilute Apple's trade dress, and there is no evidence suggesting that Samsung will resume selling them. Under these circumstances, we cannot say that the district court abused its discretion in denying Apple's request for an injunction," wrote CAFC Judge Sharon Prost for court.

GSP/AGOA: Coalition of farm groups wrote to members of Congress Nov. 18 to object to extension of Africa Group and Opportunity Act (AGOA) and Generalized System of Preferences (GSP) for countries that impose trade barriers to U.S. agriculture exports. Fact that 10 GSP beneficiaries restrict imports from U.S. "is clearly inconsistent with the intent of Congress, and we believe this must change," groups wrote. They registered "strong opposition to a long-term or permanent extension" of AGOA. Letter highlighted barriers in South Africa, Ethiopia and Nigeria. "We are not suggesting that AGOA be replaced with reciprocal free trade agreements under which U.S. goods would receive open access to AGOA countries," letter said. But South Africa should be considered for FTA since it has one with EU and others, groups argued.

GOVERNMENT PROCUREMENT AGREEMENT: Amendments to GPA adopted at last WTO ministerial meeting in 2011 won't be ratified at upcoming ministerial in Bali because only four participants have ratified deal, GPA Committee meeting Nov. 20 confirmed. Liechtenstein, Norway, Canada and Chinese Taipei have approved modifications. U.S., Korea, Hong Kong and EU expect to ratify them before Bali. Two-thirds of GPA need to ratify changes for them to enter into force. That is not likely to happen until first quarter of 2014 and "at the very latest by 31 March 2014," sources in Geneva say. Concerns are still being raised about application of agreement to local governments and state-owned enterprises (see **WTTL**, Oct. 14, page 5).

TPP: Another day, three more letters to USTR Froman on Trans-Pacific Partnership (TPP), this time urging elimination of tariffs on footwear: one from 14 senators Nov. 18; another from nine members of Congressional Black Caucus (CBC) Nov. 13; and letter from 24 House members sent Nov. 21. "The elimination of footwear tariffs in the context of an ambitious TPP agreement will directly benefit the U.S. footwear industry, which invests billions of dollars and employees hundreds of thousands of people in the United States, both through duty savings as well as new market access in TPP countries," Senate letter said. Footwear Distributors and Retailers of America "hailed the largest support the footwear industry has received to date from Congress," in statement announcing letters Nov. 21 (see **WTTL**, Nov. 18, page 3).

MOROCCO: USTR signed bilateral Trade Facilitation Agreement with Morocco Nov. 21, including provisions on internet publication, transit, and transparency in penalties. Both countries also pledged "to advance future work under a bilateral action plan aimed at supporting job creation by increasing trade and investment opportunities," USTR said. U.S.-Morocco bilateral FTA entered into force in 2006.

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